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To EMR Rule Change Team

**Electricity Market Reform: Statutory consultation on changes to the Capacity Market Rules pursuant to Regulation 79 of the Capacity Market Regulations**

1. VPI Immingham welcomes the opportunity to respond to the above consultation. VPI Immingham is a combined heat and power (CHP) plant near Immingham, on the south bank of the river Humber. It is one of the largest CHP plants in Europe, capable of generating 1240MW – about 2.5% of UK electricity peak demand and up to 930 tonnes of steam per hour, which is used by nearby oil refineries to help turn crude oil into products, such as gasoline.
2. We were successful in the 2014 capacity auction, receiving a one year Agreement, and expect to be an active participant in both the 2015 and subsequent auctions. We wish to ensure that the capacity mechanism treats all participants on an equal footing, creating a level playing field for all participants.
3. We are concerned that some of the Rule Changes suggested as part of the consultation process have been rejected, specifically those that clarify areas of potential ambiguity in the Rules or that streamline the process. The Capacity Market Rules are “the bible” that participants use to inform their participation and therefore must provide absolute clarity. Some of these proposals were submitted via Energy UK suggesting that they have also have broad support from many of the participants.
4. In addition, in an industry that is often criticised as being opaque and difficult to understand, we cannot understand why Ofgem has seemingly rejected proposals that seek to add transparency to the process for all participants or to support Rule Changes that move away from the concept of an economic market. We strongly support the principle of openness and transparency as we believe that this contributes to a healthy, market based operation. We note that the Rule changes associated with increasing transparency or streamlining the process have been rejected. We do not agree with this and believe that these decisions should be reviewed. Our detailed views can be found under section 6 below.
5. In the same vein, we do not support the Ofgem proposal to set the spare capacity announcement to 2GW when it falls below this. We believe that this goes against the principle of openness and transparency. We note the concerns regarding a participants’ ability to game the auction, but we believe that these are adequately addressed by the existing arrangements.
6. Set out below are our detailed responses:

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- **Question 1: CP06, CP25, CP34, CP41 and CP50: Qualifying Capital Expenditure for New Build CMU:** We do not think it appropriate for the qualifying date for capital expenditure to remain at May 2012 for any future auctions. This was the date set for the first auction and is therefore only relevant for the 2014 auction. The simplest solution and what is appropriate for the 2015 auction would be to roll the date forward by a year for the 2015 auction and each subsequent one, i.e. it becomes May 2013 for the 2015 auction. We also think that Ofgem are right to look into this further and to collect evidence from parties to understand how long the qualifying period should be for future auctions as 77 months would seem an excessive amount of time to incur the spend, potentially increasing costs for consumers.
- **Question 2: CP01, CP07, CP25, CP34, CP41 and CP50 Qualifying Capital Expenditure for Refurbishing CMU:** We believe that the qualifying expenditure should be measured from auction results day and that the change should be implemented from 2015 and not 2016. Given the change already implemented regarding the statement that a three year refurbishment contract is required, one can assume that a decision to proceed with the refurbishment is dependent on receipt of a capacity contract. Therefore, it is right that auction results day is the correct starting point as it is the point at which the participant knows with certainty that they have a contract and can therefore proceed with the refurbishment.
- **Question 3: CP69: Do you have any views on whether and how the Rules should be amended to prevent applicants being able to provide a calculation of connection capacity close to the value of entry capacity in the manner described in CP69?** We do not believe that any changes are required to the current methodology. As long as a plant can prove delivery of its de-rated capacity at three points during the previous two years, we do not believe that there is an issue.
- **Question 4: CP74: Do you agree that duration bid amendments should only be allowed to reduce during the auction?** No, we do not believe that DBAs should only be allowed to decrease during the auction. It would also seem perverse to implement this rule change when DECC are currently doing further work to look at price duration curves and there is no visibility of what the changes, if any, may be. It may be more economical for the consumer to enable a participant to increase the length of their contract and thereby reduce their price during an auction. As outlined in bullet point 4 above, this seems to move away from an efficient market based principle.
- **Question 5: CP46: Do you believe that DSR CMUs should be able to add, remove and reallocate CMUs? Please explain your answer. Do you think there are potential downside risks to this, as we describe above? If so, how would you suggest we mitigate these downside risks?** We do not have a strong view on this proposal as long as it maintains a level playing field for all participants. This would seem like a logical step for unproven DSR, but not for proven DSR. However, it should be noted that should secondary trading work as planned, then there is opportunity for DSR to trade out of their obligations as generators will do.

