

# Report

## Annual report on the EMR Delivery Body's Performance of its functions in relation to the Capacity Market

**Publication Date:** 6 April 2020

**Contact:** Ben Harries

**Team:** Wholesale Markets

**Tel:** 020 7901 7413

**Email:** EMR@ofgem.gov.uk

The Electricity Capacity Regulations 2014 require us to provide the Secretary of State with an annual report on the Electricity Market Reform Delivery Body's performance of its functions in relation to the Capacity Market. We also cover their performance in relation to the Contract for Difference regime.

This is the fifth of these annual reports, following the end of the Capacity Market 2018/19 Delivery Year. It covers the period from 1 April 2018 to 30 September 2019, to include the 2018/19 T-4 Auction Prequalification process ahead of its postponement, and the rescheduled 2018/19 T-1 Auction. This report will only consider financial and reputational incentives that are applicable for the 2018/19 financial year, 1 April 2018 to 31 March 2019. The extension period of this report, up to 30 September 2019, focuses exclusively on the rescheduled 2018/19 T-1 Auction.

## Executive Summary

The Electricity Capacity Regulations 2014<sup>1</sup> (the Regulations) require us to provide the Secretary of State with an annual report on the Electricity Market Reform (EMR) Delivery Body’s (DB) (National Grid Electricity System Operator Limited, NGESO)<sup>2</sup> performance of its functions in relation to the Capacity Market (CM). This is the fifth of these reports, following the end of the CM 2018/19 Delivery Year. It covers the period from 1 April 2018 to 30 September 2019 to include Prequalification for both the 2018/19 postponed T-4, and rescheduled 2018/19 T-1 Capacity Auctions (Auctions). The extension period of this report, up to 30 September 2019, focuses exclusively on the rescheduled 2018/19 T-1 Auction. We incentivise NGESO’s performance in its role as the EMR DB through financial and reputational measures as set out in NGESO’s Electricity Transmission Licence Special Conditions (Special Licence Conditions) 4L<sup>3</sup>.

The scale and complexity of the CM has stabilised, however the DB continue to face a significantly higher volume of Prequalification Applications and Capacity Agreements than originally anticipated when the CM was initiated. Additionally, from November 2018 to October 2019, we saw the suspension of the CM that led to Capacity Providers not receiving payments during the standstill period, and caused uncertainty for all participants in the market. The DB continued the operation of certain aspects of the CM scheme during this period, to ensure that Capacity Providers may be eligible for deferred payments after the standstill period (subject to State aid clearance). The DB also continued to work closely with Delivery Partners<sup>4</sup> in communicating with CM providers.

The DB was not required to undertake a Customer and Stakeholder Satisfaction Survey in the 2018/19 financial year as a result of no auctions or Contract for Difference (CfD) allocation rounds taking place over this period. In the absence of the survey, the DB have provided Ofgem with a letter capturing the actions undertaken to improve current processes and engagement with customers during the relevant period. We undertook a number of consultations during and after this year, which also provide us with information in relation to the DB’s performance in relation to customer engagement. Overall, taking into

---

<sup>1</sup> See [Electricity Capacity Regulations 2014](#)

<sup>2</sup> During the reporting period, the DB role was undertaken by National Grid Electricity Transmission plc (NGET). On 1<sup>st</sup> April 2019, NGESO was legally separated from NGET, and therefore took the role of EMR DB. Avoiding confusion, the term NGESO will be used throughout this report.

<sup>3</sup> Special License Condition can be accessed via the Electronic Public Register (ePR) found here: [Electronic Public Register](#)

<sup>4</sup> [EMR Delivery Partners](#)

account all evidence available, we are of the view that the DB continue to make efforts to improve communication channels and provide support to participants. However, there are areas for improvement around responsiveness and ease of participation, particularly in relation to the IT system (EMR Portal) used to participate. No incentive value was determined for this period for Customer and Stakeholder Satisfaction in the absence of any Customer and Stakeholder Satisfaction Survey.

NGESO received an incentive value of £113,890 because of an increase in Demand Side Response (DSR) prequalifying in the T-1 Auction compared to 2017/18. Whilst we continue to recognise the importance of DSR participation in the CM, we do not see a strong correlation between any efforts of the DB to improve DSR participation and participation itself. As part of our continued review of the relevance of these incentives, and following broader consultations calling for views, we recently released a Statutory Consultation<sup>5</sup> with the aim of removing this incentive.

