

Capacity Market participants,  
prospective participants and  
other interested parties

Email: [EMR\\_CMRules@ofgem.gov.uk](mailto:EMR_CMRules@ofgem.gov.uk)

Date: 28 November 2014

Dear colleague,

## **Electricity Market Reform: request for views on our suggested priority areas for changes to the Capacity Market Rules before the 2015 auctions**

### **Summary**

- This letter invites your views and proposals on our proposed priority areas for potential changes to the Capacity Market (CM) Rules ahead of 2015 CM auctions.
- Our three suggested priority areas for change are: streamlining and clarifying arrangements for prequalification, price-maker memorandum arrangements, and demand-side response (DSR) related issues. We also invite proposals in any other area of the CM Rules you may have.
- The deadline for responding to this letter and for submitting CM Rules change proposals is **5pm on 23 January 2015**. Please reply to [EMR\\_CMRules@ofgem.gov.uk](mailto:EMR_CMRules@ofgem.gov.uk).

### **Introduction**

This letter explains our initial views on priority areas for changes to the CM Rules<sup>1</sup> (the Rules) for the 2015 four-year-ahead (T-4) auction and the first DSR transitional auction. It also looks at what comes next, and includes a reminder of how to propose CM Rules changes.

The areas highlighted below arise from initial views gathered at our CM Rules event on 17 October 2014. They also come from our initial review of the 2014 T-4 prequalification process. We will consider in more detail Rules changes relating to the auction stage after the 2014 T-4 auction.

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<sup>1</sup> The Capacity Market Rules are on DECC's website: <https://www.gov.uk/government/collections/electricity-market-reform-capacity-market>

## Context

The CM is governed by a combination of The Electricity Capacity Regulations 2014<sup>2</sup> (the Regulations) and the Rules. The Regulations provide the overarching policy and design. The Rules underpin the CM and set out its detailed operating framework.

The Rules have been made by the Secretary of State. However, we will become responsible for managing and making any changes to them from the day after the results of the first capacity auction.

The Regulations permit us to amend, add to, revoke or substitute (change) any provision of the Rules. When changing the Rules, we must have regard to our principal objective, our duties<sup>3</sup> and the specific objectives set out in the Regulations<sup>4</sup>:

- promoting investment in capacity to ensure security of electricity supply
- facilitating the efficient operation and administration of the Capacity Market
- ensuring the compatibility of the Capacity Market Rules with other subordinate legislation under Part 2 of the Energy Act 2013.

In accordance with our published guidance<sup>5</sup>, we will consider any proposal to amend a provision of the Rules and will consult with stakeholders before determining whether a change should be made.

### **Our proposed focus for Rules changes in 2014/15**

In the first year, we expect to make only changes we judge to be critically important to the operation of the CM. There are risks to changing areas of the Rules which have not yet come into operation, or before there has been sufficient time for arrangements to be tested in practice. We also need to avoid confusion with changes to the Rules and Regulations which DECC is introducing over the next six months as a result of their recent consultations (see below).

Possible areas for Rules changes were suggested by stakeholders at our 17 October event. These fall into three groups. Do you agree that these are the priority areas at this time?

#### ***Streamlining and clarifying prequalification arrangements***

Stakeholders suggested that there are areas of the Rules which could be made clearer by simplifying or reducing the existing information requirements. For example, some attendees questioned the need to submit some of the supplementary documents and declarations required by the Rules. They also suggested that some definitions in the Rules were inadequate.

We would be interested in more detail on these, either in response to this consultation or through specific Rules change proposals. DECC has already made some changes in this area of the Rules but we agree there are advantages to a wider review. Related changes could facilitate applications by prospective new entrants to the CM and reduce the prequalification burden on existing participants from one year to the next. However, a wide-ranging review would be lengthy and complex. It may require an iterative process rather than a single set of changes to the Rules.

