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Dear Ms Kelso

### **Consultation on draft guidance for the Capacity Market Rules change process**

Welsh Power Group (WPG) is a privately-owned energy company with a strong track-record in development, in both conventional and renewable energy. We specialise in investing in peaking plant in the GB power market, recently building 24MW bringing our total operating capacity to 50MW with a further 10MW under construction and with advanced plans to roll out more than 150MW of new efficient plant in the coming years.

WPG understands the challenges faced by Ofgem in creating a new governance process that is as yet little understood. It is difficult to know if proposed CM rules changes will be complicated or numerous, it is therefore vital that Ofgem opts for maximum flexibility at this stage.

#### ***Raising changes***

WPG is concerned that Ofgem's annual change process window, occurring after each CM auction, may have a number of problems. The window may not give enough time to consider complex changes, which may have to be considered in one year and implemented for, say, two auctions later. The parties are used to other code changes working this way and it would seem better to get changes right than rush them.

The window may also lead to bunching of work with resource issues for Ofgem and parties alike. A slower process could allow staggering of development work and consideration of alternative proposals. Generally, once a proposal is reflected on and developed a new "alternative" solution is found. A process that allows for that should be more efficient and robust.

### ***Templates***

WPG agrees that a template for parties who wish to raise change to submit to them would be helpful. However, for smaller parties, such as us, it is important that it is not onerous to propose a change. For example, we should not be required to provide legal text.

WPG would also note, that were it to raise a change to the CM rules that then required a change to one of the other codes (BSC, CUSC, etc.) we cannot raise changes to the related code (we are not signatories). WPG therefore believes that Ofgem needs to place a licence obligation on the monopolies (National Grid and DNOs) to raise any required changes on behalf of the smaller party.

### ***Notification***

All changes being notified to the market are important and WPG would suggest a modifications register is created, similar to those used under other codes. However, this should be supplemented by an e-mail to registered parties (at least all those who are CM parties, or have prequalified). This will help encourage parties to raise different solutions or related issues at the same time.

Ofgem may also want to consider the use of an “issues process”. This would allow Ofgem to convene a meeting on an issue without anyone having to raise an actual proposal for change. Once the issue has been discussed a proposal can be written that would address the issue in the best way, which may allow for a faster process than discovering a change does not work in practice.

### ***Consultation***

It is vital that Ofgem consults the industry before proposing any changes to the CM rules. What is alright for one party may have significant resource or legal issues for another. Without consultation Ofgem could risk creating damaging, unforeseen, consequences.

WPG would suggest that Ofgem’s annual review is seen as part of the modifications process. This could work with Ofgem holding an open meeting after each auction to ask for views on areas that need consideration (an “issues” meeting). A more collaborative approach to rule changes may be fostered with Ofgem in the room with the players, as it should inform the raising of changes. It is also an opportunity for Code Administrators to flag any potential related code changes, if they were to be required.

Ofgem will need to provide clarity on how it will deal with proposed changes that address the same issues. While alternatives are a good thing generally, there is a need to allow industry to debate the merits of different ideas. This process will be helped if there is a route to withdraw changes, for example where a party agrees that a different proposal provides a more robust solution than his own proposal.

Ofgem should also make sure that it brings forward any changes it believes are required as soon as possible and always with enough time for industry consultation. All modifications may require an impact assessment so Ofgem will also need to consider how it allows enough time for consultation and an IA.

***Urgent Changes***

WPG supports Ofgem's proposals to have a process which would allow some form of urgent modification process, but agrees this should only be allowed if the change was time critical. WPG would propose that Ofgem sets out some urgency criteria as it has for other codes.

***Ofgem Powers***

Ofgem and DECC have said that Ofgem cannot change the rules until after the first auction, but WPG cannot see where in the legal drafting that is the case. We believe there is a likelihood that issues will occur in the pre-qualification this year as the rules are simply untested and have been developed in a rush. It would therefore be prudent for Ofgem to discuss with DECC how any emergency changes – or pragmatic interpretation – is going to be achieved this year.

WPG hopes that these comments are helpful. If you or your colleagues would like to discuss any of these issues further please do not hesitate to contact me.

Yours sincerely



Alex Lambie  
Chairman