

**Address:**  
Calon Energy Limited  
Severn Power Station  
West Nash Road  
Newport  
NP18 2BZ

**T:** +44 (0) 1633 530 130

**Registered Office:**  
Severn Power Station  
West Nash Road  
Newport  
NP18 2BZ

Registered in England & Wales  
No: 09020390



[EMR\\_CMRules@ofgem.gov.uk](mailto:EMR_CMRules@ofgem.gov.uk)

Chris Thackeray  
Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

28 May 2019

Dear Chris

### **Ofgem 5 Year Review of the Capacity Market**

Calon Energy owns and operates 2.3GW of CCGT capacity, which is obligated Capacity Market (CM) plant. We have therefore been participating in the market since its inception and very much welcome Ofgem and BEIS reviews. As we also have a development project, Willington, we wish not only for the return of the Capacity Market as soon as possible, but also for the market to develop into one that can bring forward the capacity that it will need in future.

We believe BEIS and Ofgem should look carefully at the wider role of the delivery body, as further competition in this area could see considerable improvements in the operation of the Capacity Market. Issues, such as IT systems that do not recognise existing assets from year to year, have not improved quickly enough and further focus in these areas would give significant benefits to the entire market.

While more an issue for BEIS, we continue to believe that interconnectors should not be included in the Capacity Market. The argument that they help to provide lower bills for customers has some merit, but it does not stop them distorting the market and threatening long term security of supply by having the ability to undercut firm generation thanks to overly generous financial support.

We have answered the questions below, but if you or your colleagues have any questions please do not hesitate to get in touch.

Yours sincerely

A handwritten signature in black ink, appearing to read "A. Mackintosh", with a stylized flourish at the end.

**Andrew Mackintosh**  
Director of Regulatory and Government Affairs  
Calon Energy Limited

Calon Energy responses to the questions.

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

The energy market and the Capacity Market are interrelated, but we are more concerned that the growth in embedded plant has resulted in less competition and transparency in the market.

We are disappointed that Ofgem's charging reviews are being delayed, as we believe these issues need to be addressed as quickly as possible. There remains a need for increased transparency in all areas of the different markets.

We are aware that smaller plants are being encouraged into the Balancing Market, where operations would be more visible. However, we have concerns around the IT systems being used as they are not efficient enough and can add costs to Capacity Market participants.

We would like to see more competition for the role of the delivery body. With a new type of balancing market being considered, fresh eyes and focus would be welcomed to ensure that a new, more transparent and fair market could be introduced at the same time as extra focus is given to the core functions and systems needed to operate the system.

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

Yes. The current design favours small plant, partly due to large plant having different rules. For example, connections and planning should be needed for all sizes of plant at the prequalification stage.

Interconnectors continue to have an unfair advantage in that they do not need any capacity market payments as they are already rewarded through the cap and floor regime. This has seen them dominate auctions and drive the price too low for other forms of generation to compete fairly. While this may help to reduce customer bills, it is highly unfair access to the market (non-generation in a generators market) and gives serious concerns about long term security of supply, particularly with the forecast growth in interconnector capacity.

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

Calon Energy would like to see:

- Prequalification requirements to be aligned for all new build irrelevant of size, point of connection, etc.
- T-4 to be held 4 years out or for larger plant delivery start later, so 15 years means 15 years.
- Interconnectors with a cap and floor arrangement should be excluded.
- More competition for the role of the Delivery Body should be introduced to allow the System Operator to focus on delivering its core functions.

**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?**

Calon Energy welcomes Ofgem's proposals as participation by market experts will help make the changes more robust and timelier. The group must be widely representative and have people with sufficient expertise to actively engage with Ofgem and other parties.

We would suggest monthly meetings to ensure that the process runs smoothly and efficiently.

Ideally, we would like to see the rules work more like other codes, especially with the consolidation of all the applicable rules in one consolidated set.

