



Energy for
generations

ESB

4th Floor, 85 Tottenham Court Road, London W1T 4TQ

Phone: +44 (0) 20 7396 1034

esb.ie

Wholesale Markets
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

28/05/2019

To Johannes, Harry and Chris

RE: Five Year Review of the Capacity Market Rules

Sent via email to EMR_CMRules@ofgem.gov.uk

Set out in this letter is ESB's response to Ofgem's Five Year Review of the Capacity Market Rules consultation dated 16 April 2019 (the "Consultation Paper"). The response is split into two sections, an executive summary and the ESB responses to the questions from the Consultation Paper.

By way of background to this response, below is a short description of the ESB Group. ESB is Ireland's foremost energy company, with around 7,000 employees. Established in 1927 by the Irish Government, and remaining 95% state owned, ESB created the first fully integrated electricity system in the world. ESB owns the transmission and distribution systems in Ireland and Northern Ireland. ESB has been present in Great Britain since market liberalisation and for 25 years has powered homes and businesses across the country, investing around £2 billion. ESB was one of the first IPPs in the UK with our investment in Corby Power Station (350 MW) in the early 1990's.

ESB is supporting Britain's transition to a low carbon future by investing in flexible and renewable generation assets, including combined cycle gas turbine, wind and biomass technologies. ESB opened Carrington Power Station (880MW) one of the most flexible and efficient plants in the market. This was the first large scale gas-fired station to come on stream in Great Britain since 2013. Carrington is owned by ESB's 100% subsidiary Carrington Power Limited. ESB also owns 125MW of onshore wind generation capacity, with over 400 MW in the development pipeline in Britain, a 7MW battery and recently invested in the 353 MW Galloper offshore wind project. In addition, ESB's 40 MW waste wood-fired plant at Tilbury in Essex started generating recently as well.

ESB is a pioneer in electric mobility and is currently working in partnership with Transport for London to install, operate, maintain and commercialise charging infrastructure for the London taxi fleet. In 2017 ESB entered the GB energy supply market as ESB Energy.

Executive summary

ESB welcomes Ofgem's Five Year Review of the Capacity Market Rules. The review captures a number of issues with the current Capacity Market rules, however, not all proposals outlined in the Consultation Paper are progressed or provide the necessary detailed to determine the impact. Please see below ESB's salient comments on the proposals.

While ESB supports reducing the regulatory burden of the Capacity Market Rules, it is important that there is a balance struck between that and ensuring only genuine projects pass

prequalification. ESB is concerned that termination fees may not reflect the reduced diligence on applicants resulting in the potential of speculative bidders distorting the auction result.

In terms of prequalification, ESB has made clear in previous responses of the uncertainty and time consuming nature of the process. ESB would therefore support changes to reduce unnecessary risk placed on participants when prequalifying, particularly for existing plant. The proposals in the Consultation Paper are a positive step but given that the five year review is industry's opportunity to make more significant changes to the rules, ESB believes more could be achieved. ESB believes that rather than prequalification being a one shot acceptance with a subsequent expensive and risky appeal process, the delivery body should introduce a two stage prequalification that will allow participants to rectify an issue in their prequalification prior to disqualification. If this requires extra resourcing, then this should be actualised as the benefits of increasing the number of legitimate participants in the auction should outweigh the potential extra resourcing cost.

ESB is concerned with the seemingly lack of analysis given to the proposals for differentiating between firm and non-firm connections. This issue is intrinsically linked to Ofgem's Significant Code Review on network access rights and ESB believes that it is right to wait until this work is further progressed before trying to tackle a definition within the Capacity Market Rules. There is a lack of co-ordination and standardisation across DNO's on connection agreements, partly as a result of the different needs of each DNO area. This inherent difference, and the need for a more flexible System, will make de-rating connections consistently year on year more difficult. ESB believes that there are more fundamental and urgent issues with the Capacity Market that should be prioritised ahead of this issue.

If you have any questions about this consultation response, please do not hesitate to get in touch with kate.dooley@esb.ie and Paraic.higgins@esb.ie.

Questions

The objectives of the Rules

Question 1: Do you have any views on the interactions between the CM and other wholesale markets; such as forward markets, the balancing market, and markets for ancillary services?