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<sup>2</sup> The Electricity Capacity Regulations 2014 came into force on 1 August 2014

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/249564/electricity\\_capacity\\_regulations\\_2014\\_si.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249564/electricity_capacity_regulations_2014_si.pdf)

<sup>3</sup> Ofgem's principal objective and general duties can be found on our website

<https://www.ofgem.gov.uk/publications-and-updates/powers-and-duties-gema>

<sup>4</sup> Regulation 78 sets out these objectives. Regulation 77(3)(a) states that the Authority must not make any provision in capacity market rules which is inconsistent with the Regulations

<sup>5</sup> <https://www.ofgem.gov.uk/publications-and-updates/final-guidance-capacity-market-cm-rules>

### **Arrangements for price-maker memoranda (PMM)**

Some stakeholders who are interested in becoming price-makers have raised concerns about the process of drafting and submitting their memoranda to the Authority. These worries covered both the timetable for submission and the clarity of the Rules on the content and purpose of submissions.

We will monitor the PMM process carefully this year to determine whether any changes would be beneficial. We will also keep in mind the impact any changes may have on the wider CM auction process.

### **Rules governing DSR**

DSR stakeholders have suggested that amendments should be made to Rules governing DSR participation in the CM auctions, including the transitional DSR auctions. We acknowledge there is a particular urgency to any potential changes affecting the transitional auctions, as these are expected to take place only in 2015 and 2016. However, we also note that DECC has proposed amendments to the Rules affecting DSR. When we review any DSR-related changes, we will pay close attention to potential conflicts with DECC's changes.

### **Submitting CM Rules change proposals**

As well as your views on our priority areas, we welcome formal proposals for Rules changes. Please submit these whether or not they fall within the three priority areas identified above.

In considering possible changes you should take into account the recent DECC consultations<sup>6,7</sup> on changes to the Regulations and Rules. These are primarily to enable interconnected capacity to participate in the CM from 2015 and implementation of metering configuration solutions for resources (including DSR) not party to the Balancing and Settlement Code and those that are sub-sets of Balancing Mechanism Units. DECC will respond to the relevant consultations in early 2015.

It is expected that changes to the Regulations and Rules as a result of these consultations will come into force by March 2015. We do not expect to make Rules changes in these areas before the 2015 auctions.

To propose a specific rule change, send the form on our website<sup>8</sup> to [EMR\\_CMRules@ofgem.gov.uk](mailto:EMR_CMRules@ofgem.gov.uk). Please support the proposal with arguments and evidence as fully as possible. We will publish all proposals we receive on our website. Please indicate if you wish any information within your proposal submission to remain confidential.

You can submit proposals at any time. However, we must receive them by **5pm, 23 January 2015** for us to be able to consider them in our subsequent consultation.

If we receive proposals after this date we will consider them as part of the next round of Rules changes. This is likely to be in 2016. We will make an exception to this only if we think a proposal is urgent.<sup>9</sup>

### **Next steps**

Please send your views on whether you agree with the priority areas identified in this letter by 5pm on 23 January 2015. Write to [EMR\\_CMRules@ofgem.gov.uk](mailto:EMR_CMRules@ofgem.gov.uk).

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<sup>6</sup> <https://www.gov.uk/government/consultations/consultation-and-amendments-to-capacity-market-rules-2014>

<sup>7</sup> <https://www.gov.uk/government/consultations/consultation-on-capacity-market-supplementary-design-proposals-and-transitional-arrangements>

<sup>8</sup> <https://www.ofgem.gov.uk/publications-and-updates/final-guidance-capacity-market-cm-rules>

<sup>9</sup> For the conditions constituting an urgent proposal see our published guidance at the address in footnote 8.

Also send any proposals for Rules changes to the same address by the same deadline.

**Please use the form on our website to submit these proposals.**

We will hold our second stakeholder event on 13 January 2015. As well as being a forum for your views, this will provide an opportunity to discuss areas for change in the light of the first capacity auction in December 2014. We will send you details of this event separately.

We will hold a statutory consultation on proposed Rules changes (including a workshop to discuss the proposed changes) in spring 2015.

We aim to publish the final version of the revised Rules in summer 2015, before the next prequalification round opens. We will work closely with DECC to ensure we publish our Rules changes as far in advance as possible of the 2015 prequalification round. However, the timings of our statutory consultation and publication of the revised Rules may be affected by possible revisions of the Rules and Regulations by DECC arising from its recent consultations and any subsequent DECC reviews of the first capacity auction. We will need to take account of any changes to the Rules or Regulations introduced by DECC. We will also work with the EMR Delivery Body (National Grid Electricity Transmission) and the Settlement Body to ensure that any impacts on their systems are considered thoroughly.

Yours faithfully

Adam Cooper  
**Associate Partner**  
**Wholesale Markets**