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Sent by email to: [EMR\\_CMRules@ofgem.gov.uk](mailto:EMR_CMRules@ofgem.gov.uk)

**Object: Response to the Open letter on the Five Year Review of the Capacity Market Rules and NGET's incentives**

9 October 2018

Dear Michael,

Thank you for the opportunity to provide our view on the open letter on the Five Year Review of the Capacity Market Rules and NGET's incentives.

We confirm that this letter is not confidential, however, we would appreciate if you could publish the content as anonymous.

Overall, we wish to express our support to the Capacity Market (CM) rule changes and appreciation for the work that has been done so far, especially considering the significant number of changes that have been successfully implemented. However, we do believe that new improvements are needed to ensure that capacity providers are protected in case of non-compliance with rule 13.4.1 when this is due to reasons beyond their control.

CM Rule 13.4.1 requires Capacity committed CMU to demonstrate to the Delivery Body capacity at a level equal to or greater than its Capacity Obligation or aggregate Capacity Obligations for at least one Settlement Period on three separate days (each a "Satisfactory Performance Day") during the Winter of the relevant Delivery Year, of which at least one Satisfactory Performance Day must occur during the period from 1 January to 30 April (both dates inclusive) for that Delivery Year.

We are aware that, if the capacity provider fails to demonstrate to the Delivery Body the three Satisfactory Performance Days (SPDs) by the 30<sup>th</sup> of April, the capacity payments are suspended until the SPDs are submitted.

We believe that this process is incomplete, as the capacity provider is unable to appeal to the suspension of payments when this is caused, for instance, by a data fault or metering error.

The Electricity Market Reform Settlement (EMRS) [working practice 195](#) states that a capacity provider must inform its supplier if participates in the CM and the supplier instructs the HHDA to send the relevant data flow to the EMRS. From this point onwards, the capacity provider and supplier don't have control of the data flow submission. Thus, if there was a technical issue which causes an interruption of the data flow, neither the capacity provider nor the supplier receive a 'warning' which informs them of the incident.

If the capacity provider 'demonstrated' the SPDs as contracted but they were unable to communicate them to the Delivery Body, we believe there should be a process which allows them to send the SPDs retrospectively without being penalised regarding the payments they are entitled to.

We believe that the overarching objective of rule 13.4.1 is to make sure that a capacity provider is able to deliver available capacity at a level equal to or greater than its Capacity Obligation. A suspension of capacity payment in the circumstances illustrated above, will be disproportionate.

We hope the comments above prove helpful.

Yours sincerely,  
*Industry Member*