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Capacity Market participants,
prospective participants and
other interested parties

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Date: 18 July 2019

Dear colleagues,

This letter sets out our[1] decisions on changes to the Capacity Market Rules (the "Rules")[2] pursuant to Regulation 77 of the Electricity Capacity Regulations 2014 (the "Regulations")[3]. These decisions follow our Five Year Review First Policy Consultation issued on 16 April 2019[4].

Summary

In the following we highlight our decisions and reasoning for specific CM rule changes that we have previously consulted on. A table summarising the specific Rule changes we have decided to implement ahead of the 2019 Prequalification window can be found below. The full set of drafting amendments to the Rules can be found in Annex A: Amendments to the Capacity Market Rules.

This decision letter sets out our decisions on amendments to the Rules ahead of the 2019 Prequalification Window. We will be shortly publishing a Five Year Review report, along with a Forward Work Plan that will act as a signpost for planned future work streams.

Introduction

The First Policy Consultation consisted of eight sections, each of which considered either a discrete area of the Rules or the Capacity Market ("CM") framework that aligned with the priorities identified in our open letter of September 2018[5]. In addition to our priority areas we considered Rules change proposals that we postponed at the conclusion of last year's Rule change process. We also considered additional submissions by respondents to our open letter and changes which we already made positive decisions on but delayed implementation of due to impact on systems.

[1] References to the "Authority", "Ofgem", "us", "we", "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.
[2] https://www.ofgem.gov.uk/publications-and-updates/publication-consolidated-capacity-market-rules-2018
[3] http://www.legislation.gov.uk/ukdsi/2014/9780111116852/pdfs/ukdsi_9780111116852_en.pdf
[4] https://www.ofgem.gov.uk/publications-and-updates/five-year-review-capacity-market-rules-first-policy-consultation
[5] https://www.ofgem.gov.uk/publications-and-updates/open-letter-five-year-review-capacity-market-rules-and-nget-s-incentives

To summarise, the First Policy Consultation proposed:

- a set of specific amendments to the Rules, located in Annex A of that publication, and
- our 5 Year Review of the Rules pursuant to Regulation 82, which also considers the wider policy questions surrounding the policy areas we highlighted as priorities in our open letter.

We received 29 responses to the consultation and we shall shortly publish all those highlighted as non-confidential on our website. We would like to thank all those who provided feedback on the proposed Rule and framework changes, along with the wider policy questions posed. Where appropriate, we have amended our minded to decisions and drafting in response to stakeholders' feedback.

Scope

The table below summarises the Rule amendments that we have decided to take forward and implement. The amendments have corresponding references [OFXX] which were included in the First Policy Consultation and are included here for ease. These corresponding amendments are located in the copy of the consolidated Capacity Market Rules, found in an Annex A.

Theme	OF#	Change
Prequalification	OF18	Remove requirement for submission of Interconnection Licence (Rule 3.4.1(ea)).
		Remove requirement for submission of Forecasted Technical Reliability (Rule 3.6B.1(c)).
		Remove requirement for submission of Technical Specifications (Rule 3.6B.1(a)).
	OF19	Undo CP190 and allow deferral of planning consents.
Postponed changes	OF12	DSR component reallocation.
	OF34	CP279, CP289, CP290 (ALFCO).
Other changes	OF33	Clarification of provisions relating to opt out notifications and ensuring that CMUs which opted out and came back in at T-1 are not terminated in the Delivery Year.
Continuous improvements	OF36	Amendments to the exhibits in the Rules to increase clarity on the dating of signatures.

Table 1: A summary of the amendments to the Rules that we have decided to make, which are present in Annex A.

In making these decisions, we considered how the proposed amendments align with our statutory duties, the purpose of the Capacity Market, the objectives of the CM Rules and the stakeholder feedback received. We have decided to separate the specific CM Rule changes from the wider policy questions being considered for the Five Year Review. Therefore, feedback in relation to the wider policy questions is not addressed in this letter. We would like to stress that we have found this feedback very helpful and will address it when shaping our policy position in the relevant future work stream. The scope and indicative timings for these future work streams will be outlined in our Five Year Review Forward Work Plan which is set to be published shortly.

Next steps

The First Policy Consultation issued in April 2019 proposed both a set of specific amendments to the Rules, in addition to wider policy questions surrounding the policy areas we highlighted as priorities in our September 2018 open letter. The First Policy Consultation kicked off a programme of work. The work seeks to reduce the overall regulatory and administrative burden of the Rules where appropriate, revise the governance arrangements and ensure NGESO's incentives framework remains fit for purpose.

Forward Work Plan

Within the Five Year review report, we will also be publishing a Forward Work Plan. The aim of that document is to act as a signpost for planned future work streams, including the key activities associated with them and what the work stream aims to deliver.

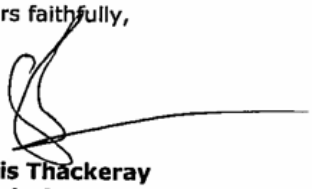
It will cover our plan for changing the Rules and regulatory framework in the near future to better facilitate the CM objectives. For each of the areas within scope of this longer-term review, we aim to outline our planned deliverables; the key activities underpinning our expected policy development and regulatory change process; and indicative timings.