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- **Question 6: CP24: Do you have any reasons or evidence for why we should not also include OC.6.7 as a form of load reduction in the definition of Involuntary Load Reduction (in addition to our proposal to make the amendment suggested by CP24)?** No.
- **Question 7: CP49: Do you have any evidence to show that CHP is failing to prequalify or that there would be benefits to allowing embedded generation to bid as a DSR component?** No, we have no evidence to suggest that this is the case. As the largest CHP in the country, VPI Immingham had no issues prequalifying or participating in the auction. Provided embedded generation meets all the criteria required of a DSR component with no changes to the Rules, we see no reason why they could not participate as DSR. However, not all embedded generation is the same and therefore detailed descriptions of eligibility would be required.
- **Proposal B** – we do not agree with Ofgem’s proposal to cap the spare capacity at less than 2GW when it falls below that number. As outlined above, the capacity market should be a level playing field that is open and transparent to all participants. This proposal moves away from this concept as well as that of allowing a competitive market to decide the most efficient and economic outcome of the auction. We recognise the concerns regarding strategic withholding, but believe that these are adequately addressed by the existing arrangements.
- **CP05, CP10, CP15** – We believe that Ofgem should review their current minded to position for these proposed changes. There is no reason that the wider market should not have access to how the auction is progressing and this is in keeping with the openness and transparency of the market. The rationale that bidders may be able to work together is ridiculous as those who are bidding on behalf of their companies already have access to this information and could collude if they wanted to, noting of course, that this is illegal and prevented under various other Regulations. In addition, with different company structures in place across participants, there are some companies where the data may be more widely available than at others and available across different spans of control. Publication of the data between rounds promotes transparency and competition as all across the industry have a view of the auction progressions and likely clearing price.
- **CP42** – we do not understand the rationale for rejecting this proposal. It is in keeping with the principles of openness and transparency and has no impact on any participant. As noted in Ofgem’s rationale, the information is available on the CM Register, yet, using the 2014 auction as an example, with various CMUs excluded at the beginning of the auction, this was not clear to participants. In addition, it is not a straightforward task to find the information required, particularly for smaller players who may not have as much resource dedicated to the CM. This simple and small change would benefit all participants of all sizes, levelling the playing field.

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- **CP14, CP20, CP76** – we believe that Ofgem should review their position on these proposed Rule changes. The Rules must provide absolute clarity to participants in the capacity mechanism and these all improve the clarity of the CM Rules. In an industry used to being governed by Codes, Rules and Licences, the Rules should provide absolute clarity with no scope for ambiguity. To this end, we think Ofgem is therefore right to reject CP31 and CP87.
- **CP22, CP23, CP35** – we believe that Ofgem should review their position on these proposed Rule changes. Simplification and streamlining of the process can only benefit all participants, the EMR Delivery Body and Ofgem ultimately which is what these proposals achieve, as do CP62 and CP67 which Ofgem are right to implement.
- **CP88** – Whilst CP88 is not a Rule change in itself, we see no reason why there cannot be a review of whether the material provided during pre-qualification is fit for purpose and believe that this review should be undertaken at some point in the future to ensure that the process is efficient and does not create unnecessary work for participants.
- **CP89** – We cannot understand the rationale for rejecting this proposal. It provides clarity to the wider market regarding successful participants and may also help facilitate secondary trading as all of the information would be available.

We would welcome the opportunity to discuss our response with the relevant people responsible for the CM Rule Change process at Ofgem and to work together to develop a robust capacity mechanism.

For further question regarding any of the above, please contact:

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