

Consultation on the Capacity Market Advisory Group (CMAG) – Energy UK Response

11 February 2022

About Energy UK

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

We represent the diverse nature of the UK's energy industry with our members delivering nearly 80% of the UK's power generation and over 95% of the energy supply for the 28 million UK homes as well as many businesses.

The energy industry invests £13bn annually, delivers nearly £30bn in gross value added on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors, and supports over 700,000 jobs in every corner of the country.

Summary

We would like to thank Ofgem for the opportunity to respond to this consultation and can confirm that we are happy for our response to be published.

Whilst we are broadly supportive of the proposals as set out in the Consultation Document, we would like to express disappointment at the delayed publication of this consultation and the lack of urgency around progressing the CMAG proposal that was first suggested in the April 2019 Five-Year Review¹. We note that some of the proposals within this consultation have already been raised in some detail at a stakeholder workshop on 21 October 2019.² In addition to this, Ofgem's July 2020 consultation on CM Rule Change Proposals³ stated that the CMAG work would be resumed '*in the near future*' and Ofgem would '*aim to consult on the formation of this group later in the year*' (i.e., in 2020). CMAG is now due to be set up in Q3 2022. Whilst we reiterate our disappointment with the delayed start date, we also question why this timing has been chosen and how the outstanding Capacity Market Rules Change Proposals⁴ (Published 15 November 2021) will be progressed in the interim? We note that some of these changes proposed by parties date back to February 2019 and question why Ofgem has not dealt with or consulted on these Rule Changes given the almost three-year window.

Whilst we welcome the recent engagement from Ofgem on the CMAG at the January 2022 Energy UK Capacity Market Working Group, the prior lack of engagement and subsequent delays to this process have been particularly burdensome on industry. We note that this current consultation appears to repeat points made in the 2018/2019 workshops (as referenced above) and question why the same points are being consulted on again. Energy UK feels that asking industry stakeholders to repeat views on the same topics is not an efficient process. Whilst in the past we have had sympathies with the resource constraints Ofgem are under, we request that in the future Ofgem ensures that they are clearly communicating with industry and setting expectations for when we can expect consultations on key topics (i.e., Rule Changes, CMAG and Secondary Trading) to progress.

¹ [Five Year Review of the Capacity Market Rules – First Policy Consultation | Ofgem](#)

² [cm_workshop_21oct2019 \(2\).pdf](#)

³ [Capacity Market Rules change consultation July 2020 \(ofgem.gov.uk\)](#)

⁴ <https://www.ofgem.gov.uk/publications/outstanding-capacity-market-rules-change-proposals>

We would also like to take this opportunity to request further information and an update on Secondary Trading. Firstly, an explanation of the reasons as to why this work is taking a long time would be strongly welcomed by Energy UK members. We also note that a number of Secondary Trading workshops were held by Ofgem in October and November 2018 and Ofgem's Forward Work Plan⁵ (July 2019) stated that the Secondary Trading workstream would be completed by prequalification 2021. Although there is no date planned for a consultation on Secondary Trading, Energy UK remains concerned that the limited engagement with industry until recently and the slow pace of progress on these issues has ultimately made the CM less efficient. Additionally, we would welcome reassurance that Ofgem and BEIS are working collaboratively on the Secondary Trading and connection capacity workstreams; for example, by publishing a timeline of when stakeholders can expect key milestones to be achieved. We hold concerns that lack of communication could be leading to significant delays.

This sentiment of disappointment with regards to delayed publication of consultation proposals and request for further information on Secondary Trading and CMAG are both issues we have previously raised with Ofgem both verbally and in our response to the May 2021 Statutory Consultation on Capacity Market Rule Changes⁶ and our response to the January 2022 Consultation on Capacity Market Rule Amendments⁷. We ask that Ofgem ensures that these two workstreams are made the utmost priority and that there is a step up in industry engagement in this regard.

Building on these concerns set out above, we ask Ofgem to inform industry of ways in which we can help provide support to Ofgem in order to speed up the progress of some of these changes and workstreams.

Questions

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

Yes, we welcome the intention to establish CMAG.

However, Energy UK do have concerns over the timescales set out. We note that Q3 2022 is already a significant delay, particularly considering the proposals for setting up the CMAG were put to industry over three years ago in October 2019. Furthermore, Ofgem verbally informed Energy UK members at the Energy UK Capacity Market Working Group meeting on 13 January 2022 that the first couple of CMAG meetings would be used to agree processes and Terms of Reference etc. If this is the case, proposals may not actually be considered by the CMAG until Q4 2022, which is concerning.