No Comment.

Question 2: Do you have any evidence that design choices in the CM are driving inefficient outcomes in other markets?

No Comment.

Question 3: Do you have suggestions for how these markets can be better aligned and how any inefficiencies can be mitigated?

No Comment.

Ofgem's Rules change process

Question 4: Do you have any views on whether the proposed membership of the CM Advisory Group is appropriate, the form of participation from industry, along with any further points regarding meeting frequency and function?

ESB is supportive of a CM Advisory Group and believes the industry should have more involvement in the rule change process. ESB believes that it would be inappropriate for those not party to the CM rules, or apart of the CM process to be an industry representative on the panel. Those elected onto the panel should be those who will be impacted by changes to the rules. Those elected should also have the same burden placed on code panel members in terms of expertise.

Considering the work load required from participants for this CM Advisory Group, the frequency of once a month could be too much of a burden especially if this group. ESB supports the proposal by Energy UK to have less frequent, but perhaps slightly longer panel meetings in order to make best use of industry's resources.

ESB would like to see that the role of the secretariat of the CM Advisory Group is tendered. NGENSO is not the appropriate body to be performing this function given that it is already managing a large part of the EMR delivery and to date, has not met expectation in terms of delivery.

In order to ensure industry participation in the rule change process, ESB supports the creation of a separate group or forum, similar to the Transmission Charging Methodology Group or the Grid Code Development Forum. This would allow the wider industry to attend forum meetings in a less committed but still useful way to stay informed and involved in the process. This forum may not necessarily meet as often as the Advisory Group but would primarily exist to discuss issues and potential solutions pre-change proposal stage. This should also reduce the number of similar rule changes submitted to Ofgem for analysis, and hopefully deliver more fully formed and developed change proposals for Ofgem's consideration.

Question 5: Do you believe the proposed framework and function of the CM Advisory Group is appropriate and would better facilitate the efficient operation of the CM Rules change process?

ESB is supportive of the CM Advisory Group, and believes it would better facilitate the efficient operation of the CM Rule change process. The group should be used to prioritise changes and to give a voice to industry.

Question 6: Do you have any feedback on our proposal to move to an 18-month implementation timescale; consulting on rule amendments which would subsequently be implemented the following Delivery Year?

ESB is supportive of the proposal as it would mean there is more certainty of the rules for a particular delivery year with more advanced warning. Currently, industry does not have the final rules until very close to prequalification window opening. While this may not be a significant problem for existing projects, it is added uncertainty for new builds. Therefore having a delayed timeline for changes and urgent/non-urgent change process should help to alleviate these uncertainties by providing a longer lead time.

ESB is concerned about the timelines suggested for urgent and non-urgent consultation periods. It is unclear why there are two consultation timelines for urgent and non-urgent changes. Rather than have six months of consultation period a year, this should be streamlined so there is one slightly longer consultation period; Ofgem should be allowed to provide a decision on urgent rule changes sooner than providing a decision on non-urgent rule changes. It is inefficient to run two consultation periods when Ofgem could run one on both sets of proposals.

Regulatory burden – Prequalification

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?

ESB has made clear in previous responses of the uncertainty and time consuming nature of the prequalification process. ESB would therefore support changes to reduce unnecessary risk placed on participants when prequalifying, particularly for existing plant. The proposals in the Consultation Paper are a positive step but given that the five year review is industry's opportunity to make more significant changes to the rules, ESB believes more could be achieved. ESB believes that rather than prequalification being a one shot acceptance with a subsequent expensive and risky appeal process, the delivery body should introduce a two stage prequalification that will allow participants to rectify an issue in their prequalification prior to disqualification. If this requires extra resourcing, then this should be actualised as the benefits of increasing the number of participants in the auction should outweigh the potential extra resourcing cost.

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?

ESB believes that the current prequalification length is not a problem for existing plant, *if* a two stage approach was implemented to prequalification. The current one shot approach to prequalification unnecessarily increases the risk to participants of not qualifying. A two stage approach that requires the Delivery Body to highlight issues to the participant and allows the participant to respond would assist with ensuring the maximum efficiency and effectiveness of the auction is achieved.

