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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 respond to the above open letter seeking views on Ofgem's proposed approach to the Five Year Review of the Capacity Market Rules. This response is made on behalf of Uniper. Uniper is an international energy company with around 12,000 employees and operations in 40 countries. In the UK, Uniper operates a flexible and diverse generation portfolio, sufficient to power around six million homes. With our seven-strong fleet of power stations and our flexible, fast-cycle gas storage facility, we support the energy transition and make a tangible contribution to Britain's energy supply security.

Uniper also offers a broad range of commercial activities through its Engineering Services division, while the well-established Uniper Engineering Academy delivers high-quality technical training and government-accredited apprenticeship programmes for the utility, manufacturing and heavy industry sectors, at its purpose-built facilities near Nottingham.

We generally agree with the approach as set out in the open letter. At the present time it would seem inappropriate to undertake the normal annual review of the CM Rules which could duplicate or cut across reforms which are being contemplated under the Five Year review of the CM being undertaken by BEIS. It is better to focus on discrete areas which can be progressed in isolation, or which in some instances can complement the main review.

The four areas identified as a focus of the review also appear to be appropriate. In particular, we would support further work to look at issues around secondary trading and how the rules governance arrangements could be improved. We give some further detail on these below.



## 1. Secondary Trading

We have become aware of a number of issues that have affected us and/or other parties, which include the following.

**Qualifying as an Acceptable Transferee** – Some parties have expressed difficulties around becoming an Acceptable Transferee. As an existing generator whose units have been successful in pre-qualification and are therefore automatically eligible to take part in secondary trading, this is not an issue which we have experienced directly. However, we would be supportive of initiatives to improve processes around the eligibility to trade, whilst of course also ensuring that such parties are capable of delivering the obligations they pick up as a consequence.

**Use of additional/augmented capacity** - We previously raised a rule change proposal, CP342, to allow capacity providers who have increased the effective capacity of a CMU, after the award of a capacity obligation, to use this additional capacity for secondary trading purposes in respect of the same delivery year. We still believe such a proposal would be worthwhile and could help address issues raised in BEIS's Five Year Review consultation about the augmentation of batteries.

**Termination risk around secondary trading** - There is a specific issue which has the potential to cause a risk to those taking on an obligation through secondary trading, which is associated with the cancelling of trades following the issue of a termination notice under rule 9.2.3. This presently results in part or all of an associated secondary trade being terminated, depending on when the trade took place in relation to the termination notice and/or when the Secondary Trade Period occurs compared with when the termination comes into effect.

We understand that there may be certain types of termination events where it would be inappropriate for the provider to pass on its obligation through a secondary trade. However, we believe there will be circumstances where a capacity provider is struggling to meet its obligation for reasons which ultimately could result in a termination notice being issued, when it would be appropriate for the obligation to be traded to another party so that it can be fulfilled. Therefore, we believe that rule 9.2.3 should be reviewed to ensure that legitimate trades are not affected and that transferees are not put at unnecessary risk.

## 2. Capacity Market Rules Governance

The governance arrangements for the Capacity Market Rules are quite different from those for other industry codes. Changes can only be made within a specific window and Ofgem decides whether or not a rule change will be progressed without it being further defined and assessed by the rest of industry. It could be beneficial to adopt an open governance arrangement, with a rolling change process. This could be facilitated by a party carrying out the role of code administrator, with Ofgem as the ultimate decision maker.

A rolling open governance approach could prevent a big rush of ideas to hit deadlines associated with an annual window, which is something that a number of industry parties have struggled with, and could smooth out peaks and troughs in work load associated with the current process. It would also provide an incentive for people to raise issues which they think are a priority, as they will need to put in the effort to develop them and see them through.



Whether or not changes were ready for a particular CM auction round or delivery year would then be dependent, not on whether a specific annual window was hit, but on whether it can be developed, assessed and implemented in time for the relevant auction round. A recommendation on the implementation date could then be made to Ofgem as the body responsible for deciding whether a change should be implemented or not.

### **3. Other issues**

In terms of the other areas being considered in the review, that is simplifying requirements on participants and improving incentives on the delivery body, we do not have any specific areas we would suggest are addressed. However, clearly we would be supportive of reviewing these and making any changes which would provide demonstrable benefits to the Capacity Markets rules and processes.

I hope the above comments prove helpful. We look forward to further engaging in the review process in due course.

Yours sincerely

Paul Jones  
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Uniper UK Limited