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8 May 2017

Dear Mark

CM Rules

The Flexible Generation Group (FGG) represents the owners of and investors in small scale, flexible generation. These power stations are embedded in distribution networks and provide a variety of services to the system operator to help it deliver secure, economic supplies to electricity customers. While not a new sector in the market, it is becoming increasingly vital that the SO has access to flexible generators to help maintain system security in the most economic manner. All of the FGG businesses are involved in the CM and have by enlarged found the processes around pre-qualification more onerous than we feel is necessary.

While we broadly welcome Ofgem's decisions, there are a number of proposals where we would like to see Ofgem revisit their positions and a few points we would like to note.

Batteries/ & Interconnectors
There were a number of rule changes around the treatment of batteries which we understand that Ofgem has effectively parked while NG's work on de-ratings progresses. We agree with the general thrust of the proposals to recognise the need to de-rate technologies to reflect their likely contribution to a stress event. We therefore believe that the interconnectors must also be de-rated more for the forthcoming auction in light of the issues with IFA last year.

Rules vs Regulations
FGG note that a number of the proposals were rejected due to their impact on the regulations (regs). It would be useful if in their decision document Ofgem could provide a list of those proposals sent to BEIS and their minded to position on them. For example, "Ofgem have recommended to BEIS that the following proposals should be progressed in the next changes to the regs". This would allow parties to see what the potential policy intent would be.

It would also be helpful in future if Ofgem and BEIS could do their rule changes as a joint documents, as the two stage process seems very inefficient and lengthy. This may allow for the regs to be changed after, picking up any changes for the rule change process.

We would also ask Ofgem to push BEIS to publish a set of consolidated regs, as Ofgem do on the rules. For all parties the compliance process is very onerous with numerous pieces of law and rules to refer to and consolidation would save the industry a fortune in time and legal fees.

We would like to note our thanks to Ofgem for producing consolidated rules. We would request that Ofgem places on a page on their web-site not only current rules, but those in force for each auction already gone by. It is a difficult and a somewhat odd position that different vintages of CMUs may have complied, and continue to comply, with different sets of rules. This could as easily be done on the EMR Delivery Body web-site, but NG's IT performance has been so poor that we would rather Ofgem published them.

CP205 (UK Power Reserve); CP232 (Energy UK)

While we appreciate that Ofgem does not wish to tie it hands on how it regulates specific parts of the energy industry, we agree with other parties that an audit of NG is necessary to check that they are complying with the rules. We have found the NG's view is always considered to be "right" even when later shown to be wrong. Without some form of audit it is difficult for party not to feel that their businesses at the mercy of NG's processes and decisions. That may not be an issue if pre-qualification, appeals, etc. were operating seamlessly, but that is not the case.

CP190 (National Grid)

We do not support Ofgem's acceptance of this self serving rule change raised by NG. It is in the customers' interest that as much capacity as possible pre-qualifies and allowing parties to provide planning later in the process adds to capacity (we can vouch for capacity that has been able to be in the market because of this rule). Larger plants know when they will get planning as the Section 36 process is timed, but Town and Country Planning Act rules contain no deadlines on planners. Our plants are therefore consented at the whim of the Local Authority.

Even if a plant pre-qualifies and does not then get planning in time, it may get it only a month later and can then finish pre-qualification to allow it to trade. It will also have already submitted the majority of the data for future pre-qualifications, reducing the administrative burden in future years. Ofgem need to be clear that parties are only submitting sites they do hope to achieve planning on, we can see no logical reason why parties would spend their precious resources just dealing the EMR systems for the fun of it.

From what we can see NG is simply trying to cut down on its own work load with an obvious negative impact on competition, ultimately to the detriment of all customers.

CP235 (ESC)

FGG support this in principle, but would note that the drafting must allow for where a party has a metering dispensation as it does not have boundary meters, or where it may be connected into a private wire or on a customer site.

CQ1: Do you agree with the introduction of a financial penalty under Rule 6.8.4 for failing to meet refurbishment milestones?

FGG does agree. It is an anomaly that a CMU can get a three year agreement, default to 1 year and face no penalties.

CP195 (National Grid Interconnector Holdings)
FGG does not agree that this change should be made. The point of price making was to recognise that some marginal plants may need more money to remain open to the delivery year in light of their view of market fundamentals, opex, outages, etc. The interconnectors are able to operate under a cap and floor regime where effectively the asset owners are guaranteed incomes via the regulatory regime. They are also not subject to fuel and carbon costs, are all relatively new assets and, if well maintained by their owners, do not suffer the outage types a generator does. What is more the interconnectors are not having to secure fuels, etc. to make sure they can deliver, instead simply relying on prices to ensure their assets deliver.

FGG would like to see the whole treatment of interconnectors considered, but for now we certainly do not see that they can have any robust case for being allowed to price makers.