We do not have any major concerns with the performance of the DB during its dispute resolution process, considering a reduction in the number of requests for reconsideration by the DB (Tier 1 disputes) and appeals to us as the Authority (Tier 2 disputes) during this period. However, as Ofgem overturned five Tier 2 disputes, this is an indication that the DB should be more considered and balanced in the application of the CM Rules<sup>6</sup> (Rules) and taking into account information provided by the Applicants within their Prequalification Application. Additionally, we suggest that the DB could improve communication with Applicants during the dispute resolution process by ensuring they provide clear and full reasons for their decisions. We also encourage the DB to engage with Applicants to identify areas of improvement in the Prequalification Guidance and the CM Application process, in particular improvements to IT systems in order to minimise the potential for errors during the Application process. The incentive value for Disputes Resolution over the period was -£100,000 as a result of five decisions being overturned.

NGESO declared two Confidential EMR Information (CEMRI) incidents for unwarranted sharing of CEMRI information. We would like to see NGESO continue to take active steps to mitigate such unwarranted incidents from taking place in future. It appears that manual

---

<sup>5</sup> [Statutory Consultation for adjusting the Electricity Market Reform Delivery Body Incentives and mechanisms to recover uncertain costs](#)

<sup>6</sup> [Capacity Market Rules](#)

---

processes that the DB have put in place to aid Prequalification may have increased the risk around data compliance.

Considering customer engagement and general participation in the CM, the Prequalification process in particular and ongoing maintenance of data compliance, it appears replacing the EMR Portal is an opportunity for significant improvement in the DB performance. We have provided additional funding to the DB to deliver a replacement IT administration system and are putting in place a mechanism to allow the provision of further uncertain costs. We have set out requirements for this IT system replacement alongside the provision of this funding and our expectation that it is delivered by April 2021, in collaboration with users of the system.

Overall in the performance year 2018/19, NGESO met the requirements for performing its role as the EMR DB and were awarded £13,890 in total incentive revenue. There were a number of positive areas in its performance, especially surrounding the continued engagement with industry in a very uncertain period during the CM suspension. Specifically, the flexibility that the DB demonstrated in adapting to running a delayed Auction, implementing rule changes at short notice and continuing to manage participants’ agreements must be recognised. We continue to review the appropriate regulatory framework for the EMR DB, including whether combining NGESO’s financial incentives for the EMR DB with the wider NGESO incentives can drive improved performance.

## Contents

<b>Executive Summary .....</b>	<b>2</b>
<b>1. Background.....</b>	<b>6</b>
Scope of the Report .....	6
Capacity Market Deliverables.....	6
Financial and Reputational Incentives .....	8
Capacity Market Suspension.....	10
<b>2. Review of NGESO Performance .....</b>	<b>12</b>
Overview .....	12
Deliverables .....	12
DSR Participation .....	14
Dispute Resolution .....	15
Customer and Stakeholder Engagement .....	17
Data Compliance .....	20
Information Technology .....	21
<b>3. Conclusion .....</b>	<b>22</b>

## 1. Background

### Scope of the Report

- 1.1. This report examines the performance of National Grid Electricity System Operator’s (NGESO’s) functions as the Electricity Market Reform (EMR) Delivery Body (DB). The report considers the 2018/19 financial year, 1 April 2018 to 31 March 2019, with performance assessed against the financial and reputational incentives set upon NGESO. The report will include Prequalification for both the 2018/19 postponed T-4, and rescheduled 2018/19 T-1 Capacity Auctions (Auctions). The report also records material operational issues during the reporting period.
- 1.2. Regulation 83 of the Electricity Capacity Regulations 2014 (as amended) (Regulations) requires the Authority, six months after either the completion of each T-4 Auction or if no auction is held, the end of that Capacity Year, to provide the Secretary of State with annual reports<sup>7</sup> on:
  - The operation of the CM; and
  - The DB’s performance of its functions in relation to the CM.
- 1.3. Whilst we are required to report on the CM as outlined in p.1.2, we also report on the DBs performance in relation to their other role in managing the Contract for Difference (CfD) regime in order to fully assess performance and to determine the impact on incentives.
- 1.4. In parallel to providing the reports directly to the Secretary of State, we are required to make them publicly available. This report will be published on our website.