The work streams that this Forward Work Plan will cover are as follows:

- Rules change process changes
- Secondary Trading
- A second consultation on Rule changes (including future Prequalification Rule changes and any other proposed changes)
- NGESO EMR Delivery Body incentives
- NGESO EMR Delivery Body revenues

We will use the stakeholder feedback in response to our First Policy Consultation in developing further change proposals across each of the areas identified in the Forward Work Plan.

Yours faithfully,



Chris Thackeray
Head of GB Wholesale Markets

Decisions on Amendments to the CM Rules

Prequalification

Background:

In the First Policy Consultation published in April 2019 we took into account the responses of the open letter and identified Prequalification as a key area to examine as part of our Five Year Review. As part of Prequalification, NGESO collects data which validates eligibility for the Auctions and provides necessary assurances regarding the viability and feasibility of prospective New Build and Existing CMUs to participate. The Prequalification process is complex and certain requirements therein place relatively high levels of administrative burden on Applicants and some could inadvertently form a barrier to participation. This could limit the amount of available capacity to procure in the auctions. We noted that that there could be a more staggered approach to application submissions and certain requirements such as those listed in Table 2 could be fulfilled in the agreement management process or could be removed entirely as they appear to provide little delivery assurance.

However, although we recognise that the Prequalification process could be improved, it does not appear to be preventing large numbers of applicants with viable projects from entering the Auction and thus hindering Auction liquidity.

It is noted that Auction liquidity has been of a sufficient level to ensure target volumes have been met in all auctions to date. Looking at past results, 30% to 50% more capacity entered the T-4 auctions than the procurement target, and more than double the target capacity entered the 2017 T-1 Auction.

Minded to position:

In the first policy consultation we outlined our future goal of reducing regulatory and administrative burden for applicants by removing requirements that do not provide essential assurance for the CM. The result of this should be an easier process for participants and, in particular, enable them to carry over Applications for Prequalification from previous successful Prequalification rounds into later Prequalification Windows. We posed three questions in relation to the Prequalification process including:

- thoughts on a move towards a system that allowed applicants who had previously Prequalified for a previous Delivery Year to undergo a more streamlined process if they wish to prequalify for a future Delivery Year;
- a question seeking to gain views on the appropriate length of the Prequalification window; and
- finally, we proposed a number of amendments to information needed to be submitted at Prequalification, either removing them or allowing deferral to the agreement management stage.

The relevant consultation questions that are referenced in the above text can be seen below, along with a summary of the amendments we proposed to certain Prequalification data items.

As outlined in the introduction, the scope of this report is focussed on the changes to be implemented ahead of the Prequalification period July 2019. As such the more future looking areas of focus highlighted by Questions 7 and 8 will be addressed in the future suite of documentation set to be published following this report. Further information on this will be available in the forthcoming Forward Work Plan.

Relevant consultation questions:

Question 7: Do you have any views on the proposed process, the implications of the change to the Prequalification procedure and whether it would be a positive change in removing an administrative burden?

Question 8: Do you believe the current length of the Prequalification window is appropriate and if allowing Prequalification submissions to take place throughout the year would be beneficial?

Question 10: Do you have any feedback on the amendments to the Prequalification data items listed in Table 1?

A summary of the First Policy Consultation amendments we proposed to make to the Prequalification process in terms of submission of data and information can be found below. We proposed to entirely remove the requirement to submit those items labelled with [Remove] or delay the submission of data items marked with [Delay] until the agreement management process.

Change	Rule	Proposed action
Secondary Trading details	3.4.1(c)(ii)	[Delay]
MPAN/MSID Meter ID	3.4.3(a)(ii)	[Delay]
BMU/Component ID	3.4.3(a)(iii)	[Delay]
Metering Arrangements	3.6.4 (Existing Generating CMU) 3.6A3 (Existing Interconnector CMU) 3.9.4 (Proven DSR) 3.10.2 (Unproven DSR)	[Delay]
Interconnection Licence	3.4.1(ea)	[Remove]
Technical Specifications	3.6B.1(a)	[Remove]
Forecasted Technical Reliability	3.6B.1(c)	[Remove]

Table 2: Summary of Prequalification amendments proposed in the First Policy Consultation.

Stakeholder responses:

The stakeholder responses detailed below and subsequent decision is referencing Question 10 from the First Policy Consultation and specifically the data items that we highlighted in that document. In addition, we also received responses which highlighted other areas of Prequalification, including specific data items, that could be removed to relieve administrative burden. We will continue to review this feedback and will be addressing these through subsequent consultation if it is deemed that this information does not provide critical assurance needed for an applicant to prequalify.

Of the stakeholders who responded directly to Question 10; in relation to the items outlined in the associated table, all were supportive of the majority of the proposed amendments. Respondents suggested any decrease in administrative burden is welcomed and these proposals would reduce the administrative burden on NGESO without affecting assurance. One stakeholder expressed concern, only in relation to the proposals to remove the requirement to submit Technical Specifications and Forecasted Technical Reliability of an

Existing or Prospective Interconnector. They believed a removal of these Prequalification requirements would limit the Delivery Body's ability to assess the robustness of the Interconnector applicant.