CP170 (RWE)
FGG believes that this change must be made if any improvement in NG's performance is to be achieved. We note that Ofgem expect NG to provide "sufficient reasons for rejection" but in reality they are not achieving this. A more explicit instruction may help focus their attention. It may also ensure some sense checking where they accepting one document for one CMU and rejecting it for another. This could be seen as one way to avoid the need to have an audit of NG's performance, by stating more clearly what the expectations around their performance are.

CP183 (E.ON)
FGG support this change as well. Yet again the timing seems to allow NG to be slow on something that should be relatively easy, as Ofgem says this is outside the window so there should be few going through at any one time. We can see no downside from trying to make the process more efficient and faster.

CP179 (E.ON) & CP202 (Alkane)
FGG fully support this proposal. There is no good reason why anyone should mind where and using what components a CM agreement is delivered. What is vital to customers is that parties can make sure they deliver the obligations in the agreement. The CM auction does not buy locational energy so it has no interest in location of the plant and if a party find a more efficient/cheaper site then they should be allowed to move their equipment.

The use of different components may also allow more efficient asset delivery as the technologies on the market alter, assets can be recycled to new sites, etc. Furthermore, it would appear unduly discriminatory for Ofgem to agree to OF12, allowing DSR components to alter, but not allow generation assets to alter. In both cases the important thing for customers is that the capacity is delivered. If a generation asset is damage does Ofgem not want the company to replace it with the more efficient, probably lower emissions, unit available?

CP201 (Alkane)
FGG welcomes Ofgem decisions to take forward part of the change, but we would like to see the whole proposal adopted. It is difficult for smaller parties to interpret the Rules and Regs already and we would benefit for the efficiency of NG (who should be the real experts) pointing us in the direction of the reason for any register change rejections. Clearly each party can seek expert advice, at expense, but NG must have already reviewed what it believes underlies its decision so it seems a very small step for them to identify the Rule or Reg underlying their decision.

CP216 (ADE)
While FGG recognises the Ofgem view that a CMW is not a despatch tool, for smaller parties who do not have the resources to monitor the whole system so further updates would be useful. For example, if an interconnector is down, larger parties will have far more information on that than a smaller party, with staff to monitor developments, watch the BMRS, track REMIT data, etc. Helping to better inform parties should make sure that despatch only occurs when actually required; a more efficient market is achieved by better information provision.

CQ2: Should the SO be required to update the information included in a CMN and if so what should such updates include? Please clarify why participants need this information in a CMN and cannot access it readily elsewhere.
Yes (see above) the CMW should be updated with additional information each settlement period. The information could include:

- Plant margin
- MWs of generation failed or on outage
- Interconnector outages
- Demand at X% of SND
- Transmission constraint due to incident

FGG would suggest that a working group could create a list of standard fields for NG to tick boxes on or fill in details, scraping the data from the BM Reports information or their own systems in Wokingham.

CP182 (E.ON)
While FGG recognise the concerns Ofgem has about allowing earlier transfers, the reallocation after T-1 does mean no new plant can come forward to pick-up obligations. We suggest that Ofgem discusses whether some alternative change, for example allowing transfers after 2 years from when a T-4 agreement was awarded. That way the security of the system may be better maintained than the current rules seem to allow.

FGG would also note that rule 9.2.2 seems to unnecessarily prohibit a third party taking on a site when a termination notice has been given. It would seem to be in the interest of customers that if a party can deliver a site previously awarded an agreement it should be able to do so. We note that a rule change was not raised on this, but it was not a problem we had come across until very recently. If it cannot be addressed this year one of our members will raise a rule change next year.

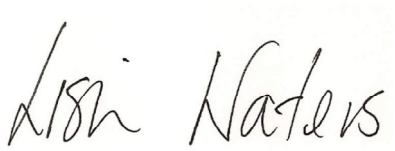
CP168 (RWE)
FGG believes that this may be a useful change in facilitating trades and transfers, which have obviously not needed to happen much to date. There must be a saving in being able to get a broker to facilitate traders as they would not otherwise exist in traded markets. As larger parties trade via third parties regularly, we suspect it may also help smaller parties in this specific market, we would therefore propose that Ofgem allows this rule change to go ahead as it would offer some efficiency and we see no obvious downside.

We note that Ofgem says that the system for transfers is untested, but given NG's performance to date, putting someone in a position to help parties would seem like an insurance policy if nothing else.

CQ3: Do you think there are amendments that could be made to Schedule 4 which reduce the likelihood of future Rules changes being required if balancing service products are altered, which do not undermine the wider functioning of the Rules?
Yes, it would be more efficient to not have to alter the definitions as different services are developed, especially as NG is planning to review ancillary services.

We hope that these comments are helpful, but if you do have any questions please do not hesitate to contact us.

Yours sincerely



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