

Heather Stewart  
Ofgem  
Commonwealth House,  
32 Albion Street,  
Glasgow,  
G1 1LH

11 February 2022

Dear Heather

**Call for input – establishment of the Capacity Market Advisory Group and updating the Capacity Market Rules change proposal process**

Thank you for the opportunity to respond to call for input on establishing a Capacity Market Advisory Group (CMAG) and updating the Capacity Market Rules change proposal process. We welcome the opportunity to engage with the process to establish the CMAG to support the continued improvement of the Capacity Market Rules to ensure that they remain fully effective and fit for purpose.

ScottishPower is a major UK energy company with renewable generation, retail supply and networks businesses; we are a leading developer of wind power in the UK, and part of the Iberdrola Group, the world's leading renewables developer. Iberdrola is a global leader in tackling climate change, with a commitment to reaching carbon neutrality by 2050. ScottishPower was a Principal Partner of COP26, this partnership is another clear demonstration of our commitment to climate action.

We welcome the proposed establishment of the CMAG. Whilst we are largely in support of the proposals set out in the call for input, we are disappointed at the time taken to reach this stage and the timelines outlined in the call for input until the first CMAG meeting. Formation of the CMAG was first proposed in the Five-Year Review of CM Rules on 16 April 2019, with a Stakeholder workshop held in October 2019 which covered many of the aspects included in this call for input. The CMAG was again identified as a priority in Ofgem's 2021 Forward Work Plan and included as part of Ofgem's decision to amend the CM Rules 5 July 2021. Therefore, we are disappointed that it is only now, in February 2022, that Ofgem is formally seeking views on proposed updates to the 2016 Guidance to support establishment and operation of the CMAG. We would request that this process be treated as a matter of urgency and that the group is targeted to be operational and working effectively ahead of 2023 prequalification at the latest.

We would also take this opportunity to ask Ofgem for a formal update on progress on secondary trading. Ofgem's Forward Work Plan (July 2019) stated that the secondary

trading workstream would be completed by prequalification in 2021. We are concerned that the lack of communication on this matter will add further delay to the establishment of this group and progress to establish secondary trading.

Our answers to the questions in the call for input are in Annex 1.

If you have any comments or queries on this response, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in blue ink that reads "Richard Sweet". The signature is written in a cursive, flowing style.

**Richard Sweet**  
Head of Regulatory Policy

**CALL FOR INPUT – ESTABLISHMENT OF THE CAPACITY MARKET ADVISORY GROUP AND UPDATING THE CAPACITY MARKET RULES CHANGE PROPOSAL PROCESS**

**Question 1. In general, do you agree with our intention to establish CMAG? If not, please explain your concerns.**

We continue to see the Capacity Market (CM) as an important mechanism for maintaining security of supply cost-effectively and we support the process of reviewing and refining the mechanism after each year's set of auctions given that these can reveal specific unforeseen issues with the design of the CM, as well as illuminating wider energy market developments and inefficiencies. Therefore, we welcome the proposals to create an expert group to consider rule changes and support the aim that CMAG intends to increase industry and stakeholder engagement in the CM Rules change process. It is our hope that CMAG will deliver a faster and more streamlined change process, one which will ensure that issues can be identified, addressed, reviewed and implemented as quickly as possible to ensure the continued improvement of the CM.

However, we are concerned about the timescales outlined with the first meeting estimated to take place in late 2022. We would ask that this be considered as a matter of urgency and that the group be established and able to function and make recommendations ahead of prequalification 2023. We also seek assurances from Ofgem in terms of what will happen with the Rule Change proposals in the interim period between now and Q3 2022. Open change proposals have been documented on the Ofgem website, but we would note that the Scottish Power proposal raised in 2018 (included in Appendix 1) is not included and we would welcome an update on the status of this request.

The guidance has removed the need for annual consultations. Whilst we welcome the flexibility of not being restricted to annual consultations, we would seek assurances that the removal of this commitment does not give rise to long delays in seeking change. We would welcome the stated commitment that Ofgem and the CMAG will ensure continual review and improvement of the CM rules.

**Question 2. Do you agree with the objectives and role of CMAG as set out in Section 2 of the new Guidance?**

We are broadly in agreement with the objectives and the role of CMAG as set out in Section 2 of the new guidance. However, we would have concerns over proposals for annual membership. For comparison, BSC/CUSC Panel members have tenures of between two and three years. We are concerned that annual membership would effectively mean the group restarting each year without any continuity of membership, which we do not believe would be efficient for the running of the group. We would welcome further details on membership requirements, number of members required and how members will be selected.

We welcome the proposal that Ofgem will consider the performance of CMAG against its objectives on an annual basis and consider the case for the ongoing functioning of the group for the following year. However, we would welcome more detail on how this will be shared and what redress would be actioned should the group be deemed to be failing to meet its objectives.

