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Dear Sirs

Consultation on draft guidance for the Capacity Market Rules change process

I am writing in response to the above consultation published by Ofgem on 17th April 2014. This response is written on behalf of National Grid Electricity Transmission plc (NGET).

NGET is the national system operator and was also designated by Government as the EMR delivery body in December 2011, a role that will be formally conferred on NGET by the Secretary of State pursuant to secondary legislation to be made under the Energy Act 2013.

The Capacity Market Rules ("Rules") are central to the introduction and operation of the Capacity Market and prescribe many of the detailed rules and procedures as to how the Capacity Market will operate. As such, to the extent not specified within the Electricity Capacity Regulations, the Rules specify the obligations of both the EMR delivery body and industry participants wishing to bid in the capacity auction which are enforceable by the Authority as relevant requirements.

Given this status of the Rules it is important that industry participants and administrative parties are afforded a transparent and workable change process in order to ensure that continuing obligations remain appropriate and are understood. We therefore welcome the opportunity to comment on Ofgem's draft guidance for the Rules change process and set out below our responses to the three questions posed in the cover letter. Should you wish to discuss any aspect of this response further with NGET then we would be happy to do so.

Yours faithfully



Mark Ripley
Project Director, Electricity Market Reform

Consultation on draft guidance for the Capacity Market Rules change process

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.

We do not believe that an annual process of managing CM Rule changes is appropriate. We believe that constraining the period in which changes can be proposed and consulted on will present a number of undesired consequences. These include:

- Resource implications: Given the uncertain volume of proposed changes that may emerge it may not be possible for a number of smaller industry participants to be adequately resourced in order to fully consider the proposed changes and actively participate in the consultation process in the time available. Given the volume uncertainty there must also be a concern that Ofgem itself may not be adequately resourced to deal with all proposed changes in the limited time that would be available with an annual window process.
- Limited time to consider and develop the necessary rule changes: The annual process approach severely limits the time that is available to consider, develop and consult on proposed changes to the CM Rules and the impact of this limitation will be exacerbated if large volumes of changes emerge. Given the experience of the modification processes associated with core industry documents, the time required to adequately consider, develop and consult on proposed CM Rule changes (including the impact on core industry documents) should not be underestimated.

These constraints could be overcome by allowing proposed changes to be raised, considered and consulted on throughout the year and by providing that, where appropriate, approved changes are implemented on an annual release date. This release date approach would provide the certainty and clarity in the status of the CM Rules required for investor confidence and would also be consistent with the established process used in the context of modifications to the BSC. The assessment of any proposed CM Rule change by the Authority should consider whether the change needs to be implemented as part of a suite of changes for the release date (for instance because they have systems issues or would impact upon a prequalification or auction cycle) or whether the change could be implemented shortly after an Authority decision because, for instance, the change has minimal impact. Rule changes that may be “house-keeping” in nature and other non – critical changes that might arise could therefore be considered for implementation at any time by the Authority.

Whilst we also understand that the Authority may wish to undertake a holistic review of any CM Rule change proposals, this can still be achieved in the absence of a tightly constrained change proposal window by considering as a whole all of the proposed changes raised throughout the year and prior to the annual release date referred to above.

We believe that it is more appropriate to allow potential CM Rule changes to be raised throughout the course of the year and for Ofgem to have an ongoing process to allow such changes to be considered by both Ofgem and industry. Any proposed changes that are approved could, where appropriate and so determined by the Authority then be “held” until a release date which would allow all changes approved prior to the release date to be holistically reviewed and subsequently released concurrently.

There should also be a process for urgent changes to be brought forward against defined criteria and implemented outside of the release date process where the urgency criteria so dictates.

Does the draft CM Guidance cover the necessary issues?

The draft Guidance provides insufficient detail on elements of the overall change proposal process. By way of example:

- Paragraph 2.7 states that Ofgem will prepare changes to the Rules “where appropriate”. Clarification should be provided as to when a Rule change will be considered appropriate by Ofgem. Will Ofgem be adopting an approach whereby a proposed Rule change must “better meet” particular objectives? If so it is not clear what objectives these are. The objectives stated in the Electricity Capacity Regulations apply in respect of the Authority’s functions in relation to the CM Rules but they are not expressed as CM Rule objectives (which a proposed change must better meet).
- It is not clear how proposed changes will be considered and developed prior to Ofgem consulting on draft revised Rules. The overview diagram states that Ofgem may organise stakeholder events but no further detail is provided. Will the drafting of a particular Rule change be subject to industry consultation in isolation before the revised set of consolidated CM Rules is consulted on? If so, the role of industry participants in this process is not clear here.
- Will it be possible for alternatives to a rule change proposal to be raised and, if so, how will such an alternative be raised and developed by industry participants?
- The example change request proposal form asks for analysis and evidence of the impact of a proposed change on, amongst other things, other industry codes. It should be noted that not all participants will have the resources to provide such evidence and analysis. Is the absence of such analysis detrimental to the consideration of the proposed CM Rule change by Ofgem?
- The example change request proposal form asks for justification for the proposed change with reference to the applicable CM Rule Change objectives. As stated above, it is not clear what these change objectives are. The objectives specified in the Electricity Capacity Regulations are expressed as objectives to which the Authority must have regard when making capacity market rules rather than objectives which any CM Rule change must (better)

meet or facilitate. Some further clarification as to what is intended / required here would be helpful.

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

Much of the best practice that has been adopted by code administrators in relation to the modification processes of core industry documents such as the CUSC, Grid Code and BSC does not appear in the draft guidance and it is not clear why this is the case. The transparency and industry expertise input afforded by the review panel and working group approaches seen elsewhere is invaluable in developing robust modifications and such an approach seems entirely appropriate in the context of the CM Rules. Although the CM Rules are prescribed by the Electricity Capacity Regulations it is not apparent why this status should drive a move away from established best practice which is entirely transferrable to the CM Rules.

The role and responsibility of administrators of core industry documents in relation to the proposed CM Rule change process is not clear. It would be helpful if the guidance could clarify the process by which such administrators are to be engaged in relation to the potential impact of a CM Rule change on the code for which they are responsible.

On a related issue, it may be the case that the implementation of an approved modification to a core industry document which has implications for the CM Rules has to be delayed in order to allow for a CM Rule change to be progressed and subsequently implemented. It would be helpful if Ofgem could explain in its guidance how this interaction will be managed.

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