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Consultation

Statutory Consultation on Capacity Market Rules change proposals

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Response deadline:	18 June 2021	**Email:**	EMR_CMRules@ofgem.gov.uk

We are consulting on changes to the Capacity Market Rules (as amended). We would like views from people with an interest in the Capacity Market. We particularly welcome responses from Capacity Market participants. We would also welcome responses from other stakeholders and the public.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at **Ofgem.gov.uk/consultations**. If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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Executive summary

Background to this consultation

We have published a number of documents in 2018, 2019 and 2020, relating to our Five Year Review of the Capacity Market Rules 2014 (as amended) ("Rules"), which we were required to carry our under Rule 15.2 and Regulation 82 of the Electricity Capacity Regulations 2014 (as amended) ("Regulations"). These documents are listed below:

- Open letter on the Five Year Review of the Capacity Market, 11 September 2018 ("Open Letter")[1]
- Five Year Review of the Capacity Market Rules – First Policy Consultation, 16 April 2019 ("the First Policy Consultation")[2]
- Decision on the first consultation on amendments to the Capacity Market Rules, 18 July 2019 ("the Decision on the First Policy Consultation")[3]
- Report on our Five Year Review of the Capacity Market Rules and Forward Work Plan, 31 July 2019 ("the Five Year Review Report")[4]
- Consultation on Adjustments to the Electricity Market Reform Delivery Body Revenues, 13 August 2019[5]
- Decision on Adjustments to the Electricity Market Reform Delivery Body Allowances, 30 September 2019[6]

[1] https://www.ofgem.gov.uk/publications-and-updates/open-letter-five-year-review-capacity-marketrules-and-nget-s-incentives
[2] https://www.ofgem.gov.uk/publications-and-updates/five-year-review-capacity-market-rules-firstpolicy-consultation
[3] https://www.ofgem.gov.uk/publications-and-updates/decision-statutory-consultation-amendmentscapacity-market-rules-2
[4] https://www.ofgem.gov.uk/publications-and-updates/report-our-five-year-review-capacity-marketrules-and-forward-work-plan
[5] https://www.ofgem.gov.uk/publications-and-updates/consultation-adjustments-electricity-market-reform-delivery-body-revenues
[6] https://www.ofgem.gov.uk/publications-and-updates/decision-adjustments-electricity-market-reform-delivery-body-allowances

- Capacity Market Rules change consultation, July 2020[7]

Scope of this consultation

This Statutory Consultation has been issued following publication and closure of our Capacity Market Rules change consultation (July 2020) where we provided minded-to views on Rules changes initially proposed in our First Policy Consultation.

In total, we are outlining our current minded-to position on seven Rules proposals and providing draft Rule amendments for four of these proposals which are due to be implemented for the 2021 Prequalification period. The table below summaries areas we are consulting on for 2021 delivery and our minded-to decision for those areas.

Table 1 Rule proposal and minded-to decision for Prequalification 2021

Rule Proposal	Minded-to decision	Draft Rules included in this consultation?
Applicant notice	We are minded-to continue with our proposal that the Delivery Body notifies an Applicant of a Prequalification status change. This will be implemented via an offline solution for Prequalification 2021 with an EMR Delivery Body Portal ("Portal") solution aimed to be in place for Prequalification 2022.	No
Evergreen Prequalification	We are minded-to continue with our proposal that Applicants would only be required to submit annual Exhibits by difference only. We are also minded-to implement the requirement that an annual Exhibit be provided by Applicants	No

[7] https://www.ofgem.gov.uk/publications-and-updates/consultation-capacity-market-rules-change-proposals

	to confirm that any existing Exhibits are valid for the current Prequalification round or have been amended where appropriate. Our Evergreen proposal is aimed to be implemented for Prequalification 2022 except for electronic signatures which will be in place for Prequalification 2021.	
Relevant Balancing Services	We are minded-to update the Rules to expand the current list of Relevant Balancing Services ("RBS") in addition to establishing a revised governance framework.	Yes
Capacity Market Register	We are proposing to update the Rules to align them with the Delivery Body's current operating practice. Further to this, we are proposing several additions to the Capacity Market Register ("CMR"), including changes to allow the publication of component level information.	Yes (aligning the Rules with Delivery Body operating practice only)
Planning Consents	We are minded-to continue with our proposal that Applicants would no longer be required to submit planning consent documents but rather submit a declaration stating they have or will achieve Relevant Planning Consents ("RPC") 22 Working Days prior to the Auction. We are also minded-to continue with our proposal that Applicants submit the maximum allowable capacity under their planning consent and where the Connection Capacity exceeds this value then the Delivery Body should set the Connection Capacity to that allowable under the planning consent.	Yes