ESB is unsure if increasing the length of prequalification would provide the benefits it is seeking to achieve. In ESB's experience, the live guidance document creates more issues than it solves as it is continually being updated and causes more work for participants. ESB suggests that the guidance document is not a live document as it causes more uncertainty during prequalification. In addition, it will concentrate applications to be submitted to the delivery body at the end of the prequalification window, and therefore concentrate work for the delivery body.

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?

ESB supports Ofgem's Option 3 proposal as it avoids the potential of speculative auction bids that Option 1 may result in, and the unbalanced approach of planning that Option 2 presents.

However, considering the significant uncertainty created around the ECJ decision and subsequent suspension of the capacity market, market participants have been in a state of flux in relation to 2018 pre-qualifications for the T-4 auction (CY 2022/23). In light of the above, ESB does not believe the rules should be changed for the upcoming T-3 auction, the existing (pre-CP190) approach of allowing deferral until 22 days before commencement of the bidding window should continue, as participants have been working within the existing pre-CP190 rules for this auction pre-qualification and to change would be counter-productive and create significant uncertainty. For simplicity ESB believes CP190 should be deferred for all 2019 pre-qualifications i.e. the pre-qualifications for T-1, T-3 and T-4 should be as per the current rules (pre-CP190) and participants should be allowed to defer the provision of Relevant Planning Consents up to 22 Working Days before commencement of the bidding window should continue.

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

No comment.

Regulatory burden – Reporting requirements

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?

ESB supports removing the progress reports and the associated ITE assessments in all cases except those outlined in the Consultation Paper. It is important that there is a balance struck between that and ensuring only genuine projects that intend to be built pass prequalification. ESB would not like to see a change to the rules that would result in speculative applications distorting the auction. Especially if the SCM can be up to no later than three months after the start of the delivery year. Without a strong incentive to delivery on the capacity (i.e. higher termination fees), this change could encourage speculative bidders in the capacity auctions.

Secondary trading arrangements

Question 12: Do you have a view on which of the sub paragraphs of Rule 9.2.6(d)(i) – (ix) should only apply to Eligible Secondary Trading Entrants and which to the other categories of Acceptable Transferees?

ESB supports Ofgem's comments that Rule 9.2.6 needs further investigation to potentially streamline the process. The current wording of rule 9.2.6 requires revision to provide clarity to market participants.

Question 13: Is it appropriate to allow all parties who have prequalified for the CM for that year to become prequalified for secondary trading? Are there any unintended consequences?

ESB supports the proposal that the list of automatic Acceptable Transferees should be extended to include any CMU that has Prequalified in any Delivery Year, providing it submits any additional information required to bring its application into line with the Delivery Year in question.

As per our response to Q12, this process needs to be made as streamlined as possible to reduce the excess regulatory burden to register as eligible to secondary trade.

Question 14: What form should a register of Acceptable Transferees take? How should it be populated? And who should be responsible for maintaining it?

ESB is supportive of a secondary trading register as currently there is no way to know who the potential counter parties may be. Increase transparency of secondary trading participants will only help to create an efficient market.

It would make sense for the delivery body, which is already responsible for one register, to maintain the secondary trading register as well.

The form should be consulted upon before being introduced so that industry is satisfied with the proposed information being shared.

Question 15: Do you agree that it would be desirable to allow obligations to be traded between parties in amounts greater than or equal to 0.5MW?

ESB is supportive of changes that will create a more liquid market. However, compared to the other proposed changes this is not urgent. If the delivery body will struggle with resources then this should be de-prioritised accordingly.

Question 16: Do you believe the current time period of five Working Days before the date of the trade by which applicants must submit a request to trade is appropriate or should this period be reduced? Do you have any suggestions on a revised length of this period?

ESB is supportive of reducing the time period of five working days to something shorter such as two days. ESB understands the pressures on NGESO to turn around a trade however five working days is extremely prohibitive for secondary trading and still two days is not as flexible or automatic as industry would have hoped. Flexibility is a key function required for secondary trading and a reduced time period notice is crucial. Further conversation with NGESO is required to identify what shorter timeframe is possible (is extra resources needed if liquidity in the secondary trading market significantly increases).

Question 17: Do you believe that the current period of three months in which NGESO have to notify a Secondary Trading Entrant of the Prequalification decision is appropriate or do you feel this should be shortened? Do you have any suggestions on a revised length of this period?