Three stakeholders highlighted that the proposed option to delay submission of BMU IDs and Meter IDs (MPAN or MSID) could have an unintended consequence of prohibiting the Delivery Body from being able to independently perform the check of historical output figures as prescribed by Rule 3.6.1 and 4.3.2 respectively. In their response, one of these stakeholders suggested that the removal of the requirement to provide Meter IDs and BMU IDs should therefore only apply to Prospective Generating CMUs or in the case for existing CMUs, where this data has changed. Related to this, we received three responses which questioned the need for an Existing Generating CMU, applying based on Connection Capacity, to demonstrate historic output if the CMU in question had previously demonstrated Satisfactory Performance Days.

In direct response to the proposal to allow Secondary Trading contact details to be delayed following Prequalification, one respondent suggested that there was an interaction with our separate proposal to allow secondary trading from after the T-4 auction stage that may not have been fully considered. It was highlighted that Secondary Trading contact details would be needed before a potential trade could be progressed.
A wider point was raised by a stakeholder that for the items we marked with Delay; that although this may be beneficial for some applicants, the option to input this information at Prequalification should still exist to give applicants the choice.

Decision:

We note the one stakeholder response which expressed concern over removal of the Prequalification requirements to submit Technical Specifications and Forecasted Technical Reliability. After consideration with NGESO, we still believe that this information is not critical to delivery assurance and in the specific case of the Forecasted Technical Reliability we remain unsure of any clear benefit this provides above the already defined De-rated capacity. Thus, on balance we have still decided to remove the requirements as described in Rule of 3.4.1(ea), 3.6B.1(a) and 3.6B.1(c), ahead of the next Prequalification round.
In our opinion the Rules surrounding Prequalification and the associated Portal systems are in need of amendment. This has been echoed by a number of stakeholders through bilateral industry meetings and consultation responses.The amendments required for both the systems and the rules should be undertaken in collaboration across Ofgem, NGESO and industry. This will ensure that the blockers experienced by Applicants are removed.

In regard to the Secondary Trading details, we note the stakeholder feedback outlining consideration of the commencement of the Secondary Trading window after the T-4 Auction. We continue to believe that failure to submit Secondary Trading contact details should not result in failure of Prequalification; this is a disproportionate consequence. However, we are now aware that our original proposal to delay the requirement would mean the potential introduction of an arbitrary deadline ahead of the Auction. This would lead to a subsequent process for NGESO to collect this information and rules regarding updating the CMR would have to be introduced. This process could potentially be an addition burden on Applicants and the Delivery Body and we do not feel that it is in line with the objectives of this review, which seeks to reduce burden where appropriate. Therefore, we have decided not to take this change forward.

However, we would like to highlight that in the 2018 Prequalification round, all applicants successfully provided Secondary Trading contact details with their Applications. After discussion with NGESO, we have agreed that the most prudent way forward is for the failure to submit Secondary Trading contact details to be remedied via a formal request for reconsideration of the decision as per Regulation 69 (commonly referred to as the Tier 1 Dispute Resolution process). If a party fails to submit the contact details, as required per Rule 3.4.1(c)(ii), NGESO will notify the party, that subject to a request in a Tier 1 dispute,

that the applicant's main admin contact details can be used in place of specific Secondary Trading details. This would mean a Tier 2 dispute is avoided.

In addition, NGESO are planning on running informal application checks for the forthcoming Prequalification period during the submission window. NGESO will endeavour to check the contact details have been entered in applications created in the portal before the submission window closes. We would still however advise that applicants submit Secondary Trading contact details correctly at Prequalification.

We believe that a more holistic approach needs to be taken in reviewing the information and data items submitted at Prequalification, to gauge what assurance they provide. In particular, an area which we feel requires more investigation relates to the requirement to submit historic output at Prequalification, specifically for Existing CMUs. This was one of the topics voiced by stakeholders and we think it is prudent to consider further rather than through piecemeal changes to a few, less burdensome requirements such as submission of Meter IDs and BMU IDs.

Apart from amendments discussed above, relating to Rules 3.4.1(ea), 3.6B.1(a) and 3.6B.1(c) we have decided to not to make any further changes now pending further review. We aim to conduct a more in depth review, taking into consideration the consultation responses and the further suggestions of data items that should be removed from the Prequalification stage. The Forward Work Plan which is set to be published soon will outline the timescales for this review.

Relevant Planning Consents

Background:

Through stakeholder feedback gained prior to and following the open letter, we were made aware of the problems associated with the potentially long lead times associated with securing Relevant Planning Consents. Although the process to obtain planning usually begins well in advance of the Prequalification Window, there could be instances whereby an unexpected delay to the receipt of planning, which is potentially outside an Applicant's control, could lead to capacity being precluded from participating in the Auctions. Currently the provision exists in Rule 3.7.1(a) that allows an applicant to defer Relevant Planning Consents to 22 Working Days before the relevant Auction, however with the planned implementation of CP190 this deferral was set to be removed.

