Mark Copley
Associate Partner, Wholesale Markets
Ofgem
3 May 2018

Dear Mr Copley,

Re: Ofgem's statutory consultation on changes to the Capacity Market Rules 2014

Green Frog Power builds gas-fuelled power stations utilising reciprocating engines. Efficient and flexible, our plant is exactly what the market needs. We have built more capacity that is reliable than any other British company in the past five years. We have over 400MW of plant in operation and a construction pipeline exceeding 600MW. The entire fleet can start from cold in less than two minutes.

We welcome the opportunity to respond to Ofgem's consultation on changes to the Capacity Market Rules.

Our general comment s on the rule changes is unchanged from last year's comments. The process for rule changes is time consuming. Splitting and staggering the responsibilities between BEIS and Ofgem is ineffectual. It is becoming increasingly difficult to keep track of proposed and implemented changes. The Rules are becoming more complicated and prescriptive, rather than less, as intended. And it is ever more difficult to manage projects and resources when actual final Rules are known at such a late date, in terms of prequalification.

We propose that BEIS and Ofgem adopt a joint approach to consultations and that this process starts earlier in the year. Industry would appreciate having only one consultation

response to worry about (and we think BEIS and Ofgem would too), and one set of potential Rules changes to take into consideration while planning.

The five-year review is a great opportunity to place this into action and ensure that the least resources are required, to maximum benefit of all.

Please see our detailed responses to each proposed rule change in the appendix to this letter.

Yours sincerely,

Graz Macdonald
Head of Regulation and Policy
Green Frog Power Limited

Appendix

Chapter 1

CP247 & CP343. We agree that secondary trading should be extended to those that have prequalified after an auction, and to those that are recently commissioned and without a CM agreement.

We agree with Ofgem's assessment that the gaming and market manipulation risk is very low. The risk is very low not only because of the provisions in the CM Rules and general law, but also because of many distinct and competing participants and the wide range of types of capacity offered.

CP257 No comment

CP286 No comment

Chapter 2

No proposals

Chapter 3

CP253, C347, C348 We agree with Ofgem's decision to permit the historical output used for determining connection capacity to be used for determining connection capacity, rather than the highest average. This is a pragmatic and very low-risk (of gaming) way of ensuring that there are as many participants as possible in each auction. We assume this would also apply to secondary trading participants.

It makes very good sense for the historical period to be to until the end of the prequalification window. This will ensure that parties do not postpone commissioning, at cost, simply to enable themselves to participate in an auction.

CP275 No comment

CP288, CP307, CP319 We agree with Ofgem's decision regarding provision of a VAT number. However, Ofgem imply that they believe that the postcode may not be relevant information.

Given that the six-digit OS grid reference code is required and is a very accurate representation of the sites location, we are inclined to suggest that the post code may now be redundant information.

In rural areas it is often the case that the post code used in everyday life (planning permissions, connection agreements, post office) is different from the one formally associated with the grid reference number. This can mean that legal documents may reference a technically incorrect post code, though one that is used by locals and the local post office. This has practical implications at prequalification if it appears that the postcode and the grid reference do not match. This requires extra work for the Applicant and the Delivery Body to provide an evidence base and to verify the legitimacy of the Application. It may be sensible to reconsider the language of Rule 3.4.3 (a)(i) to clarify that the OS grid reference number is the key data requirement.

CP293 No comment

C334 No comment

CP242, CP243, CP261 We think it is unfortunate that a solution does not appear to be available to behind the meter CHPs to enable them to participate in the CM.

CP254, CP341, CP342 No comment

CP255 No comment

CP269, CP283 We agree with the rule change proposers that, as the rules are written, that provision of the name of the holding company is a barrier to sale during prequalification. Taking into consideration that Ofgem feel that the information is important to ESC and NG, it may be sensible to require the information to be submitted in a “for information” basis, and explicitly make clear that the information can be changed at any time after prequal submission. It is important that the CM Rules do not impede transactions in any way that could be viewed as a barrier to entry or a barrier to fair business practice.

CP258, CP315 We agree with the decision to reject these proposals, as they are written. However, we think that the original deferred planning option should be implemented on a permanent basis.

It seems the reason provided for not extending the planning deferral beyond this year’s auction is based on the large number of speculative applications that do not ultimately achieve planning permission. However, we think that more attention should be given to the

number of projects that *do* achieve planning by the deferred date. The Rules are not meant to apply in a way that is best for "enough" or "most" participants, but, within reason, to all participants.

