



Energy for
generations

ESB
4th Floor, 85 Tottenham Court Road, London W1T 4TQ
Phone: +44 (0) 20 7396 1034
esb.ie

Michael Wagner
Deputy Director, Wholesale Markets
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

Sent via email to: EMR_CMRules@ofgem.gov.uk

9 October 2018

Dear Michael

RE: Ofgem's Open letter on the Five Year Review of the Capacity Market Rules and NGET's incentives

ESB welcomes the opportunity to respond to Ofgem's open letter on the Five Year Review of the Capacity Market Rules and NGET's incentives. ESB is a capacity market participant contributing to the security of supply and has an interest in making the capacity market rules less burdensome and ensuring clarity for all market participants. The experiences gained by ESB in previous CM auctions and in the recent Integrated Single Electricity Market (ISEM) Capacity Remuneration Mechanism (CRM) Auctions have been used to formulate this response. ESB hopes that its experience operating in jurisdictions with different capacity mechanisms can provide a different outlook.

ESB Background

ESB is Ireland's foremost energy company, with around 7,000 employees. Established in 1927 by the Irish government, and remaining 95% state owned, ESB created the first fully integrated electricity system in the world. We have been present in Great Britain since market liberalisation and for 25 years we have been powering homes and businesses across the country, investing around £2 billion. ESB was one of the first IPPs with our investment in Corby Power Station (350 MW). In 2016 we opened Carrington Power Station (880 MW), a combined cycle gas turbine power station on the site of an old coal plant near Manchester. This was the first large scale gas fired station to come on stream in Great Britain since 2013 and is one of the most flexible and efficient plant in the market.

We are supporting Britain's transition to a low carbon future by investing in flexible and renewable generation assets, including combined cycle gas turbine, wind and biomass technologies. We own 125 MW of onshore wind generation capacity, with over 400 MW in the development pipeline in Britain and recently invested in the 353 MW Galloper offshore wind project. We are constructing a new 40 MW waste wood-fired plant at Tilbury in Essex. ESB is a pioneer in electric mobility and is currently working in partnership with Transport for London to install, operate, maintain and commercialise charging infrastructure for the London taxi fleet. In 2017 we entered the GB energy supply market as ESB Energy.

ESB response to Ofgem's Open letter

ESB believes that, overall, the objectives of the Capacity Market Rules and Rules Changes have not been met. Ofgem must have regard for three objectives when managing the change process which are outlined below with explanation of why ESB does not see that they have all been met.



1. Promoting investment in capacity to ensure security of electricity supply

ESB believes that the Rules and Rules Change process have not been entirely successful in promoting investment in capacity. The complexity of the Rules, and consequent need for legal support when making a pre-qualification application, is a barrier to entry discouraging some parties from participation. The annual nature and duration of the Rules Change process may mean that projects are forced to defer to subsequent auctions; this is also true for Rules Change proposals where Ofgem's decision is to review at a later date, sometimes without indication of timing.

2. Facilitating the efficient operation and administration of the Capacity Market

ESB does not believe that the Capacity Market Rules and Rules Change process have met this objective, as we highlighted on in our response to the Capacity Market Rules change consultation earlier this year.

ESB observes a lack of consistency between the interpretation and application of rules and in guidance documents provided, which is confusing, leads to inefficiencies and is costly for market participants. For example, terminology and interpretations can differ between the Capacity Market guidance, the Capacity Market Rules and the EMR portal. We believe that this inconsistency leads to inefficiencies, through causing additional and re-work, and also in requiring extensive review and legal checks.

We note that there were 112 change proposals to the Capacity Market Rules this year, and while ESB understands that processing and analysing these change proposals represents significant work load for Ofgem, ESB would like to see a more detailed view of the basis for Ofgem's decision. Further detail and guidance will provide a better understanding of Ofgem's rationale. Allowing change proposals to be made and published throughout the year without resolution may encourage counter or development proposals to be made. We can see that within the current framework, more information and changes to the submission, publication and decision regime could serve to reduce the number of repetitive rule change proposals and result in them being better informed.

ESB advocates that the current Rules Change process lacks a "common sense filter". For example, there is no fast-track or light touch rule change process for capturing house-keeping changes, where innocuous grammatical changes can be made easily.

3. Ensuring the compatibility of the Capacity Market Rules with other subordinate legislation under Part 2 of the Energy Act 2013.6

As mentioned above, ESB believes that consistency could be improved between Rules and Regulation, specifically in terminology and ease of interpretation. We find it deeply unsatisfactory that a change to curb inefficiencies, with apparent unanimous support from industry and authorities, cannot be made as a result of legislative restrictions (e.g. information provision terms in Regulation 69).



ESB comments on Ofgem's targeted areas for review

Ofgem has asked for views on specific themes, provided on p. 2 of the Open Letter.