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

We would make the following observations on Ofgem's ideas:

- The membership of the group needs to be broad and expert with good secretariat support. It will be important to ensure that the voices of smaller parties are still heard.
- The number of consultations should not dramatically increase, though informal ones, like code workgroup consultation, may sometimes be beneficial.
- We support the proposal discussed at Energy UK about creating a "Capacity Market documents" website, where all change proposals are logged when raised. This should also have consolidated rules and regulations, current guidance, current registers, etc.
- The group may need sub-groups where issues need to be discussed in more detail.
- Once a sensible solution to the issue is identified, the market can be consulted before submitting the change to Ofgem for approval/rejection.
- Parties should not be required to provide the legal drafting, as smaller parties do not have the resource for this. The secretariat should undertake legal drafting as other parties may have too much of an interest in the outcome.
- The change process must be transparent, include papers on alternative ideas, analysis of problems, etc.
- The Secretariat should be independent to provide all parties with reassurance that it is a fair and transparent process.
- We suggest the Secretariat is not the Delivery Body
- The first piece of work should be to look at removing and clarify rules. The Capacity Market should be simpler, and rules should facilitate robust delivery without tripping parties up.

The other key governance change needed is the ability to appeal the Delivery Body's decisions to Ofgem to clarify the rules. It would be sensible to review guidance before Ofgem signs it off to give all parties a firm understanding of what is expected throughout the process. The aim should be to help all parties, rather than put obstacles in their way which is how it can sometimes feel under the current system.

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

Like others, Calon Energy is concerned that the timeline is being driven by the delivery partners inability to deliver IT changes in a timely manner. Unfortunately, the track record for delivering IT improvements is not a good one and we believe urgent and robust action needs to be taken to improve this situation.

We appreciate the difficulties with IT changes, but steps need to be taken to ensure that changes can be agreed as improvements and implemented more quickly.

***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?***

Calon Energy welcomes Ofgem's proposals; however, we would like to see the prequalification process fully reviewed and made more robust.

For sites like ours, all of the identification data should just roll forward and allow us to simply state it is still correct. Only new sites should need to prequalify fully, and they should be supported closely throughout the process.

We supported Scottish Power's idea of a 2-stage prequalification. We would equally support early sign off of the data and the system should link all of our sites, so it is obvious that we are in each year.

We remain concerned that participants can be rejected for providing too little information or too much information. Urgent clarity is needed to simplify this part of the process.

***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?***

The window does not need to be so long, but only if the systems are more robust and additional data is given later.

It should be a more flexible process so that parties can complete prequalification earlier in the year if they want and just give directors certificates at the appropriate time. This will help smaller participants in particular.

The appeals process should also be less restrictive as it is currently too onerous.

***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?***

Ofgem and BEIS need to treat all plant equitably and have confidence that the volume of new plant in the auction can be built. We therefore believe all planning must be in place by prequalification.

We also note that losing planning, or land rights, does not currently result in termination. If there is a prequalification requirement on a specific issue (planning, land use, connection, etc.) then logically losing these things should lead to a termination event. There may need to be a process to allow time to lodge a planning appeal, etc., but not having related terminations seems odd.

We would suggest Ofgem reviews the prequalification information lists to review whether sites that do not have key data should have an agreement.

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

As noted above, existing sites should have all the data rolled over from the previous year, but we would also welcome a reduction on what participants can fail on. Rather than relying on the delivery body updating registers, which has been an issue, it would help if parties were able to upload their own data into the registers and notify

the delivery body that they had done so in order that they can check the details. This should speed the process up and improve it for all parties.

**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?**

As we have no new build sites under construction, we do not have any experience of this. However, unless the delivery body is robustly checking the engineering reports then their value seems limited. The fact that not providing progress reports is not a termination event (unlike FCM for example) indicates that progress reports are not that important to the Delivery Body.

A more risk-based approach should work with new sites being audited in detail at random. The focus could be on new sites, new entrants or sites running late, but meaningful testing may be more robust.