Furthermore, excluding the option to defer planning consents favours larger Section 36 plant. For these plant, the process is consistent, and they are usually obtained very early in the project phase, much earlier than local authority planning permissions, which tend to be relatively late in the process. Smaller projects can go from zero to commissioning very quickly and this advantage should not be constrained.

CP296 No comment

CP297 No comment

CP298, CP351 No comment, though due to their general competence and high standards, we encourage ESC to take, where possible, any (if not all!) responsibilities from NGET.

CP317 No comment

CP318 No comment

CP335 No comment

CP336 We agree with Ofgem's decision to reject this proposal. A generator's choice of metering, whether CMRS or non-CMRS is entirely a commercial decision. Removing this flexibility reduces the efficiency of the market and imposes business plans on all market participants that, coincidentally, very much favours the approach and position of larger, incumbent generators.

Behind the meter generation should have the option of being considered generation. As Ofgem rightly point out, removing this option will remove some competition from the market.

CP345 We think that the proposed approach to permit more than one party to share TEC is inadequate. On a risk-weighted basis, we think the proposed change should be implemented, and, if required, future amendments included to "fine tune" any issues, which would appear to be, as described, inconsequential.

C291, CP295 No comment

C349 We agree with Ofgem's assessment that this work shall require careful consideration. Among the many factors to consider shall be the types of shared connections that are envisaged, and which technologies are more likely to be delivering during system stress events.

This issue should also be considered in terms of the level playing field in terms of the advantages that transmitted generators have in the CM Rules and elsewhere that are perhaps not ideal from a competitive or efficiency standpoint (constraint payments, line outages etc). We shall welcome careful discussion on this matter.

Since this work shall be of material impact to a significant number of parties, and of significant benefit to others (transmitted generators), we suggest that careful efforts are made to ensure that full and unbiased analysis is fully considered and worked through with as many parties as practically feasible.

CP350 No Comment

CP353 We support further consideration of the time limited availability of some DSR technologies and their impact on the system and CM penalties. This analysis should include the potential for an increase in demand from where it would have otherwise (in the absence of being called in a stress event) been in a period after provision of DSR (refrigerators for example). This effect could increase the probability of a stress event or prolong one.

Chapter 4

CP272, CP281, CP306 we think it would be sensible to permit a change in site configuration (bar technology type due to derating factors) and delete Rule 4.4.4. To ensure that there are no issues with ensuring that the new configuration is fit for purpose, the modification could be treated similarly to a location change, which is effectively the prequalification information. In this case, instead of changing address, one changes CMU make-up. Subject to a capacity testing, and no change in technology type, the integrity of the obligation should remain intact. This would balance a reasonable standard of flexibility against the requirement to ensure no game playing and consumer value.

CP284, CP308, CP310, CP340 – Further consideration should be made regarding explicitly permitting CMUs to change from CMRS to non-CMRS and vice versa. From the number of requests made for the change, it appears that the lack of explicit clarity has caused issues that

would be easily solved by a simple, and simplifying, Rule modification. Barring this, Ofgem could, in the response to this consultation, state their position regarding their interpretation of the Rules for parties to refer the Delivery Body to when wanting to make such a change.

CP287 The Rules should be future proofed to the extent possible. Toward this, permitting a CMU to change from distribution to transmission and vice versa should be allowed. With the charging review underway, and numerous other shifting dynamics in the energy market, it is prudent to enable operators to engage in the types of commercial arrangements most appropriate in the context of the evolving regulatory framework.

CP322 We wholeheartedly agree in principle with Ofgem's decision. However, we note that Rule 8.3.7(c) requires an FCM report. If Ofgem believes (as we do) that the FCM should not be required for a location change then we propose removing Rule 8.3.7(c) entirely or adding "as applicable" to clarify that the FCM is not required prior to the FCM deadline.

We note on page 29 of the consultation that Ofgem state that they think it would be sensible to permit changes to primary fuel type. We agree with Ofgem but note that Rule 7.5.1(ra) already permits change of fuel type.

CP328 It is a pity that there appears to no pragmatic, non-regulation-based solution to the issue of correcting simple and forgivable errors at prequalification.

Chapter 5

CP273 We agree that the proposal is sensible and proportionate to the gaming risk in the T-1 auction.

