

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 an appeal made by NG 1 Power Ltd (NG1P) against the reconsidered decision made by the EMR Delivery Body (National Grid Electricity Transmission plc (“NGET”)) in respect of the following Capacity Market Unit (CMU):
 - a) NG1PO2
2. 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

3. The appellant submitted an Application for Prequalification for the CMU in Paragraph 1 in respect of the 2018 T-1 Auction.
4. NGET issued a Notification of Prequalification Decision dated 10 November 2017 (the “Prequalification Decision”). NGET rejected NG1PO2 on the following grounds:

"This application has not met the requirements of the Capacity Market rules due to the following reason(s):

- *Capacity Market Rule 3.6.3 (c) states each Applicant for an Existing Generating CMU that is a Distribution CMU must: (ii) provide a copy of the Distribution Connection Agreement for each Generating Unit comprised in the CMU with the Application or, where this is not possible, written*

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.

confirmation from the Distribution Network Operator that such Distribution Connection Agreement [is in effect and confirming

- (aa) the registered capacity (or inverter rating, if applicable) of that Generating Unit and where a range of values is specified for the registered capacity (or inverter rating if applicable), the minimum value in that range; and
- (bb) the capacity that such Generating Unit is permitted to export to the Distribution Network].

However there is no letter with this Application that clarifies the link between the Company Name (NG 1 Power Ltd) in the application and the Company Name in the offer/acceptance form (Sterling Power Utilities).

- *The incorrect option was selected for “Method used to calculate the Connection Capacity” for the application type as per Capacity Market Rule 3.5.2. The 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*
- *Capacity Market Rule 4.4.2 (f) states the Delivery Body must not prequalify an Application if the physically generated net outputs, or Metered Volumes where applicable, of an Existing Generating CMU in the Settlement Periods nominated by the Applicant pursuant to Rule 3.6.1 are not each greater than the Anticipated De-rated Capacity. The historic performance for this CMU is less than the de-rated capacity (as per selected method of calculation.”*

5. The appellant submitted a request for reconsideration of the Prequalification Decision before the deadline on 20 November 2017.

6. NGET issued a Notice of Reconsidered Decision on 1 December which rejected the dispute on the following grounds:

Capacity Market Rule 4.4.2 (f) states the Delivery Body must not prequalify an Application if the physically generated net outputs, or Metered Volumes where applicable, of an Existing Generating CMU in the Settlement Periods nominated by the Applicant pursuant to Rule 3.6.1 are not each greater than the Anticipated De-rated Capacity. The historic performance for this CMU is less than the de-rated capacity (as per selected method of calculation).

7. NGET accepted all of the appellant's other grounds for dispute.
8. The appellant then submitted an appeal notice to the Authority on 8 December 2017 under regulation 70 of the Regulations.

NG1P's Grounds for appeal

9. NG1P disputes the decision on the following grounds.

Ground 1

10. The appellant claims that by "*not calculating the connection capacity in the way [the appellant] had requested as part of the tier one appeal,*" the Delivery Body applied a De-rated Capacity of 20.055 MW based on an "*estimate in good faith*" instead of a De-rated Capacity of 16.57 MW based on historical outputs. The appellant argues that, "*had the Delivery Body used the definition of connection capacity that [the appellant is] entitled to nominate, the meter reads would have been much closer to the connection capacity.*"

Ground 2

11. The appellant claims that it is "*disproportionate to set capacity at zero*" given that its secondary frequency response contract with National Grid limits a CMU to running inside pre-defined widows set by National Grid. Thus, it is "*difficult for this type of CMU to run in*

such a way as to generate meter readings that support its connection capacity” and meet the requirements in Rule 3.6.1. The appellant argues that the alternative information they have provided, including commissioning data, a substantial completion milestone report, and test observations from their balancing agreement, do give sufficient confidence that the CMU is capable of delivering the relevant capacity.

The Legislative Framework

12. 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.
13. 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.
14. Regulations 68 to 72 set out the process and powers in relation to dispute resolution and appeals.
15. Regulation 2 defines Settlement Period as:

a period of 30 minutes beginning on an hour or half-hour.