**Question 3. Do you foresee any unintended consequences from following the indicative process as set out in Section 3 of the new Guidance?**

In general, we support the indicative process set out in the guidance document. However, we believe that it would be helpful to detail some indicative timeframes for each stage in the process. Whilst we recognise that some proposals will be more complex than others, we would welcome maximum timeframes being included. As a minimum, we would like to see timescales for the initial consideration of a proposal and how this will be prioritised by CMAG. The inclusion of an initial assessment step could be considered to facilitate this. In particular, it would be beneficial to illustrate how the timing of requests will fit with the Ofgem consultation process, especially if there is a perceived need for changes to be concluded in advance of prequalification rounds. We would also welcome the inclusion of details on the process for appeal where a proposal is not taken forward and the proposer remains concerned about the decision.

We welcome the suggestion that proposals can still be submitted directly to Ofgem and we acknowledge that Ofgem may deem it appropriate for CMAG to consider these. However, we would ask that this only be allowed with express permission of the proposer, as the proposer may have raised the change proposal directly with Ofgem due to confidentiality, price sensitivity or concerns over competition law.

Currently, as drafted, the following rules appear to apply only to Ofgem, and we would welcome clarification around how these areas will apply to the CMAG:

- Rule 1.6 states *'If we do not think there is a good reason to take forward a proposal received from the parties set out in 1.2 above, we must publish our reasons for this decision'*. Will the CMAG have a similar obligation? Where will such decisions be notified?
- Rule 3.10 states that any proposals for changes to the CM Rules made directly to Ofgem, should be made via the change request proposal form. Is it the intention that proposals submitted directly to the CMAG will use the same format? We note that part of this form is for the proposal to include *'analysis and evidence on the impact on industry and/or consumers, of making the change'*. If an independent view of that analysis was required, would this be carried out by Elexon? Would the costs of any independent analysis be included in the CMAG running costs?
- Rule 3.13 states *'If you wish to withdraw a proposal once it has been submitted, please email EMR\_CMRules@ofgem.gov.uk with your reasons'*. How will proposers notify the CMAG if they wish to remove a proposal?
- Rule 3.31 states *'All proposals will be published on our website. This ensures transparency and makes the process more efficient for interested parties.'* Will this also apply to proposals raised directly via the CMAG? Will the CMAG also have an obligation to publish minutes of meetings? We would request that this is required within two to three working days of meetings being held to ensure that there can be clear and transparent communication of discussions.

**Question 4. Do you have any concerns about the suitability of Elexon to act as Secretariat? If so, do you have a view on a suitable alternative?**

We have not identified any concerns with Elexon acting as Secretariat at this stage; indeed, we believe they will have access to data that should help facilitate the overall process.

However, can Ofgem advise what steps would be required to prevent any conflicts of interest arising given that EMR Settlement Ltd (a subsidiary of Elexon Ltd) act as the Settlement Service Provider for Electricity Settlement Company Ltd, administering settlement administration for Capacity Market? Furthermore, can Ofgem advise whether its initiative on Future Systems Operator and possible change of ownership of Elexon would impact on or affect this decision?

Ofgem has advised that a BSC Code change will be required to enable Elexon to become the Secretariat. Given our concerns over the timeframe for the establishment of CMAG, we would seek reassurance that Ofgem has considered the time required for this within the expected timeframe. If Ofgem is to proceed with the appointment of Elexon as Secretariat, any BSC Code change should be raised quickly and be considered as an urgent change request so as to avoid further delay.

**Question 5. Do you agree that levying the administrative costs of CMAG on BSC users is an appropriate funding route? Please outline any concerns and/or alternative approaches, if appropriate.**

We are supportive of the proposal to levy administrative costs of CMAG on BSC users; however, we would note that currently some Capacity Market Units (CMUs) are not Balancing Mechanism Units (BMUs) and would therefore not be subject to these costs. Improving the ESO's visibility of distributed capacity with CM agreements through requiring CMUs to be registered as BMUs would address this concern as well as support delivery assurance and therefore security of supply. We welcomed this proposal from BEIS in 2021 during the 'CM 2021 Improvements' consultation process.

**Question 6. Do you have any comments on the indicative template for the CMAG Terms of Reference we have included as part of this call for input?**


As stated in our response to Question 3 we would suggest that some minimum expectations of timescales alongside the process could be considered and incorporated within the CMAG Terms of Reference as necessary. Additionally, details of an appeals process should be considered as part of the CMAG Terms of Reference, along with the ability to be reviewed following Ofgem's annual review of the group to ensure that improvements or changes can be documented.

**Question 7. Please indicate if you or a suitable representative from your company or stakeholder group are provisionally interested in joining the inaugural CMAG. Please do not provide names at this stage. We will formally ask for expressions of interest when we publish the new Guidance.**

We would suggest that Ofgem is well placed to set out clear expectations for the representatives they would like to see joining CMAG, drawing on experience of other such groups. However, we believe it is essential that the group membership considers a range of expertise and representation of the industry.

At this stage ScottishPower would like to note an expression of interest for a seat on the CMAG.