ESB supports the shortening of this time frame as three months is a too long time period for a secondary trading applicant to wait. A review and further information from NGESO on what steps need to be applied and how these procedures could be streamlined would significantly assist in reducing this excess time period.

Question 18: Do you agree with adding a provision for the time frame over which NGESO must respond to requests for a trade?

ESB supports adding a provision for the time frame over which NGESO must respond to requests for a trade. It is a perverse situation where a trade has been registered but the transferee is not the registered holder until the CMR is updated. The length of time suggested for the delivery body should be justified.

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?

ESB is supportive of extending the defined trading window to the results day of the T-4 auction for the relevant delivery year as it provides participants with increased flexibility to cover their exposures.

Question 20: Does it continue to be appropriate for Transferors to be required to meet their SCM prior to engaging in trading?

ESB agrees with Ofgem's concern that removing rule 9.2.5(a)(i) could encourage speculative applications, however, this rule does restrict the possibility of trading distressed assets prior to completion which could reduce the possibility of the asset being delivered which would be a negative impact to the market and consumer. Should this rule be the driver of preventing speculative bids or should it be some other market parameter/rule i.e. the termination fee is designed to be a key driver of discouraging speculative bidders.

Question 21: Does it continue to be appropriate for Transferees to be required to meet their SCM prior to engaging in trading?

It is still appropriate for the requirement for Transferees to meet SCMs prior to trading as there needs to be assurance that the CMU can deliver on the obligation.

Question 22: How should we address the risk of a trade being withdrawn where a Transferor is terminated after a trade has been registered?

ESB supports companies being able to manage their own risk. However, if the transfer of the trade is held up because of a NGESO issue / timing delay this does not appear to be fair. A streamlining of the transfer of the trades should help reduce this issue. Therefore, this question should be considered in conjunction with Q17, 18 and 19.

Question 23: How should we address the transfer termination risk where a partial or full Capacity Agreement is traded for part of, or the entire duration of a Delivery Year?

ESB agrees with Ofgem's thoughts that it may be desirable to consider whether relief could be provided in those situations where part of a Capacity Agreement is traded for an entire year. ESB suggests that the termination of the contract should not occur if the contract (partial or full) has been traded for the entire duration of the delivery year.

Question 24: Are there any amendments that could be made to the SPD framework following a secondary trade, specifically relating to partial agreement trades?

No comment.

Other changes to the Rules

Question 25: Do you believe the options presented related to SPD data submission are suitable and are there any options we may not have considered in order to help mitigate the impact on capacity providers?

ESB does not support the proposals related to SPD data submission. Ofgem has suggested that participants are able to submit multiple readings and that participants should have an additional burden placed on them to check data. ESB believes that participants are fulfilling their end of the contract by submitting the data, and that it is the responsibility of the NGESO and EMRS to ensure that the IT Systems are functioning. It is not the responsibility of the capacity provider to check that there haven't been any problems. A more acceptable proposal might be if the necessary body were to run a check themselves on the 1st April, and address any problems with participants then without incurring costs to participants.

Question 26: Which aspects of a CMU configuration do you think should not be able to be amended following Prequalification?

ESB support providing flexibility for projects especially through a pre-qualification phase where the rules are continuously changing.

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

ESB agrees with the provision of extra data in the CMR as increase transparency of secondary trading participants will only assist in helping to create an efficient market.

Question 28: How should the ALFCO formula be adjusted for Interconnectors when their output is affected by actions by NGESO?

No Comment.

Question 29: Should system to generator intertrips be included as a RBS in Schedule 4 to relieve providers of their obligations when affected by such an intertrip?

ESB agrees that system to generators intertrips should be included as a RBS in Schedule 4.

Question 30: How should we differentiate between firm and non-firm connection agreements at the Distribution level?

ESB is concerned with the seemingly lack of consideration given to the proposals for differentiating between firm and non-firm connections. This issue is intrinsically linked to Ofgem's Significant Code Review on access rights and the Open Network Programme and ESB believes that it is right to wait until this work is further progressed before trying to tackle a definition within the Capacity Market Rules.