### Capacity Market Deliverables

- 1.5. The DB’s deliverables in relation to the CM are set out in the Regulations<sup>8</sup> and includes the:

---

<sup>7</sup> [Electricity Market Reform Reports](#)

<sup>8</sup> [The Electricity Capacity Regulations 2014](#)

- Preparation, delivery to the Secretary of State and publication of an annual Electricity Capacity Report, containing an assessment of the amount of capacity that is needed for a Delivery Year;
- Publication of Auction Guidelines before the start of a Prequalification Window, containing information on when auctions are to start, details on how to apply to prequalify, the timetable and the De-rating Factor of each Generating Technology Class set out in the Capacity Market Rules 2014 (as amended);
- Determining the Prequalification of all Applications and notifying each Applicant of its decision;
- Reconsidering its Prequalification decision if requested by the Applicant;
- Notifying Prequalification results to the Secretary of State;
- Advising the Secretary of State on the need to adjust the demand curve for each Capacity Auction;
- Holding Capacity Auctions and notifying the auction results to the Secretary of State, bidders and the public;
- Establishing and maintaining the Capacity Market Register, containing – amongst other things – details of each Capacity Agreement awarded following a Capacity Auction; and
- Termination of Capacity Agreements when required under the Regulations.

1.6. More information on the CM is provided in our Annual Operational Report on the CM.

## Financial and Reputational Incentives

1.7. In 2015, we decided on funding arrangements for NGENSO for the period August 2014 to March 2021<sup>9</sup>, and introduced incentives to NGENSO’s licence to drive performance in its functions. We introduced these incentives to encourage NGENSO to efficiently and effectively carry out its roles as EMR DB as set out in p.1.5.

1.8. Currently, there are four financial and reputational incentives that adjust NGENSO’s annual revenue in relation to its performance against the criteria set out in Special Condition 4L:

- In the interest of value for money for consumers, the **Peak National Demand Forecasting Accuracy Incentive** aims to ensure more accurate forecasts of demand to reduce the risk of under- or over-procurement of capacity. This incentive applies to both the T-4 and T-1 Auction forecasted peak demand, and measures the forecast against actual peak demands upon completion of the Delivery Year. The verification process for the 2017/18 and 2018/19 Delivery Years has recently been completed, finding the incentive fit for purpose. The independent review found the forecasting methodology to be a good choice from a statistical perspective, with subsequent modelling assumptions to be sensible and justified.
- The **Demand Side Response (DSR) Incentive** was introduced to ensure the DB facilitates adequate DSR participation in the CM. This incentive refers only to the T-1 Auctions, with the first T-1 Auction held in 2018, setting the baseline for this assessment.
- To ensure efficient and effective dispute resolution in both the CM and CfD schemes, the **Dispute Resolution Incentive** was introduced. The incentive adjusts NGENSO’s revenue depending on the quantity of reviewable decisions that are overturned following an appeal to the Authority.

---

<sup>9</sup> [Decision on revenue, outputs and incentives for NGET plc’s roles in Electricity Market Reform](#)

- Upon completion of each Capacity Auction and CfD allocation round, the DB is required to carry out a **Customer and Stakeholder Satisfaction Survey**. The aim of incentivising the output of the surveys is to increase transparency to EMR stakeholders on the quality of the DB’s service, delivery and engagement. The baseline for the incentive is set by the previous year’s satisfaction survey rating, with an upside incentive payable upon improvement of that score.

1.9. The financial incentives that were decided on in 2015 lead to a maximum upside or downside of £4.8m in a given year for NGESO. Table 1 below summarises the value of each incentive.

**Table 1: Summary of incentives**

Incentives	Value per year
Annual reports on performance and operation of the CM	Reputational
Publishing specific concerns we have with performance and any enforcement actions	Reputational
Accuracy of the DB reviewable decisions	+/- £0.2m
Customer and stakeholder satisfaction surveys	+/- £0.6m (also reputational)
Volume of prequalified DSR capacity for the T-1 Auctions	+/- £1m
Demand forecasting accuracy (T-1)	+/- £2m
Demand forecasting accuracy (T-4)	+/- £1m
<b>Total (financial incentives)</b>	<b>+/- £4.8m</b>

1.10. We understand that the number of Applicants has grown overall since the start of the CM, leading to increased Prequalification Applications and auction participants. Therefore, it is important that the incentives on NGESO fully reflect changing operational challenges, in order to drive best performance for the benefit of consumers. As such, Ofgem continue to review the NGESO’s incentives to ensure they are fit for purpose.

