

DETERMINATION PURSUANT TO REGULATION 71(3)(b) OF THE ELECTRICITY CAPACITY REGULATIONS 2014 (AS AMENDED) FOLLOWING AN APPEAL MADE TO THE AUTHORITY PURSUANT TO REGULATION 70(1)(a)

Introduction

1. This determination relates to appeals made by Flexitricity Limited (Flexitricity) against reconsidered decisions made by the EMR Delivery Body (National Grid Electricity Transmission plc (“NGET”)) in respect of the following Capacity Market Unit (CMU):
 - a) FLXR31
2. This decision deals with all of the appeals for the CMU listed above as they are substantively in respect of the same issue and differ only in so far as concerns the T-1 or T-4 auctions.
3. Pursuant to Regulation 71(3) of the Electricity Capacity Regulations 2014 (as amended) (the “Regulations”), where the Authority¹ receives an appeal notice that complies with Regulation 70, the Authority must review a reconsidered decision made by NGET.

Appeal Background

4. The appellant submitted an Application for Prequalification for the CMU in Paragraph 1 in respect of the 2018 T-1 and T-4 Auctions.
5. NGET issued a Notification of Prequalification Decision dated 11 November 2017 (the “Prequalification Decision”). NGET Rejected the CMU on the following grounds:

This application has not met the requirements of the Capacity Market rules due to the following reason(s): Incorrect option selected for “Method used to calculate the Connection Capacity” for the application type as per Capacity Market Rule 3.5.2.

¹ References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work.

Following options are applicable for the application type as per Capacity Market Rule 3.5.2: -

- All CMU – Historic Output*
- Distribution CMU - Unit Reg. Capacity*
- Distribution CMU - MEC Pro-rota*

6. The appellant submitted requests for reconsideration of the Prequalification Decisions before the deadline of 20 November 2017.
7. NGET issued a Notice of Reconsidered Decision for each auction on 1 December which rejected the disputes on the following grounds:

We have reviewed your dispute and maintain that the original Delivery Body prequalification decision still remains as Rejected. As per Capacity Market Rule 3.5.2 the following options are available as a method to calculate connection capacity: -

- All CMU – Historic Output - Distribution CMU - Unit Reg. Capacity*
- Distribution CMU - MEC Pro-rota*

'Distribution CMU - Estimate in Good Faith' relates to Rule 3.5.2(c)(iii)(bb) for Prospective CMU's (New Build Applications) which cannot be used for an Existing CMU.

8. The appellant then submitted an appeal notice to the Authority on 8 December 2017 under regulation 70 of the Regulations.

Flexitricity's Ground for appeal

9. The Appellant argues that their use of Rule 3.5.2(ba)(i) to calculate their Connection Capacity is justified. They note, *"The Delivery Body has not contested this, but has instead stated that the option we selected on the Application portal for the calculation of Connection Capacity related to a different Rule"*.
10. The appellant further states, *"We have shown that in respect of the CMU concerned, 'the Distribution Connection Agreement or connection offer does not state its registered capacity' (Rule 3.5.2(ba)) which means that the Connection Capacity can be estimated by the Applicant in accordance with Rule 3.5.2(ba) (i)."*

The Legislative Framework

11. The Electricity Capacity Regulations 2014 were made by the Secretary of State under the provisions of section 27 of the Energy Act 2013. The Capacity Market Rules were made by the Secretary of State pursuant to powers set out in section 34 of the Energy Act 2013.
12. The Regulations set out the duties upon NGET when it determines eligibility. Regulation 22(a) specifies that each application for prequalification must be determined in accordance with the Capacity Market Rules.
13. Regulations 68 to 72 set out the process and powers in relation to dispute resolution and appeals.

Capacity Market Rules

14. Rule 3.5.2 sets out the options by which the connection capacity of a Generating CMU can be calculated:

3.5.2 Subject to Rules 3.5.3 or 3.5.5, the Connection Capacity of a Generating Unit must be calculated as follows:

(a) for a Generating Unit forming part or all of a Transmission CMU, the Connection Entry

Capacity stated in the Grid Connection Agreement for that Generating Unit;

(b) for a Generating Unit forming part or all of an Existing Generating CMU which is a Distribution CMU, the registered capacity (or inverter rating, if applicable) stated in the Distribution Connection Agreement for that Generating Unit or in the written confirmation from the Distribution Network Operator provided pursuant to Rule 3.6.3(c)(ii) (as applicable);

(ba) for a Generating Unit forming part or all of an Existing Generating CMU which is a Distribution CMU, but where the Distribution Connection Agreement or connection offer does not state its registered capacity (or inverter rating, if applicable):

(i) the estimated capacity that the Applicant, with respect to the Generating CMU (that includes that Generating Unit), calculates to be the registered capacity or inverter rating, based on information otherwise contained within the Distribution Connection Agreement or a connection offer; or

(ii) the maximum capacity which will be physically capable of being transmitted from the Generating Unit to the Distribution Network, based on information otherwise contained within the Distribution Connection Agreement or a connection offer.