- *Our annual Rules change process as set out in our guidance. We believe there could be a more efficient way to assess and implement changes to the Rules while also giving industry greater responsibility in assessing the value of amendments.*

ESB agrees there should be a more efficient way to assess changes, and that industry should be given more responsibility in this process. ESB supports a common sense approach to the Rule change process. The inclusion of a filtering stage in this process to separate out any non-material house-keeping changes would be a first step in this direction.

We also suggest that Ofgem carries out a comprehensive review of different rule change governance arrangements. Some options for review include:

- The current change process, but multiple times a year rather than annually
- An open governance process akin to the code modification process for the CUSC, or Grid Code
- A model similar to that in Ireland, with scheduled workshops to discuss changes

ESB has undertaken some initial research on different regimes used globally with regards to capacity mechanism rule change processes. We recognise that US markets (e.g. PJM, ISO-NE) use a stakeholder committee and board process, applying a filter on low impact changes and with escalation of material rules to the RA for approval. Capacity reserve mechanisms, as seen in Europe, tend to be framed in legislation and controlled by government, with reliance on TSOs for operation. Evolution is in the nature of a market, where participants will seek value and compete, less so for a strategic reserve. Consideration of the change process in the context of the GB CM should be made in relation to the balance between Rules and Regulation, the involvement of stakeholders, timing and frequency.

- *Whether the objectives of the Rules could be achieved with less burden on participants. This will include simplification of the Rules and reduction of regulatory burden from requirements in the Rules.*

ESB agrees that the Rules should be simplified and clarified. ESB has issues with the unnecessary complexity and inconsistency with which the Rules are applied. ESB supports a comprehensive review of the Rules in terms of understanding how they are applied.

ESB believes that there may be merit in considering the core objective of the Capacity Market: security of supply. Processes built around this objective should support this objective. Therefore, the questions that are being asked of prospective market participants in the pre-qualification stage of the CM should be a balance between getting certainty of the legitimacy of a company while still allowing entry into the market. ESB is concerned that this balance has not been met, which could result in an unintended barrier to entry.

Prequalification

Of particular concern to ESB is the pre-qualification process. The inconsistency of interpretations of the Rules has led to a need for parties to seek legal support in preparing their prequalification material, unnecessary rejections and appeals, which cause inefficient



use of resources, act as a barrier to entry and thus lead to poor value for the consumer. While ESB appreciates that National Grid uses 'validations checks' as a helpful measure for participants, this does not go far enough to satisfy participants concerns on individual applications. We suggest Ofgem considers a two stage approach for pre-qualification.

Specifically, ESB believes that significant efficiencies could be made by amending the prequalification process for Existing Generation. Since 2014, ESB has entered into the GB capacity auction with significant commercial exposure associated with prequalification of our Existing Units. The current prequalification process involves Existing and New Build units submitting applications for review before each auction. Given that the majority of documents for Existing Units will not change, it would be more efficient to have a fast track method of prequalification where existing units only update the minimum necessary documents and only those additional documents are reviewed by EMR Delivery Body. The EMR Delivery Body has approximately 2000 applications to review this year within six weeks. If the scope of this application review was targeted specifically at new entrants or existing generation that had significant change, it would allow them more time to focus on new information. This would be a better use of the EMR Delivery Body's time and would significantly lower risk for Existing Generation.

- *The appropriateness of the secondary trading arrangements to ensure that participants have the right incentives and opportunities to engage in the secondary trading market. We intend to do this in conjunction with industry associations. Please indicate your interest for participating in this work at an early stage.*

ESB believes that it is right to include this in the review as a specific area of work for reform. If the conditions existed for the market to develop a secondary market, the market would have done so already, however, ESB along with the members of Energy UK can see that there are certain regulatory barriers to allowing the market to engage properly in secondary trading.

Secondary trades have to take place five days ahead of a delivery. There is a further three day wait time for the Capacity Market register to be updated after a trade takes place. ESB does not see how this can provide for a liquid market or how this might be compatible with the intermittent technology entering the market. Fundamentally, placing restrictions on trades, means that there is little incentive for the market to develop a trading platform.

ESB supports a thorough review of the Rules, and would highlight that the complexity of the Rules, and the language used with regards to secondary trading is a barrier to a liquid and functioning secondary trading market. We suggest this should be included specifically in the review in an effort to facilitate the market.

- *The appropriateness of NGET's incentives for exercising its functions in delivering the Capacity Market to ensure that they remain fit for purpose. We believe it would be desirable to review NGET's incentives on dispute resolution, DSR prequalification, demand forecasting, and customer and stakeholder satisfaction for 2019/20.*

ESB agrees that it would be beneficial to review these incentives given that, in our view the Delivery Body is not meeting the service standard that we would expect if the incentives were correctly set.



Energy for
generations

ESB looks forward to the opportunity to provide further input to this Review. In the meantime, if Ofgem would like to discuss the content of this letter, please get in touch by reply to our submission.

Yours sincerely

Kirsty Ingham

Commercial & Regulation Manager, GB
ESB