## Capacity Market Suspension

- 1.11. On 15 November 2018, the General Court of the Court of Justice of the European Union found in favour of Tempus Energy, annulling the European Commission’s State aid approval for the Great Britain (GB) CM scheme. This introduced a standstill period during which aid could not be granted under the CM. On 25 January 2019, the Commission appealed the General Court’s judgement.
- 1.12. Following the judgement, the Secretary of State postponed the 2018/19 T-4 and T-1 Auctions for Delivery Years 2022/23 and 2019/20 respectively. Furthermore, all Capacity Payments were suspended for the duration of the standstill period. In February 2019, the Commission opened an in-depth investigation with the aim of reassessing the compatibility of the CM with European Union (EU) State aid rules.
- 1.13. Secondary legislation was laid on 28 February 2019 that allowed the postponed 2018/19 T-1 Auction to be rescheduled. In addition, ‘Conditional Capacity Agreements’ were granted pending the Commission decision. The rescheduled T-1 Auction for Delivery Year 2019/20 concluded on 12 June 2019. The planned T-4 Auction was replaced with a T-3 Auction that concluded on 31 January 2020 for Delivery Year 2022/23.
- 1.14. For the entirety of the CM standstill period, the Government were unable to make Capacity Payments, or grant Capacity Agreements conferring a right to receive Capacity Payments until the reinstatement of the CM. This meant that Capacity Providers had to deliver in the absence of revenue.
- 1.15. On 24 October 2019, the European Commission declared the approval of the GB CM scheme under EU State aid rules<sup>10</sup>.
- 1.16. Issued in a letter to the CM Settlement Body<sup>11</sup> (the Electricity Settlements Company (ESC)) and NGENSO<sup>12</sup> on 25 October 2019, the Secretary of State confirmed the European Commission’s decision. The Secretary of State instructed both NGENSO, as the EMR DB, and ESC to complete the necessary requirements for the restart of the

---

<sup>10</sup> [State aid: Commission approves the British Capacity Market scheme](#)

<sup>11</sup> [Letter from Secretary of State to Electricity Settlements Company \(ESC\), October 2019](#)

<sup>12</sup> [Letter from Secretary of State to National Grid ESO \(NGESO\), October 2019](#)

CM. ESC were required to calculate and collect post-standstill payments from suppliers and make Capacity Payments in respect of the standstill period in accordance with the Regulations. Capacity Providers were paid in full in early 2020 for the CM standstill period.

- 1.17. NGENSO, in its role as the EMR DB, was impacted by the CM standstill period during this period of uncertainty. The rescheduling of the 2018/19 T-1 Auction to June 2019 and the replacement of the 2018/19 T-4 Auction with a 2019/20 T-3 Auction, meant the DB had to engage with participants to continue updating them on the status of their Capacity Agreements and obligations. This also resulted in the DB having to effectively manage Capacity Agreements in accordance with the rescheduling of auctions, meaning increased collaboration with participants and Delivery Partners for the entirety of this standstill period.
- 1.18. In addition, as a result of the CM suspension, the Department for Business, Energy and Industrial Strategy (BEIS) had to make necessary Rules changes relating to CM milestones. These were made to ensure that Capacity Providers were not unduly terminated. To implement these unforeseen Rules changes, the DB were required to amend the current IT System (EMR Portal) ahead of existing system work streams.

## 2. Review of NGESO Performance

### Overview

2.1. This section sets out our review of the DB’s performance of its CM functions in the specified reporting period. We look at the deliverables required by NGESO, in carrying out the role of the EMR DB, including stakeholder engagement, its performance in the dispute resolution processes and both demand forecasting and DSR participation. We also discuss operational issues relating to NGESO’s CM IT system.

### Deliverables

2.2. Table 2 sets out the deadlines and delivery dates for NGESO’s CM key deliverables during the reporting period as set out in the Rules, Regulations or agreed with the Delivery Partners and outlined in the DB’s Operational Plan. The DB previously published their Operational Plan in July 2018, but due to the CM suspension, this was later updated in November 2018<sup>13</sup>.

