

By e-mail to: EMR_CMRules@ofgem.gov.uk

Michael Wagner
Deputy Director, Wholesale Markets
Ofgem

9 October 2018

Dear Michael

ELEXON's response to your open letter on the Five Year Review of the Capacity Market Rules

We welcome the opportunity to respond to your open letter on the Five Year Review of the Capacity Market Rules ("the **CM Rules**") published on 11 September 2018.

ELEXON (as 'BSCCo') is the Code Manager for the Balancing and Settlement Code (BSC). We are responsible for managing and delivering the end-to-end services set out in the BSC and systems that support the BSC.

Your open letter identifies the process for assessing and implementing changes to the CM Rules as one of your priority areas. As discussed in more detail overleaf, we believe two key areas in which the current process could potentially be improved are as follows:

- Coordination of changes to the CM Rules with changes to other industry codes, i.e. ensuring that consequential impact on the CM Rules of changes to industry codes (or vice versa) are identified and assessed in a timely manner; and
- Industry input to the change process, i.e. ensuring that market participants' expertise can be utilised to identify effectively and efficiently appropriate changes to the CM Rules.

We would welcome the opportunity to discuss with Ofgem how well-established good practice for modifying industry codes – much of which is described in Ofgem's Code Administration Code of Practice (CACoP) – could be applied to the process for changing the CM Rules.

The views expressed in this letter are those of ELEXON Ltd alone, and do not seek to represent those of the BSC Panel or Parties to the BSC.

I hope you find these thoughts helpful and if you would like to discuss any aspects, please don't hesitate to contact me at john.lucas@elexon.co.uk, or by phone on 020 7380 4345.

Yours sincerely,

John Lucas
Design Authority

ELEXON'S VIEWS ON CHANGE PROCESS FOR THE CM RULES

1. Coordination of CM Rules with BSC and other industry codes

- 1.1 Ofgem's published guidance on ['The Change Process for the Capacity Market Rules'](#) recognises the importance of ensuring that industry codes remain consistent with the CM Rules:
- Paragraph 2.17 sets out an expectation that industry should consider if a code change is likely to be needed when bringing forward any proposal to change the CM Rules; and
 - Paragraph 2.18 sets out an expectation that industry will assess the impact on the CM Rules of any change to industry codes.
- 1.2 We agree that maintaining consistency between the Rules and industry codes is important, and believe that the Five Year review presents an opportunity to consider whether the processes for achieving this can be improved.

Process for assessing impact on industry codes of proposed changes to CM Rules

- 1.3 In the absence of collaborative industry processes for considering potential changes to the CM Rules, paragraph 2.17 of the guidance effectively places the onus on the proposer of each change to understand any potential interaction with industry codes. This is a burdensome requirement, as industry codes are complex, and some capacity providers (particularly small generators and providers of demand side response) may have little knowledge or experience of them. Sharing this burden of responsibility would make the Capacity Market change process more accessible to smaller market participants, as well as reducing the risk to industry as a whole that changes to the CM Rules introduce unintended inconsistencies with industry codes.
- 1.4 Based on our experience as a code administrator, we suggest that possible mechanisms for assisting proposers of changes to identify consequential impacts on industry codes could include:
- Broadening code administrators' 'critical friend' role to include assisting parties in understanding the potential code impacts of their proposed change; and/or
 - Creating a mechanism that allows the impacts of a change to be assessed by a Workgroup of industry experts, where needed.
- 1.5 We have not attempted a comprehensive review of past changes to the CM Rules, to assess whether any of them have introduced inconsistencies with industry codes. But we have recently been approached by a BSC Party concerned that some of the [BSC Section K](#) provisions relating to the Capacity Market have become inconsistent with the CM Rules, due to changes made to the CM Rules since the BSC changes were designated. We are currently working with them to develop an appropriate BSC Modification Proposal.

Process for assessing impact on Rules of proposed changes to industry codes

- 1.6 We believe that BSC Modification Workgroups do attempt to identify impacts on the CM Rules where possible. For example, the Assessment Report for Modification Proposal P344 (['Project TERRE implementation into GB market arrangements'](#)) identified a potential impact on the calculation of Adjusted Load Following Capacity Obligation (ALFCO). However, having identified the impact, the process for further understanding it (and developing any necessary change to the CM Rules) is unclear.
- 1.7 We believe the solutions described in paragraph 1.4 (i.e. broadening the 'critical friend' role, and allowing industry Workgroups to consider changes to the Rules) would also be helpful in progressing consequential changes to the CM Rules arising from Modifications to industry codes.

2. Identifying the most appropriate solutions to issues with the Rules

- 2.1 The Modification Procedures set out in [Section F of the BSC](#) (and the corresponding processes for changing other industry codes) recognise that – even once a clear defect in codes has been identified – considerable assessment may be needed to determine the best way of resolving it. Section F2.6 allows the BSC Panel to submit a Modification Proposal for Assessment by an industry Workgroup (made up of industry experts acting independently). In our experience this process is often invaluable in assisting Proposers in identifying the best solution to their issue.
- 2.2 Currently the process for changing the CM Rules does not include any equivalent mechanism for enrolling the assistance of industry experts in assessing how best to change the Rules. Paragraph 2.3 of the Ofgem guidance recognises that it may be difficult for individual parties to identify efficient and strong proposals, and suggests that they may wish to address this by working together to develop joint proposals. We suggest that it may in practice be difficult for parties to work together in this way, and that a process facilitated by code administrators (acting as neutral third parties with contacts across a wide range of parties) would be more effective and efficient.

3. Next Steps

- 3.1 Summarising sections 1 and 2 above, we propose that the current processes for changing the CM Rules could be improved by:
- Broadening the ‘critical friend’ duty (placed on code administrators by the CACoP) to include providing help (in matters relating to each code administrator’s areas of expertise) to parties developing changes to the CM Rules; and
 - Allowing Workgroups of industry experts to be convened (where appropriate) to assist in the assessment of changes to the CM Rules.
- 3.2 We believe this would increase the quality of changes made to the CM Rules, and reduce the risk of inconsistencies developing between the Rules and industry codes.
- 3.3 We would welcome the opportunity to discuss with Ofgem how these changes could be implemented. Broadening the critical friend role could probably be achieved through a change to the CACoP, while creating a mechanism for Workgroups to assess changes to the CM Rules might be better implemented through a change to one or more industry codes. One of the Applicable BSC Objectives is “*implementing and administering the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation*”, so expanding the role of BSC Workgroups to include making recommendations to Ofgem on how to progress CM Rule changes might be one approach that could be implemented through a relatively straightforward Modification to the BSC.
- 3.4 It may also be appropriate to consider these issues in the broader context of reviewing code administration processes to ensure that complex changes impacting many different industry codes can be progressed efficiently and effectively, in order to support innovation and market change.