We delayed the implementation of CP190 by one year to give applicants time to adjust their planning application processes accordingly. However, at that time, we did not consider the length of the process for larger projects seeking a Development Consent Order ("DCO"). A DCO typically takes 18 months to two years to complete, which means that even with approximately two years of lead time, applicants may still be at risk of being unable to secure planning in time for the next Prequalification Window.

Minded to position:

We outlined our minded to position and proposed Rule drafting to halt the coming into force of the end of the deferral option for planning consents (CP190). We also outlined a future plan to conduct a wider assessment on the submission of planning consents; on which we presented three options which are summarised below:

- **Option 1:** Remove the requirement to provide planning consents at the Prequalification stage but rather submit a declaration that states that the project will have the relevant planning consents by the time of the Financial Commitment Milestone ("FCM").
- **Option 2:** Enable Applicants who have applied for a DCO in respect of a New Build CMU and completed the examination stage to defer the provision of its

Relevant Planning Consent until after the Prequalification window (22 days before the Auction)

- **Option 3:** Keep the status quo, following CP190, which amends Rule 3.7.1 to remove the option for Applicants to defer provision of Relevant Planning Consents until after Prequalification.

Relevant consultation questions:

Question 9: Do you have any feedback on the options presented in relation to the submission of planning consents and if there are any alternative options that we have not yet considered?

We received a variety of responses in regard to Question 9 and planning consents more generally, on both the minded to position to halt CP190 and on the further options presented. We welcome the detailed feedback that has been submitted it will be used to help shape any subsequent proposal. However, this decision document will only be addressing our short term proposal to halt the implementation of CP190 and highlighting the associated stakeholder feedback.

We will be addressing the wider area of planning consents and considering the stakeholder feedback in relation to the three options posed in a future consultation document, which will be outlined in the Forward Work Plan.

Stakeholder responses:

Several stakeholders expressed support for the proposal to halt the coming into force of the end of the deferral option for planning consents for the upcoming Prequalification window and Auctions. We did however receive a response outlining disagreement with our position to halt the implementation of CP190. This party detailed that there does not appear to be any justification for delaying the implementation of CP190, as any larger projects which were seeking a DCO at the time of Ofgem's original decision on CP190 have had sufficient time to receive consent.

Decision:

We believe that a balance needs to be struck between the necessary delivery assurance for projects and not creating undue barriers to entry and as such we have decided to halt the implementation of CP190, thus allowing the deferral of planning until 22 days prior to the Auction. We understand the feedback received in opposition to this but following discussions with stakeholders and the delivery partners since the original CP190 decision back in 2017 and the wider assessment we intend to conduct, it is most appropriate to allow the deferral option for the upcoming Auctions and until further notice.

We would like to reiterate that the remaining stakeholder feedback submitted in relation to the three options proposed will be highlighted and addressed in a subsequent consultation document, which will be highlighted in the Forward Work Plan.

Progress reports and ITE assessments

Background:

Rule 12.2.1 currently requires a progress report to be submitted no less frequently than every six months from 1 June following the awarding of the Capacity Agreement, until completion of the Substantial Completion Milestone ("SCM") or if a Non-Completion Notice is ordered. If there is a material change present in the information submitted as part of the most recent progress report, an assessment from an Independent Technical Expert ("ITE") must also be presented. ITE assessments must also be submitted alongside several other reports, such as those that relate to the Financial Commitment Milestone ("FCM"), any

remedial plan associated with the SCM, Extended Years Criteria and also the report associated with deviation in the Long Stop Date.

We have been made aware that the cost of procuring an ITE assessment is substantial and in many cases a fixed sum regardless of project size. The need to potentially contract this service multiple times throughout the course of a project timeline could be disproportionally affecting smaller projects bidding in to the CM, as the cost of contracting with an ITE appears to remain constant irrelevant of project size. Therefore, there appears to be a need to reduce the regulatory burden on capacity providers by streamlining the framework for monitoring prospective capacity.

Minded to position:

In order to encourage further investment in capacity, we proposed to reduce the regulatory burden on applicants who are mandated to procure the services of ITEs. We set out that we do not believe that the high cost of these ITE assessments is justified by the delivery assurance that they provide.

We proposed to remove the requirements for submission of progress reports and associated ITE assessments for all providers except ITE assessments for any remedial plan associated with the SCM and with the FCM, along with any report associated with Total Project Spend and the Long Stop Date. We proposed to replace the submission of regular progress reports with a requirement on participants to submit a company directors' declaration to inform NGESO of any material changes to the project timeline or to Construction Milestones as submitted at Prequalification. We also aimed to increase clarity on what constitutes a material change.

Relevant consultation questions:

Question 11: Do you believe that removing progress reports and the associated ITE assessments in all cases except those outlined, alleviates the regulatory and administrative burden, while still providing the necessary levels of assurance?

Stakeholder responses:

We received 21 responses in relation to Question 11 outlined above. 14 responses were in direct support of our proposal to remove progress reports and associated ITE assessments. In response to the amendments proposed, a stakeholder stated that replacing the progress reports with a director signed statement only where there have been material changes will provide the same level of certainty to Government but will not result in high costs for applicants.