**Table 2: Performance against key deliverables**

Deliverables	Deadline (Pre CM Suspension)	Deadline (Post CM Suspension)	Completed by Deadline?
Publication of Capacity Market Auction Guidelines	Prior to PQ Window (opened 23 July 2018)		Yes
Completion of Prequalification for the CM T-4 and T-1 Auctions	29 October 2018		Yes
Notifying the Secretary of State of Prequalification results	29 October 2018		Yes
Issue decision notices on all requests for Reconsidered Decisions	16 November 2018		Yes
Completion of CM T-1 Auction	30 January 2019	12 June 2019	Yes
Provision of T-1 Auction Monitor report to the Secretary of State	1 February 2019	14 June 2019	Yes

<sup>13</sup> [EMR DB Operational Plan](#)

Completion of CM T-4 Auction	6 February 2019	Auction Postponed	N/A
Provision of CM T-4 Auction Monitor report to the Secretary of State	8 February 2019	Auction Postponed	N/A
Publication of CM T-1 Auction Results	11 February 2019	24 June 2019	Yes
Publication of CM T-4 Auction Results	18 February 2019	Auction Postponed	N/A
Issue of T-1 Capacity Agreements	11 March 2019	22 July 2019	Yes
Issue of T-4 Capacity Agreements	18 March 2019	Auction Postponed	N/A

2.3. In its role as the EMR DB, NGESO, pursuant to Chapter 5 of the Rules is required to appoint a third party to monitor the conduct of each Auction, referred to as the Auction Monitor. The Auction Monitor produced a report on the compliance and conduct of NGESO for the 2018/19 T-1 Auction.

2.4. The Auction Monitor’s report<sup>14</sup> concluded that NGESO complied with its responsibilities pursuant to Chapter 5 of the Rules and the Data and Auction sections of the CM Auction Guidelines.

---

<sup>14</sup> [2018 Year Ahead Capacity Auction \(T-1\) Delivery Year 2019/20: Auction Monitor Report](#)

## DSR Participation

- 2.5. Recognising the importance of DSR participation in the CM in 2015, we found it appropriate to implement an incentive to encourage the DB to facilitate increased amounts of DSR participation. Special Licence Condition 4L.15 requires that the DB submit a report to us within three months of each T-1 Prequalification round outlining steps taken to encourage and facilitate DSR participation, including how it ensured that DSR providers fully understand the CM participation process.
- 2.6. The CM has seen a significant growth in DSR participation, increasing from 109 Applications in 2016 to 410 in 2019. Throughout this growth, we recognise that the DB has endeavoured to remove perceived barriers to entry for Applicants through supporting BEIS and Ofgem with policy considerations, and improving customer engagement.
- 2.7. In 2018/19, policy change considerations representing the DSR community in the CM included:
- The proposal of component reallocation; offering flexibility to DSR providers to reallocate components during Delivery Years.
  - The simplification of the requirements relating to DSR testing ahead of Prequalification; reducing barriers to entry for participants.
- 2.8. Through their programme of customer engagement, the DB held workshops with industry and both led and attended DSR working group sessions resulting in regular improvement updates to system interfaces. We also recognise that the DB has improved communication and guidance for CM participants as well as streamlining agreement management processes which may have had particular benefits for DSR participants.
- 2.9. The incentive value is calculated based on the amount of prequalified DSR in the T-1 Auction against a target volume. The target was set by the 2017/18 T-1 prequalified volume at 1,720MW, which also set the baseline for this incentive. The 2018/19 T-1 Auction saw an increased amount of prequalified DSR from 1,720MW to 2,125MW. This increase in volume of 405MW from the target volume resulted in a total incentive value for NGESO of £113,890 as per the calculation formula set out in Special Licence Condition 4L.14.

2.10. As part of our continued review of the relevance of these incentives and following broader consultations calling for views, we released a Statutory Consultation<sup>15</sup> on 11<sup>th</sup> March 2020 with the aim of removing this incentive. We do not see a strong correlation between any efforts of the DB to improve DSR participation and participation itself. At this stage of maturity of the CM, it does not appear that the DB can have a significant impact on the amount of DSR coming forward to prequalify for the T-1 Auctions and the increased volume of prequalified capacity and hence positive incentive value for the 2018/19 performance year was not as a result of particular actions by the DB.

## Dispute Resolution

2.11. It is necessary for the DB to carry out a reasonable and fair Prequalification process in the application of the Rules. This includes the resolution of requests for reconsideration (‘Tier 1 disputes’) following the conclusion of initial Prequalification decisions in accordance with Regulation 69 of the Electricity Capacity Regulations.

2.12. Although the original 2018/19 T-1 Auction was eventually rescheduled for June 2019 and the T-4 Auction was replaced with a T-3 Auction for January 2020, the Prequalification Application process continued and the full dispute resolution process was completed as per the Regulations. As such, the decisions on Prequalification Applications for the original T-1 Auction were carried over to the rescheduled T-1 Auction.