Energy UK firstly asks why the CMAG needs to wait to Q3 2022 to be set up and secondly suggests that Ofgem scope out whether some 'pre-work' can be done in advance of the first CMAG convening in order to allow the group to proceed with important proposals as soon as possible. We welcome reassurance from Ofgem that the Secretariat will be able to proceed with some of the time-consuming pre-work and admin and ask that the scope of this is set out in writing once the secretariat is appointed.

Furthermore, we also ask for an explanation from Ofgem in terms of what will happen with the Rule Change proposals in the interim period between now and Q3 2022? We welcome verbal communication from Ofgem that some of the live Rule Change proposals will be looked at in the interim period, as opposed to waiting for the CMAG to be set up first. However, we ask that Ofgem shares which proposals will be prioritised and explains how certain proposals will be prioritised as soon as possible.

Energy UK has some concern that holding meetings every two months will slow down change from what we have now. We are concerned that it could require at least three meetings to get a proposal to

⁵ [capacity market five year review report.pdf \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/publication.html?task=file.download&id=7932)

⁶ <https://www.energy-uk.org.uk/publication.html?task=file.download&id=7932>

⁷ <https://www.energy-uk.org.uk/publication.html?task=file.download&id=8062>

a point where it can be put to Ofgem (or possibly longer if it is a complicated issue or a lengthy impact assessment is needed) this would take three months.

At the Energy UK Capacity Market Working Group in January 2022, Ofgem commented that the secondary trading and CMAG workstreams did not need to be linked going forward, indicating that secondary trading could come first, however Ofgem has not yet provided any indication on timescales for this. Along with a request for timescales to set industries expectations, we also suggest that Ofgem could work on setting up the CMAG and look into secondary trading in parallel, as opposed to setting up the entire CMAG structure first. We welcome verbal reassurance from Ofgem that that will be the case, and ask that Ofgem clarifies this in writing in their response. Given the fact that industry consider the CMAG and secondary trading to be extremely high on the list of priorities, we believe this would be the most efficient way of working and in this regard, Energy UK would like to extend an offer of support to Ofgem in terms of liaising with Stakeholders.

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

Overall, we do agree that the objectives and role of CMAG as set out in Section 2 of the new Guidance are reasonable.

We note that the CMAG's role as set out, to consider proposals that are raised, is reactive. We believe that somewhere within the CM, a change space is needed where a working group can collectively determine the best solution to known problems. Currently the Connection and Use of System Code (CUSC) and Balancing Settlement Code (BSC) do this by allowing alternatives to be developed.

Without some element of proactivity, the CMAG will be considering single solutions which may not be optimal. To provide an example. There is no requirement for distribution connected CMUs to have a firm connection agreement. In a system stress event, several distribution connected CMUs all at the same connection point may not all be able to deliver their capacity obligation simultaneously because the shared connection is not large enough. They can provide metering data at pre-qualification and do their SPDs by choosing days that satisfy the proof needed, which means limitation only becomes an issue in a stress event. By the time a stress event comes it then may be too late to address the known capacity shortfall. This issue was raised by BEIS in its 2021 CM Improvements Consultation⁸. We therefore suggest that a further role of the CMAG could be to invite alternative solutions on a time limited basis to a change proposal.

We also note that it is proposed that there is an annual appointment of CMAG members. We question whether this may be too frequent. For comparison, BSC/ CUSC Panel members have tenures of around three years. A one-year membership would mean a member would only attend six meetings (if they are to be every two months) and if it does turn out that it takes around three meetings to get a proposal to a position where it could be considered by Ofgem, it does not leave a lot of time for CMAG members to get to grips with some proposals before the membership changes again. We welcome verbal reassurance from Ofgem in terms of the flexibility of frequency of meetings, we therefore suggest the CMAG should meet every month, at least initially to clear the backlog in the outstanding Rule Change Proposals, and the tenure should be increased to two years.

On a separate note, we have noticed that there are some potential anomalies within the Rules as currently drafted that we could welcome clarification around and an explanation of how these areas will apply to the CMAG:

- 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. Could Ofgem please confirm whether or not it is the intention that a proposal submitted directly to the CMAG, will use the same format?

⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994995/capacity-market-2021-consultation-improvements-government-response.pdf

- 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*'. Parties will need to be informed as to formally 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*.' We ask Ofgem to clarify whether this will also apply to proposals raised directly via the CMAG? Linked to this, will CMAG meeting minutes be published for all market participants to see?

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. We also note that page 1 of the draft guidance states that Ofgem are moving to a more '*continuous process*' of consultation on the CM Rules. Section 3.6 of the guidance document then states that Ofgem and the CMAG will decide the best frequency of consultations. We would note that for the formation of the CMAG to have any benefit to CM participants, compared to the previous annual consultation approach, at least two consultations will need to be run with stakeholders each year. We therefore believe that CMAG should consider this when determining the frequency of consultations. On a similar theme, we also believe that CMAG should be able to submit individual proposals to Ofgem (rather than batching them together as suggested in the Call for Input document) under certain circumstances, i.e., if they are agreed by CMAG members to be sufficiently urgent.

Whilst the ability to raise CM rule changes directly with Ofgem is still available, Annex A says '*we may deem it appropriate for CMAG to consider first any change proposals submitted to us directly*'. This should be caveated with the words '***subject to the permission of the proposer***'. This will be needed to protect what the proposer may consider as commercially confidential or price sensitive information.

Furthermore, we note that Ofgem has deleted Appendix 3 '*Complaints about Ofgem*' from the new Guidance Document with no explanation as to why. We would welcome some clarification from Ofgem as to why this has been removed.

Finally, we note that the guidance has omitted any mention of annual consultation. Whilst the flexibility is welcomed, we feel a mechanism to ensure that Ofgem and CMAG are committed to continual improvements is necessary in order to avoid long delays in the future.

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 support the appointment of Elexon to act as secretariat and hold no concerns at this stage. However, we do note that a BSC Code change will be required to enable Elexon to become the secretariat. We ask if Ofgem has considered when this will be instigated and what the expected timeframe is. We suggest that if Ofgem proceed with the appointment of Elexon as Secretariat that this is considered as an urgent change request.

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.

Some Energy UK members have concerns with this approach to funding. It is important to highlight that not all CMUs are also BMUs so we would challenge whether it is fair to charge the costs of CMAG just

to BSC Parties. An alternative funding mechanism option could be to charge ELEXON's costs pro rata to all Applicants across all Delivery Years where they have with CM contracts.

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?

Generally, we believe that the indicative CMAG Terms of Reference are reasonable. However, we note that there is a potential inconsistency between the Terms of Reference and the new guidance document. The Terms of Reference state that the CMAG chair could be a CMAG member or the Secretariat, and that this will be decided by CMAG members once the group is established. However, the guidance document states (in section 2.10) that a role of the Secretariat is to chair the CMAG meetings. We suggest that a clarification is added to the guidance document that CMAG members may also chair the meetings. We also note that since it is for the CMAG to decide who chairs the meetings, the first CMAG meeting may not have a chair. We suggest that the Secretariat agree to chair the first meeting and then the format for later meetings can be discussed.

Furthermore, Energy UK suggests that some minimum expectations of timescales alongside the process could be considered and incorporated within the CMAG Terms of Reference if necessary. Equally, we ask if Ofgem has considered how an appeals process might work and if indeed we need one.

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 ask that Ofgem sets out clear expectations for the representatives they would like to see take a seat on the CMAG, this means industry stakeholders can ensure they put forward the correct representatives from their own organisations. Consideration of expertise and representation of the industry is key so we also ask that Ofgem ensures that there are a diverse range of companies represented covering a wide range of technologies.

We would like to use this opportunity to put forward an expression of interest for an Energy UK seat on the CMAG to ensure that a wider sector view is represented.

We also welcome the fact that Ofgem is looking to include consumer organisations such as Citizens Advice. This will be important to ensure that we do not lose sight of the overall the purpose of the Capacity Market: to ensure security of GB's energy supply at least cost to the consumer.

Next Steps

We would like to thank you in advance for considering our response. We look forward to continued engagement with Ofgem on both the CMAG and forthcoming Secondary Trading work. Energy UK are available to support Ofgem with its industry engagement on these issues where possible. If you have any questions regarding our response in the meantime, please do not hesitate to contact Energy UK on the details below.

Iona Penman

Policy Manager, Power
Energy UK
Tel: +44 20774 72932
iona.penman@energy-uk.org.uk

Paige Truelove

Senior Policy Executive, Power
Energy UK
paige.truelove@energy-uk.org.uk