Seven responses were supportive of the nature of the changes, to reduce burden but felt as though the ITE assessments and progress reports had some merit in assisting in the volume to procure for T-1 Auctions. These respondents highlighted a number of views including that the ITE assessment process gives the Delivery Body with an independent overview of the progress of all new and refurbishing CMUs. A respondent expressed concern with removing ITE assessments and questioned whether a company directors' declaration is a sufficiently independent alternative to ITE assessments.

Stakeholders also detailed that the submission of progress reports is useful to support the setting of the capacity target for the T-1 Auctions. A respondent questioned whether there is still value in applicants submitting progress reports, as this continues to provide assurance of delivery without the financial burden of instructing an ITE.

A stakeholder in support of full removal noted that there would be benefit of looking at these amendments alongside the penalty regime to ensure alignment. In addition, a respondent raised that further clarification of material change would be beneficial and we

received one response that specifically highlighted a potential lack of clarity in the proposed Rule drafting relating to material change.

Decision:

Taking into account the extensive stakeholder feedback surrounding relevant delivery assurances and the capacity target for T-1 Auctions, we have decided to consider these proposals further. We aim to propose an updated set of Rule amendments in the next consultation document. Further information on the scope of the next consultation document and indicative timings, where appropriate will be outlined in our Forward Work Plan. We note the positive feedback that these proposals received and we still aim to reduce regulatory and administrative burden where appropriate. Also, on reflection we believe that we should consult on whether these proposed amendments should be applied retrospectively to agreements already gained.

We are minded to address these questions and will be seeking industry feedback on the timings in which assurance should be gained from agreement holders in relation to the T-1 target capacity procurement level; whether that be through submission of a report or otherwise. We aim to consult with stakeholders and NGESO to devise a timescale that allows this active monitoring and any associated report or other material to feed into their capacity modelling and assist in recommending the T-1 target capacity, with the aim of supporting efficient procurement levels.

In response to the feedback received surrounding the penalty regime we would like to highlight the penalties were also a key focus of BEIS' call for evidence issued in August 2018[6], carried out as part of their Five Year Review. We understand that a robust penalty regime is crucial to maintaining delivery assurance and will ensure this takes into consideration the amendments to reporting requirements to ensure penalties are fit for purpose.

Secondary Trading following T-4 Auction

Background:

The transfer of a Capacity Agreement can only be effected after the T-1 Auction for the relevant Delivery Year, as per Rule 9.2.5(a). Capacity providers may experience significant changes to their commercial positions between the T-4 and T-1 Auctions, however the Rules limit trading to a short and potentially unpredictable period immediately before the start of the Delivery Year. In this period, a participant would also be required to be fully compliant with the Rules, which may not be economically viable.

Minded to position:

In the First Policy Consultation, we set out our position that having the opportunity to trade the obligation to another party following the T-4 Auction will enable capacity providers to make appropriate commercial decisions while maintaining the integrity of the CM and long-term security of supply, as well as value for money for consumers. We did not believe it was appropriate to require a provider to hold a Capacity Agreement for several years only to trade it away immediately following the Auction Results Day for the T-1 Auction.
We proposed to extend the defined trading window to the results day of the T-4 Auction for the relevant Delivery Year. BEIS introduced Rule 16.4.2 to enable this on a temporary basis during the standstill period and we thought it would be appropriate to introduce this change permanently.

[6] https://www.gov.uk/government/consultations/capacity-market-and-emissions-performance-standard-review-call-for-evidence

Relevant consultation questions:

Question 19: Do you think it is appropriate to extend the defined trading window to the results day of the T-4 Auction for the relevant Delivery Year?

Stakeholder responses:

We received 23 stakeholder responses in answer to Question 19. 16 responses were directly supportive of this proposal, with the change permitting efficient secondary trading and allowing parties to effectively manage their risks. A stakeholder noted that there doesn't appear to be any benefits from limiting the timing for trades, as currently prescribed in the Rules. This stakeholder also stated that it would be beneficial to allow trading of multiple years of an agreement.

Three stakeholders, whilst overall supportive of the proposal raised that consideration should be given to what relevant assurances may be required, in order to mitigate any speculative applications. A response highlighted if some basic new build requirements such as planning consents should have to be met before trading. In addition, a further respondent noted that consideration should be given to whether CMUs should be required to provide specific evidence to justify an obligation transfer shortly after the auction results. This would be to ensure that secondary trading is underpinned by a genuine reason to mitigate operational or commercial risks.

A stakeholder response raised that any secondary trades should be included on the Capacity Market Register as soon as possible in order to maximise visibility of what is available at T-1 stage, and therefore avoiding uncertainty around the T-1 auction price. Also they believed that any secondary trades taking place when determining the capacity to be procure should be noted in the methodology.

Three consultation respondents expressed slight concern in regard to our proposal and suggested that it warranted further consideration. A stakeholder detailed that consideration should be given to how the extension of the trading window may impact the signals network companies receive from the Capacity Market. Additionally, it was raised by a respondent that there could be an unintended consequence of this change, in that there could be a distortion to auction clearing prices if sufficient CMUs trade away their obligation. This respondent also recommended that the trigger for the trading window to open should be the publication of the final Auction results report for the T-4 auction instead of the preliminary Auction results report.