**ScottishPower**  
February 2022

<h2 style="text-align: center;">Proposal for a Capacity Market Rules Change</h2>		 <p>Making a positive difference for energy consumers</p> <p><b>Reference number</b> (to be completed by Ofgem): Click here to enter text.</p>
<b>Name of Organisation(s) / individual(s):</b> ScottishPower	<b>Date Submitted:</b> 13 –March 2018	
<b>Type of Change:</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> Amendment</li> <li><input checked="" type="checkbox"/> Addition</li> <li><input type="checkbox"/> Revoke</li> <li><input type="checkbox"/> Substitution</li> </ul>	<b>If applicable, whether you are aware of an alternative proposal already submitted which this proposal relates to:</b>	
<b>What the proposal relates to and if applicable, current provision of Rules the proposal relates to</b> (please state provision number):		
<p>This proposal would create new Demand Side Response (DSR) Technology Classes with different minimum durations, and apply the extended performance testing to these newly created Technology Classes.</p> <p><b>Description of the issue that the change proposal seeks to address:</b></p> <p>The recently introduced approach to the de-rating of Limited Duration Storage (Generation Technology Class) supports the Government's – and the CM's – objective of delivering security of supply at least cost to the consumer.</p> <p>However, under current rules, if a DSR CMU consisting of storage is located behind the meter (BTM) it will not be subject to duration de-rating. This risks over-rewarding such storage and increasing costs to consumers. It is also contrary to the CM policy of technology neutrality and unfair to other market participants. Accordingly, it is important that any DSR CMU consisting of BTM storage is de-rated according to its duration and tested appropriately.</p> <p>In the absence of a change to the rules, as extended performance tests apply only to Capacity Storage Generating Technology Classes, the new de-rating approach can be circumvented by storage developers locating their projects BTM and participating as DSR.</p> <p>The creation of the new Demand Side Response (DSR) Technology Classes, in particular Storage DSR, would obligate the EMR Delivery Body to consult on the de-rating factor to apply to the new Classes.</p> <p>We are aware that some other forms of DSR may also have duration limits. In due course, duration de-rating and appropriate testing should be extended to all applicable DSR technologies.</p>		

**If applicable, please state the proposed revised drafting (please highlight the change):**

The drafting below illustrates the intent of the proposed rule change. Further work is required on the drafting to ensure that it is fully fit for purpose. The additions are highlighted in red.

- Define a DSR Storage Technology Class for the purpose of the rules

In Rule 1.2.1, in the appropriate place, insert:

DSR Storage Technology Class means DSR that is classed as DSR Storage as per Schedule 3B.

- Ask Unproven DSR developers to declare if they plan to use Storage as part of their DSR CMU

### **3.10 Additional Information for an Unproven DSR CMU**

#### **3.10.1 Business Plan**

(a) (v) For the purpose of de-rating, each Applicant for an Unproven DSR CMU must include details of any known intention to use a generating unit that is categorised as a DSR Storage Technology Class.

- Metering Assessments should capture the use of a DSR Storage Technology Class and the appropriate de-rating should be applied to the DSR test

#### **8.3.2 DSR Tests**

If an Unproven DSR CMU is awarded a Capacity Agreement:

(a) the Capacity Provider must provide a DSR Test Certificate evidencing a Proven DSR Capacity greater than 2MW by no later than one month prior to the start of the first Delivery Year (where an associated Metering Assessment has captured the use of a DSR Storage Technology Class, the appropriate de-ratings will be used in determining the Proven DSR Capacity).

- Extend the extended performance tests to the DSR Storage Technology Classes

### **13.4A Demonstrating extended performance**

13.4A.1 This Rule 13.4A applies to a Capacity Committed CMU in a Storage Generating Technology Class or a DSR Storage Technology Class, in its capacity as a Registered Holder, a Transferor or a Transferee (as the case may be).

#### **SCHEDULE 3B:**

**1.1** The DSR Technology Classes for the purposes of these Rules are the classes specified in the first column of the following table. The second column of the table contains further details about the make-up of the CMU to be included in each such class.

Technology Class	Plant types included
DSR Storage: 30mins	Any DSR CMU that includes any Storage Generating Technology Class with a minimum 30 minute duration
DSR Storage: 60mins	Any DSR CMU that includes any Storage Generating Technology Class with a minimum 60 minute duration
DSR Storage: 90mins	Any DSR CMU that includes any Storage Generating Technology Class with a minimum 90 minute duration
DSR Storage: 120mins	Any DSR CMU that includes any Storage Generating Technology Class with a minimum 120 minute duration
Etc up to 12 hours	Etc up to 12 hours

**Analysis and evidence on the impact on industry and/or consumers including any risks to note when making the revision - including, any potential implications for industry codes:**

In the absence of any change, consumers will suffer from the inefficient outcome of auctions that secure insufficient capacity to meet the CM's reliability standard. In the case of T-4 auctions, any shortfall in capacity would need to be re-procured in future CM auctions which would lead to an increase in costs to consumers. In the case of T-1 auctions, there would be no opportunity to replace any shortfall in capacity – but as the Government cannot accept a lower standard of security of supply, there would be a requirement to increase auction targets to 'buy through' any DSR CMU that is obviously utilising duration-limited storage technology (this would be ascertained during prequalification) – again at increased cost to consumers.

**Details of Proposer** *(please include name, telephone number, email and organisation):*

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