Capacity Market Rules

16. Rule 3.5.3 enables the appellant to calculate connection capacity based on “historical outputs” and states that :

An Applicant for an Existing Generating CMU may, as an alternative to the determination of Connection Capacity set out in Rule 3.5.2, nominate a Connection Capacity for that Generating Unit equal to the Average Highest Output of that Existing Generating CMU.

17. Rule 3.5.4 defines the Average Highest Output for the purposes of Rule 3.5.3, and states that:

the “Average Highest Output” of a Generating Unit is the mean average of the physically generated net outputs, or Metered Volume where applicable in MWh, multiplied by two to convert to MW and stated to three decimal places, of that Generating Unit in the three Settlement Periods identified by the Applicant under Rule 3.6.1(a).

18. Rule 3.6.1(a) outlines the requirements for the highest physically generated net outputs that the appellant must submit in their application and states that:

(a) Each Applicant for an Existing Generating CMU must identify in the Application the three Settlement Periods on separate days in:

(i) the 24 months prior to the date one month before the start of the Prequalification Window; or

(ii) if the CMU has not been operational in the 24 months prior to the date one month before the start of the Prequalification Window:

(aa) the most recent 24 months of operation; or

(bb) if the CMU has previously been operational for less than 24 months, the most recent period of operation; or,

(iii) if the CMU has been subject to a continuous Transmission Restriction for the whole of the 24 months prior to the date one month before the start of the Prequalification Window, the most recent 24 months in which the CMU was not subject to a Transmission Restriction,

in which such Existing Generating CMU delivered its highest physically generated net outputs, or Metered Volume where applicable, and specify such physically generated net outputs or Metered Volume in MWh to three decimal places.

(aa) Each Applicant for an Existing Generating CMU must also identify in the Application the 24 month period which contains the three Settlement Periods referred to in Rule 3.6.1(a).

19. Rule 4.4.2(f) does not allow the Delivery Body to Prequalify an Existing Generating CMU if the highest physically generated meter readings are not each higher than the De-rated Capacity and states that:

The physically generated net outputs, or Metered Volumes where applicable, of an Existing Generating CMU in the Settlement Periods nominated by the Applicant pursuant to Rule 3.6.1 are not each greater than the Anticipated De-rated Capacity.

Our Findings

20. We have assessed each of NG1P's grounds for appeal, which are set out below.

Ground 1

21. The appellant's first ground refuted the method used by the Delivery Body to calculate the De-rated Capacity. They argued that had the Delivery Body used their historical outputs, as requested in their Tier 1 appeal, the nominated meter readings would have been much closer to the De-rated Capacity.
22. However, even with the use of the historical outputs method to calculate the Connection Capacity, as specified in Rule 3.5.3, two out of the three nominated meter readings would have been lower than the De-rated Capacity. Rule 4.4.2(f) states that the Delivery Body cannot qualify an Existing Generating CMU if the meter readings are not each higher than the Anticipated De-rated Capacity. Therefore, NGET was correct in applying rule 4.4.2(f), which prevented NGET from prequalifying NG1PO2.

23. In addition, the meter readings nominated by the appellant do not qualify as Settlement Periods. Rule 3.6.1 outlines that the highest generated meter readings nominated must be Settlement Periods as defined by Regulation 2. A Settlement Period is a 30 minute period beginning on an hour or half hour.

Ground 2

24. The appellant's second ground, focusing on the nature of their contract with NGET, is not a relevant matter for the purposes of the prequalification assessment NGET is required to conduct. Whilst the appellant has explained their difficulty in complying with the Rules to demonstrate historical output, Rule 3.6.1 clearly states the need for all Existing Generating CMUs to demonstrate previous settlement period performance. The alternative evidence provided by the appellant is not allowed for by the Rules and therefore could not be accepted by the Delivery Body as meeting the requirements of Rule 3.6.1.

Conclusion

25. NGET reached the correct reconsidered decision to not prequalify NG1PO2 for the T-1 Auction under Rule 4.4.2(f) on the basis that the historical meter readings were not each higher than the Anticipated De-rated Capacity.

Determination

26. 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 listed in paragraph 1 for the T-1 Auction.



Julian Roberts

For and on behalf of the Gas and Electricity Markets Authority

09 January 2018