In direct response to the Rule drafting proposed in Annex A of the First Policy Consultation, NGESO suggested that our amendment to Rule 9.2.5(a) does not consider wider implications and requires further assessment. They highlighted that ambiguity would be introduced into the Rules and further amendments would be needed to cover the various scenarios that could arise following a secondary trade directly after the T-4 Auction.

In contrast to the support voiced by the majority of stakeholders, one respondent was against extending the defined trading window. They outlined that as a result of making Capacity Market obligations easier to transfer may lead to speculative behaviour in the Auction. This party stated that it important for new build CMUs to have delivered their minimum completion requirement by the long-stop date before they are able to trade out an obligation.

Decision:

We note the majority support for the proposal to extend the defined trading window to the results day of the T-4 Auction for the relevant Delivery Year. However, taking on-board NGESO's response and our own re-evaluation, we now believe that this change has wider considerations that we did not initially take into account when drafting the associated Rule amendments.

We have therefore decided to consider this change further and propose to work with industry members, along with delivery partners to develop a suitable solution. It seems best placed, due to the overlap in policy area, that this work stream best sits in the Secondary Trading workshops which we intend to run later this year.

Opt out notifications

Background:

As part of our decision on the 2018 Rules change process in July 2018, we chose to implement CP293, which enabled capacity providers who opted out of the T-4 Auction to participate in the Delivery Year. These changes and their consequences should contribute positively to security of supply and improve market transparency on future plant availability.

It was brought to our attention that further amendments are required to avoid the termination of capacity providers who opt out of the T-4 Auction as non-operational pursuant to the changes made pursuant to CP293 and subsequently secure an agreement in the T-4 Auction.

Minded to position:

To address these concerns we proposed several amendments:

- Amend Rule 3.3.3(c) so that it applies exclusively to Excluded CMUs and Retired CMUs. This removes the reference to opt-out notifications under Rule 3.11;
- Align Rule 3.11.2(f) process with the Price Maker process and require the submission of a suite of documents showing a decision by the board of directors to submit an opt-out Notification and the underlying information, including financial analysis, which informed that decision;
- Keep Rule 3.11.3 because it provides the framework for transferring information between ESC and NGESO related to CMUs which opt out;
- Delete Rule 3.11.4 to remove this risk of termination and delete the associated termination event in Rule 6.10.1(j); and
- Keep 4.3.1(b) as the changes we have previously made ensure that CMUs which have previously opted out are not included in the definitions of Excluded CMU or Retired CMU.

Stakeholder responses:

We did not receive any stakeholder feedback in relation to the amendments proposed for the opt out procedure.

Decision:

We have decided to take forward and implement a slightly amended proposal, of which the full set of changes can be found in Annex A. On reflection, we believe that the Rules and Section 47A of the Electricity Act 1989 gives us sufficient monitoring abilities to ensure that there is an appropriate level of assurance that parties are opting out for valid reasons. As such we have decided to amend the original proposal and remove the requirement to submit further information and analysis which the board of directors or the officers considered when making the relevant opt out decision.

Capacity Market Register

Background:

Where a CMU is made up of more than one component, the Capacity Market Register ("CMR") currently shows the aggregate capacities for each CMU. The CMR does not provide details of the underlying units (each with its own Connection Capacity, De-rated capacity and technology type) that comprise each CMU. This does not provide the market with accurate and transparent information about the composition of every CMU.

As part of our 2017 Rules change process we considered CP270 and CP271. These proposals sought to include additional fields in the CMR to increase transparency without revealing commercially confidential information. They recommended the inclusion of more detailed component-level information for each individual CMU component or Generating Unit, including Connection Capacity and De-rated capacity, to be displayed on the CMR. In addition, CP270 proposed for applicants to state the Primary Fuel Type for each Generating Unit comprising the CMU. These changes can provide valuable information for market participants; give greater insights into Auction behaviour and may help inform policy-making in the future. We opted to defer CP270 and CP271 because they are contingent on the implementation of OF12.

In response to the September 2018 open letter, NGESO commented that there are several data fields that may be updated during the lifecycle of an agreement, which are not currently defined under Rule 7.5. They recommended additional references to be added to this Rule to cover the following items; Parent Company details, Secondary Trading details, MPAN details, Agreement Duration and relevant Delivery Years. In addition, NGESO suggested that Credit Cover amount and whether a New Build is yet to meet FCM should be added under Rule 7.4 to align with what is already published on the CMR. These items would also need to be captured in Rule 7.5 to ensure the register was updated appropriately.

Minded to position:

In our decision on the statutory amendments to the Capacity Market Rules 2018, we proposed to take forward these changes with a delayed implementation; following the completion of OF12. We outlined in the First Policy Consultation that as the implementation of OF12 is now being finalised, we considered that CP270 and CP271 should also now be implemented subject to a scheduling and prioritisation exercise.