Calon would expect the need for some reports and directors' certificates for new build to help BEIS get comfort prior to the relevant T-1 auction.

**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?**

Calon would add, 'any party holding an active agreement in the current Delivery Year when trading for a future year'.

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

Yes. While we understand that many parties have complaints over secondary trading we have not actively sought to use these rules. However, the whole section would benefit from a rewrite as it is only reasonable that prudent parties should be able to trade out of their agreements and not be penalised for doing so. Likewise, the party buying an agreement and delivering against it, should not face any liabilities from the behaviour of another party.

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

Given parties could be eligible transferees for a number of years they should appear in two places; the register for the auction for which they prequalified and a new register of eligible traders for the relevant Delivery Year, which can be added to as more parties qualify.

**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?**

Yes, if they have gone through the prequalification process.

**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?**

A liquid secondary market will only be possible if parties can affect a trade quickly. We believe it should be reduced as we do not understand why the delivery body needs so much time.

**Question 17: Do you believe that the current period of three months in which NGE SO 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?**

The time allowed seems excessive and, on commercial matters such as trading to avoid substantial termination fees, we would expect help in 24 hours at most.

If a plant fails and it finds a buyer in 2 days, it currently faces a further 3 months of significant termination risk. This should be addressed. It simply cannot take 3 months to check whether a Secondary Trading Entrant is viable. This is particularly the case when that Secondary Trading Entrant holds contracts, or is pre-qualified, for other Delivery Years. In that case, approval by the Delivery Body should be no more than 24 hours.

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

Yes. We would say that 24 hours should be sufficient.

**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?**

Yes. We can see no benefits limiting the timing for trades and importantly their notification.

It also makes sense to be able to notify multiple years as a failing plant may see multiple years of agreements or an agreement covering multiple years. If the company changes hands, it becomes onerous and unnecessary to get the signatures to effect transfers each year.

**Question 20: Does it continue to be appropriate for Transferors to be required to meet their Substantial Completion Milestone prior to engaging in trading?**

No. This rule has always seemed odd as a party will be far more likely to want to trade because it cannot reach its Substantial Completion Milestone. As noted above, the Rules should allow parties to trade out of obligations to avoid termination fees. This would be in the interests of those in the Capacity Market and the customers who they are there to protect.

**Question 21: Does it continue to be appropriate for Transferees to be required to meet their Substantial Completion Milestone prior to engaging in trading?**

While we have not traded there seem to be general concerns around the delivery body's interpretation of the rules around trading. We would propose that any party taking on an obligation, or an obligation moving sites, must have its Capacity Market Unit in the same position that the rules require for any other Capacity Agreement Notices of that vintage (ie; if a Capacity Agreement Notice has to have met a Substantial Completion Milestone, then so should the site taking on the Capacity Agreement Notice).

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

Once a trade occurs there should be no risk to the buyer of anything related to the seller or vice versa. The trade moves the obligations, all of them, to the new party and once done there is no link between the two parties. Another good reason to make trading faster and system based.

**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?**

The terminations rules should apply to each agreement held by a party at the point obligations fall due. So if a party holds all, or any part, of an agreement when Satisfactory Performance Days are due then they must meet those obligations.

We note that this may require Satisfactory Performance Days to be reviewed, but one party should not be at risk from another.

**Question 24: Are there any amendments that could be made to the Satisfactory Performance Day framework following a secondary trade, specifically relating to partial agreement trades? e.g. Satisfactory Performance Day obligations applying to trading parties in aggregate following a trade, specifically relating to partial agreement trades? e.g. Satisfactory Performance Day obligations applying to trading parties in aggregate following a trade.**

We do not think the Satisfactory Performance Days regime is fit for purpose.