2.13. In 2018/19, the DB received 1,661 Prequalification Applications, a decrease of 289 from 1,950 Applications in 2017/18. Of the 1,661 Applications, the DB received 152 Tier 1 disputes for the T-4 Auction, and 131 for the T-1 Auction. Of the total 283 disputes, for 185, the DB changed their decision from not prequalified to prequalified.

2.14. The number of Tier 1 disputes at 283 represents a significant decrease from the 620 in the previous year, 2017/18. Encouragingly, since 2016/17 we have seen a year on year decrease in this number. We consider the actions of the DB over 2018/19 in

---

<sup>15</sup> [Statutory Consultation for adjusting the Electricity Market Reform Delivery Body Incentives and mechanisms to recover uncertain costs](#)

developing and improving their engagement with stakeholders at the Prequalification stage to be an important factor. The DB have told us that they have been proactive in their engagement to understand common issues experienced by participants, and to have introduced guidance tools to support participants during the Prequalification process. We would expect to see this trend in the reduction of Tier 1 disputes to continue.

- 2.15. Following the DB’s reconsidered decision, Applicants have the opportunity under Regulation 70 of the Electricity Capacity Regulations to appeal to Ofgem, as the Authority, (‘Tier 2 dispute) to determine whether the reconsidered decision was correct based on the information which the DB had when it made the decision. We received 68 Tier 2 disputes in total for both the T-1 and T-4 Auctions, which were grouped into 21 themes. We group the individual cases into themes based on commonality between the cases, where the decision made will be the same across the theme. On appeal, from the 21 themes, five were overturned with the remaining 16 being upheld<sup>16</sup>.
- 2.16. In the Tier 2 disputes, where we overturned the DB’s reconsidered decisions, this was a result of the DB’s misapplication of the Rules and due diligence taken when assessing the full Application. In addition, in one instance we also overturned, in part, because the DB failed to provide an Applicant with full reasons of its decision to reject.
- 2.17. The dispute resolution incentive encourages the DB to apply effective decision making during the CM dispute process. The incentive is awarded based on the number of reviewable decisions by the DB that are overturned by Ofgem. The incentive has a value of  $\pm$  £100,000 per year, dependent on the number of overturned determinations as calculated using the formula set out in Special Licence Condition 4L.5. NGESO are eligible for the maximum value of +£100,000 if no Tier 2 disputes are overturned, and conversely, are penalised a maximum value of -£100,000 if four or more are overturned.

---

<sup>16</sup> Our CM Prequalification Appeal determinations can be found here: [Electricity Market Reform \(EMR\) Dispute Resolution](#)

---

- 2.18. As a result of there being five overturned determinations for the 2018/19 Prequalification appeal process, the DB were penalised the full amount of -£100,000.
- 2.19. We recognise that improvements have been made to Prequalification but encourage the DB to consider the basis for which these determinations were overturned. In addition, based on participant feedback, we encourage the DB to ensure Prequalification guidance is as effective as possible and IT systems allow user functionality in order to minimise the potential for errors during the Application process.

## Customer and Stakeholder Engagement

- 2.20. The DB has a key role in providing information to participants enabling them to participate in the CM. Upon completion of each auction and CfD allocation round, the DB is required to carry out a customer and stakeholder satisfaction survey.
- 2.21. Following the suspension of the CM in November 2018, and as a result of no auction taking place in the 2018/19 financial year, and in accordance with Special License Condition 4L.20, the DB did not conduct a customer and stakeholder satisfaction survey in relation to the CM. Additionally, a CfD allocation round was not held in the reporting year 2018/19 so in accordance with Special License Condition 4L.18, the DB did not conduct a customer and stakeholder satisfaction survey in relation to the CfD regime. As a result, this incentive will not be applied for the year 2018/19.
- 2.22. In the absence of a survey, Ofgem requested that the DB provide a letter capturing the actions taken to improve and build on their customer engagement strategy. We summarise their actions for 2018/19 below, in addition to summarised feedback we have received in response to consultations we held during and after this performance year. These include our Open Letter on the Five Year Review of the CM<sup>17</sup>, Five Year Review of the CM – First Policy Consultation<sup>18</sup>, and our Consultation on adjustments to the Electricity Market Reform Delivery Body Revenues<sup>19</sup>.

