

# DETERMINATION PURSUANT TO REGULATION 71(3)(b) OF THE ELECTRICITY CAPACITY REGULATIONS 2014 (AS AMENDED) FOLLOWING AN APPEAL MADE TO THE AUTHORITY PURSUANT TO REGULATION 70(1)(a)

## Introduction

1. This determination relates to appeals made by Vattenfall Wind Power Ltd (“Vattenfall”) against the reconsidered decision made by the EMR Delivery Body (National Grid Electricity Transmission plc (“NGET”)) in respect of the following Capacity Market CMU:
  - a) UPB-02
2. Pursuant to Regulation 71(3) of the Electricity Capacity Regulations 2014 (as amended) (the “Regulations”), where the Authority<sup>1</sup> receives an Appeal Notice that complies with Regulation 70, the Authority must review a reconsidered decision made by NGET.

## Appeal Background

3. Vattenfall submitted an Application for Prequalification for the CMU in Paragraph 1 in respect of the 2019 T-1 Auction.
4. For the CMU listed in Paragraph 1, NGET issued a Notification of Prequalification Decision dated 29 October 2018 (the “Prequalification Decision”). NGET rejected the CMUs on the following grounds:

*Capacity Market Rule 4.4.2(e) states that the Delivery Body must not Prequalify any CMU where they have been unable to obtain any data in respect to the physically generated net output for a Generating Unit comprised in an Existing Generating CMU in any Settlement Period nominated by the Applicant pursuant to*

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<sup>1</sup> References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work.

*Rule 3.6.1. The Delivery Body has not received any data for this CMU in relation to historic performance therefore fails to meet the requirements.*

5. Vattenfall submitted a Request for Reconsideration of the Prequalification Decision.
6. NGET issued a Notice of Reconsidered Decision (“Reconsidered Decision”) on 16 November which rejected the dispute on the following grounds:

*The Delivery Body acknowledges that the Applicant has addressed the point as part of the request to review the Prequalification Decision, however when re-assessing the Application following issue was identified using the evidence provided by the Applicant. Capacity Market Rule 4.4.2(f) states that the Delivery Body must not Prequalify any CMU where the physically generated net outputs, or Metered Volumes where applicable, of an Existing Generating CMU in any Settlement Period nominated by the Applicant pursuant to Rule 3.6.1, are not greater than the Anticipated De-rated Capacity. At least one of the Settlement Periods identified in this Application does not equal or exceed the Anticipated De-rated Capacity therefore this fails to meet the requirements of this rule.*

7. Vattenfall then submitted an Appeal Notice to the Authority on 21 November 2018 under Regulation 70 of the Regulations.

#### **Vattenfall’s Grounds for appeal**

8. Vattenfall disputes the decision on the following grounds.

#### **Ground 1**

9. Vattenfall claims that NGET has changed its reason for rejecting the CMU from its initial Prequalification Decision. NGET initially rejected UPB-02 because no historical data had been submitted, but in its Reconsidered Decision it instead rejected UPB-02 because the data had been submitted but was non-compliant.

## Ground 2

10. The Rules require the Application for Prequalification to contain historical performance data and for this to be submitted by half hourly Settlement Period. Vattenfall submitted historical performance data of 5.065MWh, 5.25MWh and 3.255MWh for three separate Settlement Periods.
11. UPB-02 is a battery storage unit that applied for Prequalification as a Generating CMU with a duration of 30 minutes and a de-rated capacity of 4.695MW. To meet the requirements of the Rules, Vattenfall needed to demonstrate historical performance in excess of 4.695MW.
12. Vattenfall argues that the historical performance data in Paragraph 10 exceed the requirement of 4.695 and that NGET has wrongly rejected the CMU. This is because the data submitted is in MWh over a half hourly Settlement Period and should, therefore, be multiplied by two to demonstrate the performance of the CMU over one hour. Performance over one hour gives the MW capacity value of the CMU.
13. Vattenfall argues that multiplying each of the three submitted items of historical performance data results in values that exceed the de-rated capacity of the CMU: 5.065MWh converts to 10.13MW, 5.25MWh converts to 10.50MW and 3.255MWh converts to 6.51MW.

## **The Legislative Framework**

14. The Electricity Capacity Regulations 2014 were made by the Secretary of State under the provisions of section 27 of the Energy Act 2013. The Capacity Market Rules (“Rules”) were made by the Secretary of State pursuant to powers set out in section 34 of the Energy Act 2013.

## **The Regulations**

15. The Regulations set out the duties upon NGET when it determines eligibility. Regulation 22(a) specifies that each Application for Prequalification must be determined in accordance with the Rules.
16. Regulations 68 to 72 set out the process and powers in relation to dispute resolution and appeals.

