

Response to the Ofgem consultation on draft guidance for the Capacity Market Rules change process

21 May 2014

Energy UK is the trade association for the energy industry. Energy UK has over 80 companies as members¹ that together cover the broad range of energy providers and suppliers and include companies of all sizes working in all forms of gas and electricity supply and energy networks. Energy UK members generate more than 90% of UK electricity, provide light and heat to some 26 million homes.

Energy UK welcomes the opportunity to respond to this consultation, as the enduring change process for the Capacity Market Rules is vital to maintaining investor confidence and ensuring that the Capacity Market is able to function as intended.

Executive Summary

- ▶ Energy UK supports an annual window in which changes to the CM Rules can be made so that there is sufficient advance notice ahead of the next auction. However, parties should be able to submit change proposals throughout the year which Ofgem should be able to analyse so that the workload does not pile up into a concentrated period of time.
- ▶ Ofgem should consider two different approaches for rule changes depending on whether it is a straightforward and non-controversial change e.g. correcting drafting errors, or an issue that is more complicated.
- ▶ Energy UK seeks clarity from Ofgem on how its Capacity Market objectives will interact with its wider statutory duties. Ofgem must also be transparent about its rationale for reaching specific decisions on Rule changes. For example, there is a risk that Ofgem interprets its duty to protect the interests of consumers as in some way contrary to promoting investment in capacity to ensure security of electricity supply, given the CM will be funded by consumers through electricity bills. It would be helpful to investor certainty for Ofgem to confirm that investment in capacity through the CM is in the interest of consumers.

¹ National Grid is a member of Energy UK but did not have input into this consultation response.

Consultation questions

Do you think that an annual process of managing changes to the CM Rules is appropriate? If not, please outline your reasons and your preferred alternative approach.

The proposal for an annual process of managing changes to the CM Rules has its pros and cons. Having an annual window has benefits as a pragmatic solution to the need for proposals for change to be brought forward and implemented in an efficient and timely way ahead of the following year's auction. However, it is not clear why Ofgem would not be able to receive and consider proposals for change throughout the year even if there is only a specific window for implementing any changes taken forward.

Ofgem should consider establishing two separate routes for CM Rules Changes so that straightforward, non-controversial changes, such as drafting corrections, can be fast tracked for amendment, while maintaining the requirement for consultation. More complicated change proposals may need to be considered over a longer timeline and may not be implementable ahead of the following auction. To that end, Ofgem needs to provide clarity on how proposals are dealt with if they are not immediately implemented.

Energy UK members have identified some challenges around having a specific October-November window for change proposals to be put forward:

- ▶ If there are specific issues arising from the first auction, the October-December window might not be long enough for parties to develop proposals. Therefore, we propose that the window following the first auction be extended until the end of January 2015 as an exception so participants will be able to propose changes in light of the auction experience.
- ▶ There is concern that Ofgem may not have adequate resources to consider all of the proposals put forward in that window and put them onto the Ofgem website in a timely manner for other interested parties to see. A portal or section of the Ofgem website where stakeholders can express support for change proposals by other parties should be considered, as it could aid the process.
- ▶ There could be different dates for the T-1 and T-4 auctions from 2017 onwards and therefore the guidance document requires an acknowledgement that Ofgem may need to revise its Rule Change timeline to reflect this.
- ▶ Ofgem will need to stress test whether the 4-6 week decision period will be robust in the event that there are a lot of change requests submitted.

Does the draft CM Guidance cover the necessary issues?

The draft Guidance does not currently cover all of the necessary issues and should include the following:

- ▶ It should clearly set out the process for industry participation from start to finish of rule change deliberation, as this is important for investor certainty. Firstly, there should be an explicit commitment to holding working groups, at a minimum for the more complicated rule changes. Secondly, there should be a commitment from Ofgem to hold a workshop post rule change submission window so that the reasons for taking forward rule change proposals (or not) are clearly explained to stakeholders.

- ▶ The guidance also needs to detail the process for withdrawing proposals should it become clear that another party has already raised a similar proposal.
- ▶ Ofgem needs to detail how the Rules Changes will interact with industry codes.
- ▶ The 'urgency criteria' needs to be set out in the Guidance for when ad-hoc Rule Changes are proposed and any knock-on effects in terms of code changes.
- ▶ The Capacity Market Rules do not state that Ofgem has to consult on all of the changes that are proposed; only those that it chooses to take forward. Clarity is needed on whether the decision not to consult on a proposed Change can be challenged by a party, and if so, how.

Do you have any other comments on the draft CM Guidance?

In terms of the format required for Rule Change proposals, the guidance refers to the need for "analysis and evidence on the impact on industry and/or consumers, including any risks, of making the change - including any potential implications for industry codes." Energy UK believes that requiring such detailed analysis could be a burdensome obstacle for proposals to be brought forward. Whilst we appreciate that such information will be helpful for Ofgem to assess its merits, it should not be a requirement, as Ofgem will need to undertake its own analysis (which should be made publically available).

It would be helpful for the purpose of clarity if Ofgem could include its wider statutory duties alongside the Capacity Market objectives so stakeholders are fully aware of all the issues that will need to be considered for any rule change.

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