---

<sup>17</sup> [Open letter on the Five Year Review of the Capacity Market Rules and NGET's incentives](#)

<sup>18</sup> [Five Year Review of the Capacity Market Rules – First Policy Consultation](#)

<sup>19</sup> [Consultation on adjustments to the Electricity Market Reform Delivery Body Revenues](#)

### **General Customer Engagement:**

- The DB have informed us that they have looked to develop their customer engagement strategy by building upon their previous engagement plan set out in 2017. The work focused on establishing a customer focused team structure and targeted communication to better respond to Applicant queries. They also notified us that they continued with the assignment of a dedicated engagement lead for each customer group, that is responsible for knowledge sharing and collaborating across teams.

#### Industry Feedback:

- In response to the consultations noted in p.2.22, a number of respondents note the need for an improved service in its interaction with participants, particularly when responding to participant’s queries. Many respondents highlighted their disappointment in the DB’s slow response time. Furthermore, numerous responses discuss the need for the DB to increase spend on resource in order to provide an improved level of service to customers.

### **Prequalification Support:**

- The DB notified us of analysis undertaken to help identify common themes of issues that participants were experiencing during Prequalification. In response, the DB set out that they introduced a downloadable exhibit tool, published a Prequalification guidance pack, and established a YouTube channel to help support participants during Prequalification.
- Following feedback from Applicants concerning the one chance approach to Prequalification, the DB developed a process that allows a partial review of early Applications. This allows participants to potentially address avoidable administrative errors prior to the hard deadline by which the Prequalification Application window closes.

#### Industry Feedback:

- Many respondents note that the Prequalification process remains complicated, and the need for a more streamlined process. Several

respondents indicate the need for an improved IT system to enhance processes, system adequacy, and customer experience, especially during Prequalification. Respondents note the difficulty in navigating the current EMR Portal. However, two respondents indicated that there has been an improvement in the quality of the Prequalification guidance materials for participants.

### **Implementation of Rule and Regulation Changes:**

- For the 2019/20 Delivery Year, an amendment to the Rules introduced DSR component reallocation, OF12. The DB ensured that the implementation of these Rules changes were done in collaboration with industry through holding workshops to understand the key requirements and concerns raised by participants.

#### Industry Feedback:

- Nothing was raised in consultation responses in relation to the impact on industry of the DBs implementation of Rule and Regulation changes. The OF12 rule was not fully implemented at the time of these consultations to be able to include specific comments. We are aware that the DB have endeavoured to deliver change in collaboration with Delivery Partners and industry. We are however also aware that many of these policy changes are implemented through the EMR Portal which has received negative feedback.

### **Capacity Market Suspension:**

- Following the CM suspension, the DB worked with Delivery Partners to provide clarity to CM providers on the status of their agreements and obligations. During this period of uncertainty, the DB published guidance on a number of impacted areas because of the suspension.

#### Industry Feedback:

- While not specifically brought out in consultation responses, we received general positive feedback relating to the DB’s communication during this period.

2.23. The scale of the operational requirements of the CM scheme has seen a significant increase since its implementation in 2014. This increased complexity was expected in previous years as the number of Applications increased. In 2018/19, we did not see this increasing trend continue. However, the DB are required to maintain a high-level of customer service to all Applicants throughout the CM process. Our intentions are to ensure that the DB continues to be appropriately funded in order to drive the intended behaviours and expectations. Overall, taking into account the DB’s input on customer engagement and industry feedback, we are of the view that they continue to make efforts to improve communication channels and provide support to participants, there are areas for improvement around responsiveness and ease of participation, particularly in relation to the EMR Portal.

## **Data Compliance**

2.24. During the reporting period, the DB announced two Confidential EMR Information (CEMRI) incidents, for unwarranted sharing of CEMRI information. The first occurred in October 2018, where a system issue with the EMR Portal resulted in the inappropriate sharing of Prequalification information to incorrect participants. The second incident, occurring in January 2019, saw the DB upload an incorrect report to the EMR DB website. A review, conducted by the NGESO EMR Compliance Officer’s team, found this incident to be human error.

2.25. The DB self-reported these incidents to Ofgem and the affected parties. Upon identification of the breach in both cases, the DB established an incident response team to contain and mitigate the incidents. We were told that no commercially sensitive information was accessed by any third party. In response, a number of audits were carried out to identify and resolve the root causes of these breaches. We have reviewed the outcomes of the audits, and NGESO have set out and completed all actions in response to the auditor’s recommendations.