All Capacity Market Units give historic reads at prequalification. Any large plant will then be seen to be available via the Maximum Export Limits provided to National Grid, so should not need any further testing. Likewise all small plant on ancillary services will declare availability and can be called by the system operator at any time. We also note that large plant such as ours had to provide REMIT data when off line so it is unclear why the delivery body cannot rely on these statements

So those needing to do Satisfactory Performance Days are:

- New Capacity Market Units commissioning to reach their Substantial Completion Milestones;
- Demand Side Response;
- Interconnectors;
- Plant not falling in to the above categories as they are on extended outage.



We feel it would be a better test of plant being fit for the Capacity Market if these are tested by a call when declared available. They could do this 3 times over winter as in the current Satisfactory Performance Day rules and must offer the system operator at least 3 weeks of availability.

Where a plant trades, the buyer has to prove output, so does not need a further test. The seller would come off the list for all capacity no longer held. The seller may never get tested as they were not called before a trade, but that does not matter if the buyer then does the tests. Where the seller had already done a test, the buyer could not get called more than twice, as the agreement has been tested once.

Interconnectors should also be subject to proving on this basis but need the whole flow to meet the de-rated capacity when called by the system operator, not as part of a system operator to system operator trade, as that will not be a test of a response to a system warning.

What the regime needs to avoid is interfering with the wholesale market by forcing plant to run out of merit order because of the risks of failing the Satisfactory Performance Days and being terminated, even though a plant event can be beyond their control. There is no reason to go on testing plant you know can run.

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

As we can put our own data into settlements it is easier for us to ensure correct data. However, we would see no reason that other parties cannot give their own data to settlements if it is missing and then the Electricity Settlements Company can reconcile those when a data check is possible. As noted above, in an ideal world the capacity market system would check the settlement system over winter and automatically pull off data that parties can click a box to say it is correct.

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

Calon can see no reason to not allow any changes on the condition that the de-rated capacity can be delivered.

The connection capacity to allow export should not be reduced (as the Rules already stop), but otherwise Rule 4.4.4 is restrictive for no benefit. As an example, if a 250MW coal plant loses half of its capacity but is able to replace it with 125MW of gas, we do not believe it is an issue.

Allowing changes would let coal and diesel exit faster. For example, by letting parties trade 20MWs diesel to some wind and gas, if it is the same de-rated capacity it would seem to be in line with wider policies.

**Question 27: Is there any other data that would be useful to add to the Capacity Market Rules and why?**

The Capacity Market Rules are not robust. Although it is a legal document, it is inaccurate and has no ability to link Capacity Market Units between years.

It is therefore very difficult to interpret and hard to rely on. We would like to see the role of delivery body open to competition and the responsibilities of gate keeper awarded to a party best placed to deliver such data management.



In terms of specific fields, Substantial Completion Milestones should be added as Financial Commitment Milestones are already there. The system should also highlight changes from, for example, the last three updates. All the file names should be logical, i.e. year and vintage, and the most current versions be on a separate page, rather than needing parties to trawl through pages to find the one they want.

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

Calon Energy has not been able to review the maths in sufficient detail in the timeframe allowed.

**Question 29: Should system to generator intertrips be included as a Relevant Balancing Service in Schedule 4 to relieve providers of their obligations when affected by such an intertrip? Do system to generator intertrips provide a similar parallel benefit to the system as other Relevant Balancing Services do?**

Yes. As with other ancillary services, it is important the calculations reflect other obligations and actions taken by Capacity Market Units as required by the system operator under wider industry contracts.

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

Calon Energy believes all connected plant should show they have similar rights as those holding Transmission Entry Capacity (TEC) are required to have. We appreciate that Distribution Network Operators connection agreements are not always that clear, but any that explicitly have interruption rights for wider works (not local problems) and look more like Limited Duration TEC than TEC, should not be allowed. Ofgem should ask the Distribution Network Operators to review and alter the agreements as part of their wider charging review so that the "firm rights" are defined in the agreements.