### **Capacity Market Rules**

17. Rule 3.6.1(a) specifies the Previous Settlement Period performance requirements and states that:

*Each Applicant for an Existing Generating CMU must identify in the Application three Settlement Periods on separate days in:*

*the 24 months prior to the end of the Prequalification Window, or in the case where Rule 3.13 applies, prior to the close of the last day for submission of secondary trading, in which such Existing Generating CMU delivered a net output equal to or greater than its Anticipated De-rated Capacity,*

*and specify the physically generated net outputs, or Metered Volume where applicable, in MWh to three decimal places for each of those Settlement Periods.*

18. Rule 4.4.2(e) states that:

*4.4.2 Subject to Rule 3.8.1A(c)(ii), the Delivery Body must not Prequalify a CMU where:*

*(e) the Delivery Body is unable to obtain any data with respect to the physically generated net output for a Generating Unit comprised in an Existing Generating CMU in any Settlement Period nominated by the Applicant pursuant to Rule 3.6.1;*

19. Rule 4.4.2(f) states that:

*4.4.2 Subject to Rule 3.8.1A(c)(ii), the Delivery Body must not Prequalify a CMU where:*

*(f) the physically generated net outputs, or Metered Volumes where applicable, of an Existing Generating CMU in the Settlement Periods nominated by the Applicant pursuant to Rule 3.6.1 are not each greater than the Anticipated De-rated Capacity;*

### **Our Findings**

20. We have assessed each of Vattenfall grounds for appeal, which are set out below.

#### **Ground 1**

21. NGET did not inform Vattenfall of the full reasons for rejection of the T-1 Auction application in the Prequalification Decision, which meant that Vattenfall was not aware that it had to provide NGET with evidence in its Request for Reconsideration that the data was in fact sufficient to discharge Vattenfall's obligations under Rule 3.6.1(a).
22. The Authority holds that Vattenfall would have been able to satisfactorily explain the Previous Settlement Period performance requirements in its Request for Reconsideration in respect of its T-1 Application.
23. Therefore, The Authority is satisfied that had the full reasons for rejection been given by NGET in the Notice of Prequalification Decision, then Vattenfall would have also been able to clarify that it met the historic performance requirements of Rule 3.6.1(a), and therefore would have been eligible to Prequalify.

#### **Ground 2**

24. Vattenfall argued that data was provided to demonstrate the physically generated net output for a Generating Unit comprising an Existing Generating CMU over three Settlement

Periods (defined in Regulation 2 as “a period of 30 minutes beginning on an hour or half-hour”) as part of the Application for Prequalification. Vattenfall argued that, as a result, NGET wrongly rejected its application, since this data fulfilled the requirements of Rule 3.1.6(a) have been met.

25. NGET in its Notice of Reconsidered Decision acknowledged that the applicant has addressed the point of rejection at Prequalification, but raised a new issue of rejection, that at least one of the Settlement Periods evidenced by the Applicant does not equal or exceed the anticipated de-rated capacity of UPB-02.
26. Vattenfall argues that the confusion over whether it had met the requirements of Rule 3.6.1(a) relates to the fact that the de-rated capacity is in MW but the Settlement Periods are in MWh (over half an hour), and, therefore, to show the hourly production in MW the MWh figure for a half hour Settlement Period needs to be multiplied by two.
27. Therefore, Vattenfall demonstrated that the submitted production data over three Settlement Periods, when multiplied by two, exceeded the De-rated capacity of UPB-02: 5.065 MWh converts to 10.13 MW, 5.25 MWh converts to 10.50 MW and 3.255 MWh converts to 6.51 MW.
28. The Authority holds that Vattenfall has submitted historical performance data that exceeds the de-rated capacity of UPB-02 and which meets the requirements of Rule 3.6.1(a). As a result, NGET was not correct to prevent UPB-02 from prequalifying

### **Conclusion**

29. NGET did not reach the correct Reconsidered Decision to reject UPB-02 for the T-1 Auction on the basis that
  - a) NGET did not inform Vattenfall of the full reasons of its decision to reject UPB-02’s Application for Prequalification in the Prequalification Decision. Vattenfall was therefore not able to provide appropriate representations when it made

its Request for Reconsideration, which, had Vattenfall been able to do so, would have demonstrated UPB-02's compliance with the Rules;

- b) Vattenfall has demonstrated that the information historical performance data supplied with the original Application for Prequalification for UPB-02 demonstrates that the requirements of Rule 3.6.1(a) to demonstrate Previous Settlement Period performance has been discharged.

### **Determination**

- 30. For the reasons set out in this determination the Authority hereby determines pursuant to Regulation 71(3) that NGET's Reconsidered Decision to reject Vattenfall for Prequalification be overturned in respect of the CMU UPB-02 for the T-1 Auction.



Johannes Pelkonen

**For and on behalf of the Gas and Electricity Markets Authority**

07 February 2019