In light of the recommendations made by NGESO, we proposed to amend the Rules accordingly so that these requirements could be accurately captured on the CMR. We were also to minded to put forward our own proposal to include an item on the CMR specifying whether a CMU has met its SCM, similar to that which exists for the FCM.

Relevant consultation questions:

Question 27: Is there any other data that would be useful to add to the CMR and why?

Stakeholder responses:

Of the 19 responses we received to Question 27, four stated that the current level of data captured in the CMR is adequate and they could not think of think of any other data, above our proposals which would be a beneficial addition. One respondent agreed that the CMR should capture whether SCM has been achieved, to align with requirement which exists for the FCM and additionally the register should link CMUs across years to increase transparency.

Two stakeholders stated that they do not support Ofgem's proposal to exclude the address and metering point location from being published on the CMR. They highlighted that this

level of information is included on other Ofgem held registers, such as the Renewables and CHP register and the Central Feed-in Tariff register. These parties stated that this information should be provided on the CMR to support the efficient operation of the CM by improving market transparency and providing a better understanding of the capacity operating in the CM.

Five respondents agreed with our proposal to include further details on the CMR, along with more granular component level information. One of these stakeholders stated that they welcome CP270 and CP271 but however would like clarity on when these changes would be implemented.

In direct response to whether what further data, if any, would be useful to include on the CMR, stakeholders raised the following items:

- Information on whether SPDs have been achieved;
- The amount by which a CMU has traded all or part of its obligation, e.g. the amount of de-rated capacity that a unit currently holds;
- Any Secondary Trading Entrants or CMUs that take capacity;
- Balancing Services data items, to allow parties to accurately validate their penalties;
- The date on which a Metering Test Certificate awarded; and
- Cloned CMU details, to allow cross-matching across Auctions.

A stakeholder stated that the inclusion of further data in the CMR will increase transparency, especially for secondary trading participants and will assist in helping to create an efficient secondary trading market. In addition, it was highlighted that the separate identification of "Turn down" DSR from back up generation would help to also improve market transparency.

The format and consistency of registers across past Auctions were highlighted by two stakeholders as areas which needed improvement in order to aid agreement management. They suggested that it would be beneficial for any amendments since the last iteration of the relevant register to be highlighted in order to make it easier for parties to track the changes and improve overall user friendliness. A party further suggested that in order to simplify secondary trading opportunities there should only be one iteration of the CMR, which enabled identification of all CMUs that have secured an agreement, irrespective of Auction in which it was awarded.

In highlighting a wider topic, a stakeholder asked the question whether the changes in the CMR proposed by Ofgem here should be applied retrospectively to include active agreements from earlier Auctions.

Decision:

In regard to CP270 and CP271, we have decided that we are still of the view that these changes should be implemented following the completion of OF12. We aim to work with industry members and Delivery Partners to assess when these changes can be implemented.

We welcome the detailed stakeholder feedback submitted and note the more holistic feedback we received surrounding the CMR, including accuracy, consistency and user-friendliness. Although we will not be directly addressing it in this decision document, we welcome these comments and will take it into consideration going forward, in a further consultation document, which as highlighted previously, will be outlined in the Forward Work Plan.

In relation to the changes we proposed in Annex A of the First Policy Consultation, and the inclusion of Credit Cover amount, Agreement Duration and confirmation of meeting the FCM and SCM as fields in the CMR, we have decided to consider these amendments further. On

reflection, we believe it could have merit and be useful for capacity monitoring, along with future capacity procurement targets to apply our CMR changes retrospectively to ensure that the CMR is comprehensive. This is in line with the stakeholder feedback we received questioning whether the proposed CMR changes should take affect for all active agreement holders who gained an agreement in past Auctions. We aim to investigate the impacts of a change of this nature and we understand that we will have to re-consult on any amended proposal as we would be placing increased requirements on parties to provide this data. In addition, in recent conversations with the Electricity System Operator (ESO) we believe there could be further data items that would be useful to help assist in capacity procurement targets going forward and aim to consider these and potentially expand or amend our original proposal where we see fit.

In regard to publishing CMU locational information, we believe there is a balance to be struck between providing transparency and private interest in confidentiality. We continue to believe that mandating the publication commercially sensitive information such as specific component location and metering point information, whilst could potentially increase competition amongst DSR aggregators, could also reduce confidence in the market that DSR CMUs can maintain their reliability and deliver their capacity obligations. We therefore still believe it is not appropriate to include and publish this information on the CMR.

Continuous improvements to the Rules

Background:

As part of our review of the Rules, to gauge whether there is sufficient clarity or how increased clarity may be achieved, we have made amendments to the exhibits in the Rules.

Minded to position:

We proposed to clarify that each signature by a relevant person or director must be dated and have also prescribed the format of which a date should be entered. This is to reinforce that the date for each signature is to be provided on the day in which the relevant director or person signs.

Stakeholder responses:

We received feedback from one stakeholder regarding the proposed changes which highlighted concern and presented the view that mandating a specific form of date in exhibits introduces ambiguity. The stakeholder also raised the wider question around exhibits and why a single exhibit could not contain all of the relevant declarations required to be made by a director.