(c) for a Generating Unit forming part or all of a Prospective Generating CMU which is a Distribution CMU:

(i) the registered capacity (or inverter rating, if applicable) for that Generating Unit stated in the Distribution Connection Agreement for that Generating Unit or in the written confirmation from the Distribution Network Operator provided pursuant to Rule 3.7.3(b)(ii) (as applicable); or

(ii) where the Generating Unit does not have a Distribution Connection Agreement, the registered capacity (or inverter rating, if applicable) for that Generating Unit stated in the connection offer for that Generating Unit or in the written

confirmation from the Distribution Network Operator provided pursuant to Rule 3.7.3(b)(ii) (as applicable); or

(iii) where the Generating Unit:

(aa) has a Distribution Connection Agreement or a connection offer but such agreement or offer does not state its registered capacity or inverter rating, the estimated capacity that the Applicant, with respect to the Generating CMU (that includes that Generating Unit), calculates to be the registered capacity or inverter rating, based on information otherwise contained within the Distribution Connection Agreement or connection offer; or

(bb) does not have a Distribution Connection Agreement or a connection offer, or has a Distribution Connection Agreement or a connection offer but such agreement or offer contains no information relevant to the calculation of registered capacity or inverter rating, the estimated capacity that the Applicant, with respect to the Generating CMU (that includes that Generating Unit) anticipates (acting in good faith) to be the maximum capacity which will be physically capable of being transmitted from the Generating Unit to the Distribution Network, in each case expressed in MW to three decimal places

Our Findings

15. NGET has rejected Flexitricity's submission because the field "Distribution CMU – Estimate in Good Faith", which Flexitricity selected in its Application for Prequalification, is intended for Prospective Generating CMUs estimating their connection capacity under Rule 3.5.2(c)(iii)(bb).
16. The appellant has claimed that NGET incorrectly rejected the application for failure to select the appropriate method for determining the connection capacity of the CMU. Flexitricity submitted a connection capacity for FLXR31 of 10.864MW and explained in their

request for reconsideration that this option was chosen in accordance with Rule 3.5.2(ba)(i).

17. Rule 3.5.2(ba) establishes how Connection Capacity must be calculated for CMUs for which the distribution connection agreement or connection offer does not state a registered capacity. As the connection agreement for the CMU FLXR31 did not contain a value for registered capacity or inverter rating, we consider that the appellant was able to use Rule 3.5.2(ba)(i) to determine its Connection Capacity.
18. Rule 3.5.2(ba)(i) requires applicants to calculate their connection capacity *“based on information otherwise contained within the Distribution Connection Agreement or connection offer”*. The connection agreement provided by the appellant indicates that the private network has a maximum export capacity of 40,000kVA and a minimum power factor of 0.8. No other information is provided on the capacity of the site or the generating units.
19. The Applicant stated in their Request of Reconsideration, *“The Distribution Connection Agreement therefore provides insufficient information on which to determine the Connection Capacity. Therefore the Applicant has considered known historical performance of the Generating Units in generating electricity into the Private Network, provided in the letter submitted in respect of Rules 3.6.1 and 3.6.3(d), to further inform the estimate made under Rule 3.5.2(ba)(i). It has also taken into consideration information provided to the Applicant by the Legal Owner concerning the current capabilities of the Generating Units.”*
20. We consider that the appellant has not based the Connection Capacity stated in their Application for Prequalification on information in the Distribution Connection Agreement or connection offer and the Authority holds that the requirements of Rule 3.5.2(ba)(i) have therefore not been satisfied and NGET was correct to not prequalify FLXR31.

Conclusion

21. NGET reached the correct reconsidered decision to not prequalify FLXR31 for the T-4 and T-1 Auctions. While Flexitricity was able to use Rule 3.5.2(ba)(i) in order to determine the Connection Capacity of FLXR31, it did not provide sufficient evidence to verify that the calculation was based on information otherwise contained in the connection agreement.

Determination

22. For the reasons set out in this determination the Authority hereby determines pursuant to Regulation 71(3) that NGET's reconsidered decision to reject the appellant for Prequalification be upheld in respect of the CMU FLXR31 for the T-4 Auction and T-1 Auction.



Julian Roberts

For and on behalf of the Gas and Electricity Markets Authority

12 January 2018