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Dear David,

**Electricity Market Reform: request for views on Ofgem's suggested priority areas for changes to the Capacity Market (CM) Rules before the 2015 auctions**

Thank you for the opportunity to respond to your initial views on priority areas for changes to the CM for the 2015 four-year-ahead (T-4) auction and the first DSR transitional auction. Please find our comments regarding your three priority areas below.

**1, Streamlining and clarifying prequalification arrangements**

We agree that that this is an area within the rules that would benefit from being made clearer and simpler. We believe information requirements could be reduced, especially for those plants that have now been through the prequalification process.

Specifically we believe the following should be considered:

- The EMR Delivery Portal or a similar application (the "Portal") should be implemented, enabling existing and new applicants to directly upload and verify data submissions prior to completion of the final application process;
- The Portal should be populated with existing approved Company, User and CMU data, thus ensuring applicants do not have to resubmit data already provided to the Delivery Body;
- Applicants should be able to (i) update existing data, as appropriate, for their respective CMUs prequalified in 2014 and (ii) submit full applications for new CMUs;
- The Rules should stipulate and differentiate between:
  1. any mandatory updates required for CMUs already prequalified, such as Historic Performance Period data;
  2. all information requirements for new applications;
  3. any changes to capacity as a result of plant modifications or changes in operating regimes;
  4. any updates required for CMUs already prequalified that seek to alter their opt-in or opt-out status.

## 2, Arrangements for price-maker memoranda (PMM)

We agree that the process for submitting a Price-Maker Memorandum could be improved. However, any possible additional restrictions and definitions associated with the PMM should be given careful consideration. It should be left to market participants to construct and present their forward view of costs, prices and risks in line with their normal business plan practices that are familiar to those who are responsible for signing them off.

Specifically, we believe the following change should be considered:

- A timetable should be stipulated in the Rules for the PMM to be lodged with the Authority. The Authority should send its receipt simultaneously to both the Applicant and the Delivery Body, thus simplifying the process.

## 3, Rules governing DSR

We are aware that DSR stakeholders have suggested that amendments should be made to the Rules governing DSR participation in the CM auctions. In particular we are aware of the ongoing debate around the mutual exclusivity of participation in (a) the trial periods and (b) the T-4 auctions. Whilst we believe that DECC gave careful consideration to its policy decision in this area and we agree with the conclusion it reached, we are interested in understanding if dedicated DSR stakeholders have any new considerations to add to the debate.

### Formal proposals for Rule Changes

We have also considered further potential rule changes that impact prequalification and other areas. We contributed to Energy UK's CM rule change consolidation process and hope that this process will be effective in enabling both industry and Ofgem's to consider proposals more efficiently. We are submitting four further formal change proposals (of which, two are alternatives) that we believe are essential in ensuring the CM is robust going forward:

- **The requirement to hold Transmission Entry Capacity (TEC) for existing plant should be revised (i.e. the requirement to hold TEC at prequalification or 18 months in advance should be supplemented):** It should also be possible to demonstrate adequate network access for the Delivery Year through other routes i.e. a confirmation from National Grid that it has agreed to provide adequate access to the system should also be considered sufficient.
- **Prequalification of New Builds and Termination Fees:** We believe that the initial termination penalty level for failure to meet progress requirements 18 months after the Auction Results Day, may not be enough of a deterrent to restrict speculative projects. We believe there are two possible options to address this concern.
  1. Major New Build projects should be given the **option** to certify at prequalification that they have, or will have, sufficient financial resources available to meet their Total Project Spend (and that owners will behave in the auction within the confines of any financial backing restrictions, as

they may be modified). In such cases, the applicant must provide evidence of the commitment if requested by Ofgem. In the event this option is not taken (or the evidence is not provided) the project should face higher penalties in the event of non-delivery, due to the higher risk and the impact this could have on security of supply. Under a variant of this, the project would be unable to prequalify if it could not certify financial resources.

2. An alternative proposal would be to increase the penalty rate (from £5/kW to £25/kW) across the board.

- **Total amount of Capital Expenditure for New Build and Refurbishing Units:**  
We believe the hard coded date of the 1 May 2012 for accounting for the total amount of capital expenditure should be replaced by a reference to the prequalification date for the T-4 auction. Whilst we supported the justification of the 1 May 2012 approach for the first auction, it is clearly a transitional measure that cannot be left in place indefinitely for CMUs that were under construction during the introduction of EMR, if they do not clear in the early auctions.

Given that it is inevitable that this rule will need to be updated to an enduring approach at some point, we believe it is appropriate to address it before the second auction. As an enduring rule, we believe for the purpose of justifying new builds and the refurbishment of units, only capital spend incurred between the prequalification process and the delivery year should be considered.

If you have any questions in relation to our response, please do not hesitate to contact me.



**Rupert Steele**  
Director of Regulation