2.26. We will continue to monitor whether any further issues are as a result of insufficient resolution of underlying issues surrounding data compliance, such as the appropriateness of the EMR Portal IT system to handle this data.

## Information Technology

2.27. NGESO’s IT system continues to be the area of greatest concern. In our previous 2017/18 DB Performance Report<sup>20</sup>, and in our September 2019 decision on Adjustments to the EMR DB Allowances<sup>21</sup>, we discussed the lack of functionality with the EMR Portal whilst noting a well-functioning IT system is essential to the efficient delivery of the CM. Over the period of 2018/19, we continued to receive feedback from many stakeholders on the poor performance of the EMR Portal, and its failure to meet the needs of its users. The poor performance of the EMR Portal has been especially noted during the Prequalification window, in enabling efficient agreement management and maintaining robust data compliance.

2.28. Recognising that funding is required to replace this IT system, we have been engaging with the DB to resolve this issue. Following an application by NGESO for a relevant adjustment in allowed revenues for the EMR DB in May 2019, we decided in September 2019 to provide additional funding specifically to deliver a replacement IT system. We set out in this decision the requirements and timescales that we expect NGESO to deliver this IT system to in order to fulfil user and efficiently requirements as soon as possible.

---

<sup>20</sup> [Annual report on the Delivery Body’s performance of its functions in relation to the Capacity Market 2017/18](#)

<sup>21</sup> [Decision on Adjustments to the Electricity Market Reform Delivery Body Allowances](#)

### 3. Conclusion

- 3.1. NGESO met the requirements for performing its role as the EMR DB in the year 2018/19. There were a number of positive areas in its performance, especially surrounding the continued engagement with industry in a very uncertain period during the CM suspension. Specifically, the flexibility that the DB demonstrated in adapting to running a delayed auction, implementing rule changes at short notice and continuing to manage participants’ agreements must be recognised.
- 3.2. We recognise the Prequalification process is improving with less Applicants submitting Tier 1 disputes this year compared to 2017/2018, and subsequently fewer appealing to us as the Authority. This may be attributed to work undertaken by the DB to improve the support provided to participants before and during Prequalification. We do not have any major concerns with the performance of the DB during its dispute resolution process. However, as Ofgem overturned five Tier 2 disputes, this is an indication that the DB should be more considered and balanced in the application of the Rules and taking into account information provided by the Applicants within their Prequalification Application. Additionally, we suggest that the DB could improve communication with Applicants during the dispute resolution process by ensuring they provide clear and full reasons for their decisions.
- 3.3. Over this period in response to consultations during and after this performance year, we have received an increase in stakeholder feedback with Applicants raising the issue of the DB not delivering its role effectively. Taking into account this feedback and an assessment of NGESO spend on the EMR DB undertaken as part of the consultation for additional allowances undertaken in 2019, we are concerned that the DB have not maintained their level of resource or quality of IT systems in-line with growing CM participation and complexity. Whilst we have seen efforts by the DB to provide a positive service, we remain concerned with the feedback from industry and expect to see continuous improvement going forward.
- 3.4. During 2018/19, the DB announced two compliance incidents. In light of these, a number of audits were undertaken to identify the root causes and outline actions for improvement. The DB to set out and completed all actions in response to the auditor’s recommendations. We expect the DB to continue to implement internal procedures to mitigate future CEMRI incidents and will monitor this progress.

- 3.5. NGESO’s IT administration system, the EMR Portal, is of particular concern. It appears to be causing issues for users in participating in the CM during the Prequalification process and seems to increase the risk around data compliance. The DB have put in place manual processes to aid Prequalification which has led to some success, however, in order to continue to improve further and maintain data compliance, the system requires a significant overhaul. We have decided on providing the DB with initial additional funding to deliver a replacement IT administration system, and are putting in place a mechanism to allow the provision of uncertain costs. We have set out requirements for this IT system replacement alongside the provision of this funding and our expectation that it is delivered by April 2021, in collaboration with industry users of the system.
- 3.6. In our Five Year Review<sup>22</sup>, we included a forward work plan highlighting future work streams. In this forward work plan, we state that we will continue to assess relevant feedback and develop a future framework for EMR incentives to deliver a fit for purpose suite of incentives. We will investigate if combining NGESO’s financial incentives for the EMR DB with the wider NGESO incentives can drive improved performance.

---

<sup>22</sup> [Report on our Five Year Review of the Capacity Market Rules and Forward Work Plan](#)