We recognise that no one is really firm as plant can be called off for safety reasons or bought off for constraints. However, being constrained off does not relieve us of capacity market obligations, so nor should it smaller plants, but we do pay for firm rights and they should similarly have rights that look as firm as is reasonably practicable.

This may be a useful point for Ofgem's charging review to consider, defining rights and aligning connection agreements to reflect the new "firm" products vs explicitly "interruptible" rights.

**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?**

They should not be allowed to be in the Capacity Market unless TO connected plants can rely on Limited Duration TEC as well.

**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?**

Calon Energy believes that there is a strong case for tendering the role of the Delivery Body. It should not automatically be operated by the Electricity System Operator for a number of reasons:

- Five years in and we believe opportunities to improve the market have not been acted upon fast enough or have been missed. There seems to be a general loss of confidence in their ability which makes the market appear more risky than it should be and adds more administration costs to participants than it should. When appropriate, the Delivery Body (and the Electricity System Operator more widely) needs to be seen to be punished by Ofgem. We suspect this is such a small part of National Grid that it does not get enough board/management attention.
- The delivery body's customer service level is poor, with slow responses to queries, poor or non-existence guidelines and incorrect registers. Much appears to be due to their IT systems but there is no evidence that the situation is improving despite repeated discussions over recent years.
- The incentives should be far more granular if the real issues are ever to be resolved. More checks need to be in place and much more feedback is needed.
- The Delivery Body gets to play judge and jury in a system in which it has an interest as both the Delivery Body and the Electricity System Operator. Its behaviour may therefore be affected by its own interests which is totally against the spirit of any market.
- To better monitor the Delivery Body's performance, parties need to be able to dispute their actions with Ofgem, to ensure fairness. They should also be penalised when they do not abide by the rules, so it is seen that, like other parties, they lose if they do not meet the Rules;
- Staffing needs to be addressed as there seems to be high turnover as well as too few experienced staff.

We suggest that REMIT data may be a good alternative to Satisfactory Performance Days. We also believe there is other data that could be used to populate prequalifications, check changes, enforce, etc. For example, the TEC register is public and there should be something similar for DNO networks, so capacity, etc. can be uploaded from verified third party sources.

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

We would rather the Delivery Body role was given to a third party with no "skin in the game" and it could be funded on a funding shares type basis. The parties paying could have a board/panel to set KPIs, monitor performance, agree to spend more or less, etc., which would be a lot more transparent than the current situation.

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

Calon would like to see monitoring with financial incentives on areas such as:

- Answering the phone and responding to queries
- A robust and effective IT system
- Compliance with the rules could be measured by number of appeals to Ofgem;
- Delivery of accurate guidance (for example, if guidance is changed a few times without any rule changes, it is not accurate)
- Ofgem needs to monitor complaints to it and NG's performance needs a robust, transparent and independent audit.

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

Yes.

**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?**

We see sense in the proposal, but the focus should be on avoiding disputes, so absolute numbers remain an important aspect on this issue.

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

No. This looks like unjustified special treatment. The delivery body needs to help ALL parties, which for many Capacity Market Units would take little effort with the right IT and more automated systems on things like Satisfactory Performance Days. However, any special treatment for a certain class of party is not appropriate, so if any generators need more help then the delivery body needs to hire and train more staff.

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

There needs to be faster resolution of queries than there is and the incentives should give them more "points" for a quick resolution. An audit process should ensure that disputes are dealt with in order rather than easier disputes being given undue priority.

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

No. The delivery body needs to be taken out of the Electricity Systems Operator and to tie financial incentives into the ESO would not facilitate that.

It is also important that the delivery body is rewarded for doing its job well. At the current time, with some very low levels of performance, it may be necessary for Ofgem to do some close monitoring and take action where appropriate. The delivery body is seen in a very poor light by many generators and we all seek urgent resolution to help improve confidence in the market.

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

As noted above, we are not convinced it is necessary. A less onerous separation may allow staff to come in and out of the delivery body roles as their level of need changes.