Decision:

Whilst we take onboard the stakeholder response, we do not believe that the amendment creates ambiguity. We believe it adds clarity. We would also like to highlight the importance of the exhibits and the need for the director's signatures to be dated. The Prequalification Certificate and Certificate of Conduct provide vital information required for the purpose of verifying information within the Application for Prequalification. The requirement to date the director signatures is in place to enable the Delivery Body to verify that the relevant director held the position of required authority at the point of application and time of signing. Dating the signature provides validation and certification of the content by the person who signed with authority to do so on the date provided and for the relevant time period.
We have decided to make the proposed change and amend the exhibits accordingly. Our position is that as long as the signatures have been correctly "dated" the exhibit will be

acceptable under the Rules. Simply providing a year as per the heading of the exhibit is not sufficient or acceptable to meet the Rules "dated" requirement. A full date showing the day, month and year on which a signature is made needs to be provided; the exact format will not have a bearing on the decision to fail an applicant at Prequalification.

OF12

Background:

We initially consulted on the set of changes to allow DSR CMU Components to be reallocated during a Delivery Year in 2017[7]. We did this in order to provide capacity providers with greater flexibility, particularly so that DSR CMUs and portfolios of CMUs have the capability to maintain reliability of their portfolios throughout the Delivery Year.
We then consulted on a finalised set of amendments in March 2018 and decided to approve these in our July 2018 decision. However, the changes that these amendments require to NGESO's and ESC's IT systems are significant and we therefore postponed the implementation of the amendments to 2019. NGESO and ESC have subsequently continued to progress the development of the relevant IT solutions, which remain on course to be implemented this year.

Minded to position:

We outlined that the set of amendments we consulted on last year remain appropriate and that the framework of OF12 should not be substantially altered, however we proposed some minor amendments. We concluded that the limits we decided to implement last year were too low and suggested lifting the caps for transferred DSR CMU components from 20 to 40 and for notifications from 5 to 10. We believed this more accurately reflected the level of interest providers currently have in using DSR component reallocation and thereby facilitates effective portfolio management, while ensuring that NGESO does not face an excessive level of administration in the first year of implementation.

Stakeholder responses:

In bilateral meetings and workshops held over recent months, industry members have welcomed the new caps for number of transferred components and notifications. One stakeholder responded to our First Policy Consultation in relation to the OF12 proposal. The respondent highlighted that although we have confirmed that these limits apply on a per CMU basis, the current Rule drafting should be clarified to reflect this. The stakeholder also raised questions around the timings of component transfers under OF12, in addition to some minor non material drafting errors, including one in relation to a Joint DSR Test following a component change.

Decision:

We have decided to take forward the proposed changes for OF12 and have amended the Rule drafting in response to the feedback received to fully reflect the policy intent that the limits apply on a per CMU basis. The errors noted have also been corrected. The provision of component reallocation (OF12) will take effect directly following this Prequalification round. We would like to reiterate that the caps are built in a dynamic fashion and can, therefore, be altered at a later date if there is sufficient evidence to justify doing. We aim to continually monitor the uptake and usage of this component reallocation provision.
In regard to the suggestions surrounding the timings of component transfer established in the Rules, we believe this has further reaching interactions than those outlined and intend to monitor the reallocation provision once it has been implemented to gauge whether these timelines could be adjusted to improve process efficiency.

[7] https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-amendments-capacity-market-rules-2014

Technical amendments to ALFCO (formerly CP279, CP289, CP290)

Background:

Proposals CP279, CP289 and CP290 all relate to incorrect definitions or formulae relating to a Capacity Obligation where a CMU includes more than one Balancing Mechanism Units ("BMU")/component and introduce component-level granularity to the ALFCO formula. We consulted on this set of technical amendments to the ALFCO formula in our March 2018 consultation document and decided to approve them in our July 2018 decision document. However, we postponed the implementation of the amendments to 2019 to enable the implementation of framework of OF12 in the BSC and because the changes that these amendments require to NGESO's and ESC's IT systems are significant.

Minded to position:

Component-level data is needed to make component-level ALFCO calculations: the BSC Modifications P354 and ABSVD C16 will make this data available to the ESO but are only due to be implemented in April 2020. We proposed to introduce a new requirement to submit the necessary component-level data to NGESO via an alternative route for the 2019/20 Delivery Year. NGESO will be able to request relevant ALFCO values directly from Generating or Interconnector CMUs. The stipulation will only be in place for the 2019/2020 Delivery Year as from the 2020/2021 Delivery Year the ESO will be able to provide the information directly.

The First Policy Consultation outlined our intention to implement the corresponding changes so that the ALFCO formula for CMUs composed of BMUs is amended.

Stakeholder responses:

We did not receive any feedback in relation to the amendments proposed to the ALFCO formula.

Decision:

We continue to believe that the set of amendments we consulted on remains appropriate and that these amendments are necessary to ensure that the ALFCO formula is fit for purpose. They clarify definitions and formulae relating to a Capacity Obligation where a CMU includes more than one BMU or component and ensure that accurate calculations of CMUs' obligations and penalties can be carried out. We have decided to implement the amendments proposed in the First Policy Consultation, ahead of the next Prequalification round. For the full set of amendments please see Annex A.