OF16 – No comment

CP249, CP250, CP251 – we fully agree with Ofgem's decision to reject these proposals. Making public of PM certificates would give away very sensitive commercial information for (we presume) a limited few parties to the advantage of its competitors. One's bid, or bidding range, must be confidential (as required by the Rules) and information that leads other parties to narrow down a competitor's the bidding range is counter to that fundamental principle.

Furthermore, requiring PM Memo CMUs to bid above a certain level would undermine the competitive nature of the auction. It would also not permit bidders to consider information

that was forthcoming after the PM Memo deadline and the auction and it would force certain parties to commit to a bidding range before other parties.

C264, CP266 we agree with Ofgem's decision and their reasons for it.

CP316 No comment

Chapter 6

CP329 No comment

CP326 We agree with Ofgem's decision and their reasoning for it.

Chapter 7

CP270, CP271 No comment

CP321 No comment

Chapter 8

CP256, CP346, CP352 We agree with Ofgem's decision and the reasoning

CP279, CP289, C290 No comment

CP304 No comment

CP305 No comment

CP323 We agree with this Rule change proposal, as it will help to ensure transparency and ensure that costly generation and/or DSR is not unnecessarily dispatched.

Of13 No comment

CP267 No comment

CP278 No comment

CP282, CP311 We agree that the issue of how distribution agreements should be classified *for future agreements* needs further thorough discussion (please see our response to C349). However, regarding CMUs that have already won agreements, and which carried the widely held belief that they were in fact protected from network outages, as per BEIS's (DECC at the time) original intention, we think that the proposed rule change should be implemented for existing agreements.

In existing agreements, capacity is not defined as firm or otherwise, and should not be penalised for an emerging or future issue on other connections. It would be a mistake to classify a connection agreement as one or the other when there was no consideration of this at the connection agreement stage. This keeping under consideration that the provision of less expensive explicitly non-firm agreements is a recent occurrence, reflecting tighter networks and emerging technologies rather than a fundamental underpinning aspect of distribution networks.

It is already the case that distribution connected assets are providing network management services (e.g., constraints) for free, where NG pays transmitted generators for the same services. Yet transmitted generators are protected from CM penalties when constrained off, while distributed generators are neither paid, nor protected. We note also that Ofgem are open to protecting transmitted generators from intertrips as per C333. We believe it is important to maintain an even-handed approach and ensure that there are no worsening of the level playing field issues between transmitted and distributed generators.

CP292 No comment

CP294 No comment

CP330 No comment

CP324 No comment

CP327 No comment

CP331 No Comment

CP333 See response to CP282, CP311

CP339 No comment

Of12 No comment

Chapter 9

CP245 No comment

CP248 No comment

CP262 No comment

Chapter 12

CP312, CP325 we support the proposed amendment. However, it is worth considering whether the 3 and 9 monthly report timings should be reconsidered in light of the regularisation of the 6-monthly reports.

Chapter 13

CP244 No comment

CP276 No comment

CP277, C344 No comment

CP280 – We agree in principle, but not if it will unfairly benefit transmitted versus distribution connected capacity. This rule change should be considered in light of Ofgem's minded-to position to deny the same protections from penalties as transmitted generators have, and then add costs of withheld payments and additional SPD requirements (see CP311). The same protections should obviously equally and explicitly apply to distribution connected CMUs.

CP300 We agree with Ofgem's decision to take this rule change proposal forward.

CP320 We agree

CP338 We agree with this Rule change and Ofgem's reasoning for taking forward the proposal.

CP259 No comment

CP260, CP332 No comment

Chapter 15

CP252, CP285 we think it would be sensible to apply more rationalisation to the certificates than Ofgem is proposing. While it is true that the different certificates serve a different purpose, there is no material reason the prequal and the certificate of conduct cannot be merged, for example. As it stands, both are required for all Applications, so there appears to be no need for separate documents.

Ofgem should also review the wording of some certificates. For example, the Funding Declaration required that those who have not received Relevant Funding have informed relevant parties. This section should only be required if one is in receipt of Relevant Funding, or, "if applicable", should be added to the template. Certificates are important legal documents for Directors to sign and the wording of each should reflect the highest standard of legal text.

CP301 No comment

CP302 No comment

CP246 No comment

CP263, C313, CP314 We agree with the principle of including wind in the Capacity Market. We look forward to engaging with industry, the government and the regulator over the coming year to ensure this is done in the most appropriate manner.

CP265 No comment

CP274 No comment

CP303 No comment

Chapter 16

CP268 No comment

CP299 No comment

CP309 No comment