There is a lack of co-ordination and standardisation across DNO's on connection agreements, partly as a result of the different needs of each DNO area. This inherent difference, and the

need for a more flexible System, will make de-rating connections consistently year on year, difficult. In addition, it would not be sufficient to differentiate between firm and non-firm connections but also degrees of firmness on a connection by connection basis. Analysis would be required each year on degree of firmness, otherwise there would be an incentive for new generators to minimise grid connection cost by minimising firmness. ESB would question the benefits to the system of dedicating such effort.

ESB believes that there are more fundamental and urgent issues with the Capacity Market that the Delivery Body and Ofgem should be focusing on over and above this issue.

Question 31: How should Distribution-connected generators with non-firm connection agreements be de-rated to accurately account for their contribution in a stress event?

As stated for question 30, it would not be sufficient to differentiate between firm and non-firm connections but also degrees of firmness on a connection by connection basis. Similarly there should be a mechanism to ensure that new generation is not disadvantaged over exiting generation with pre-existing grid connections and how derating would apply to existing 15 year contracts. ESB believes the issue of derating for firmness is very complex and requires significant market consultation to develop a process which balances contribution, accuracy of interpretation of firmness for individual generators, changes over time, fairness with respect to existing, prospective and 15 year contract holders.

NGESO's incentives and role in the CM

Question 32: Do NGESO's current financial incentives on demand forecasting accuracy, dispute resolution, DSR Prequalification, and customer and stakeholder satisfaction drive the intended behaviours by NGESO?

Please see answers to questions 33-40.

Question 33: Do the financial incentives listed above remain fit for purpose?

One of the main elements of increasing liquidity in the auctions is ensuring the maximum amount of market participants. Currently the pre-qualification process and rules do not support this. Rather than a one shot approach at pre-qualification, there should be an incentive on NGESO to help pre-qualify units as per the rules. This incentive should be balanced with preventing speculative bidders entering the auction. Speculative bidders would distort the auction results.

Question 34: What behaviours and outcomes should NGESO's financial incentives drive? What form should these incentives take?

ESB agrees with Ofgem's assessment of the two main goals; increased liquidity in the auctions and lowering the burden on participants in both prequalification and the delivery process. Any incentives for NGESO should be aligned with the delivery of these goals.

Question 35: Do you agree that a demand forecasting accuracy incentive remains appropriate?

The impact of the removal of any incentives to another package needs to be fully analysed as to the impact on other incentives. ESB believes that further justification is necessary before this incentive is amended.

Question 36: Do you agree that the dispute resolution incentive should be based on a proportion of Prequalification or Reconsidered Decisions overturned by the Authority rather than on the absolute number?

ESB agrees with this proposal.

Question 37: Do you agree that the DSR Prequalification incentive should be replaced by an incentive intended to drive NGESO to aid smaller providers, new entrants, and innovators navigate the CM?

ESB does not agree with an incentive that encourages discrimination between capacity market participants. The removal of this incentive could be used to achieve the two main goals (liquidity and lower burden) by placing a higher weighting on the other incentives.

Question 38: Do you agree that an incentive on NGESO's customer service and stakeholder engagement remains appropriate? What form should this incentive take?

ESB agrees that an incentive on NGESO's customer service and stakeholder engagement remains appropriate especially if it is the only incentive that assess the burden on participants. The new panel could have a role in assessing the success of this incentive, in addition to the 'forum' that ESB has suggested in the answer to question 4, is put in place as form of industry participation.

Question 39: Do you agree that the incentives on NGESO for delivering the CM should be aligned with NGESO's incentive framework? Should the CM incentives be incorporated into NGESO's incentive framework in the longer term?

ESB believes that the incentive schemes should remain separate. While there is merit in being able to share resource and knowledge across NGESO, the incentive schemes should remain separate to ensure accountability for specific functions within the ESO.

Question 40: Does the separation of the EMR Delivery Body from NGESO continue to remain appropriate given the separation of NGESO from the rest of NGESO plc?

Given that there has been a separation between NGESO and the rest of National Grid, in principle, ESB sees the benefit of sharing resource and knowledge between the Delivery Body and NGESO. It would be helpful for ESB to understand what the Delivery body's position is on this proposal, and what the benefits and risks were to the role if this proposal were to go ahead.