	We are also proposing to remove the requirement that where there is a difference between the Connection Capacity and that allowable under the planning consent an Applicant must submit technical documentary evidence justifying the difference.	
Maximum Obligation Period	We are proposing to amend the Rules to allow a Prospective Generating Capacity Market Unit ("CMU") greater flexibility in determining the length of the Capacity Agreement they wish to bid for by amending the definition of Maximum Obligation Period. To allow this we are proposing to remove the "Fifteen Year Minimum £/kW Threshold" from Rule 1.2 Paragraph (b).	Yes
Previous Settlement Period Performance	We are proposing to not progress amendments relating to the utilization of Satisfactory Performance Days ("SPD") data as proof of historic performance. We believe forthcoming work led by BEIS on Connection Capacity will lead to a more robust, holistic set of proposals with benefit for a wider set of Capacity Providers.	Not applicable.

Those Rules proposals which we have previously consulted on in our Capacity Market Rules change consultation (July 2020) such as the Reporting Requirements and Rule 4.4.4 changes, will be consulted upon in a future consultation which will also include draft Rule amendments for the aforementioned areas. This future consultation will also provide draft Rule amendments for our Applicant Notice and Evergreen proposals and the remainder of our Capacity Market Register proposals.

Update on the Capacity Market Advisory Group workstream

We believe the introduction of the Capacity Market Advisory Group ("CMAG") will go someway in streamlining and improving the overall Rules change process. The introduction of CMAG is a priority area for us over 2021 and we aim to consult further on CMAG in Q3 2021.

1. Introduction

What are we consulting on?

1.1. We are consulting on the content of changes to the Rules and the legal drafting giving effect to those changes. This Statutory Consultation outlines our current minded to position, which has evolved as a result of feedback received from stakeholders, in particular, on areas we consulted on in our Capacity Market Rules change consultation (July 2020). Unless otherwise stated, the stakeholder feedback referenced in this document relates to that received as part of the Capacity Market Rules change consultation (July 2020).

1.2. For the reasons outlined in Paragraphs 1.13-1.16, we are not consulting, nor including draft Rule amendments, for our Reporting Requirements and Rule 4.4.4 proposals, which were previously consulted on in our Capacity Market Rules change consultation (July 2020). In addition, we have not included draft Rule amendments for our Applicant Notice, Evergreen and Capacity Market Register (implementation of CP270 and CP271) proposals with this consultation however have provided our minded-to decision regarding these.

1.3. To confirm, specific aspects of our Applicant Notice and Evergreen proposals will be implemented for Prequalification 2021 as no Rules change will be required to implement those specific aspects. With respect to Capacity Market Register ("CMR") we have provided Rule amendments other than those required for CP270 and CP271.

1.4. We have included a proposal to amend the definition of the Maximum Obligation Period (the "MOP"). This proposal has driven from the recent Tier 2 appeals process for Prequalification 2020 where the existing definition led to confusion among Applicants and the Delivery Body.

1.5. We expect to issue a follow up consultation where we will provide our minded-to decision regarding Reporting Requirements and Rule 4.4.4 and issue draft Rule amendments for these. As part of this we will also issue draft Rule amendments for our Evergreen, Applicant Notice and remaining CMR proposals.

Section 2: Applicant Notice

1.6. We have set out proposals in this section to increase clarity in relation to notifications sent by the Delivery Body to Applicants regarding their Prequalification status where an Applicant has Conditionally Prequalified.

Section 3: Evergreen Prequalification

1.7. In this section we discuss our proposals regarding Evergreen Prequalification. Specifically, our view that, with full Evergreen implementation, an Applicant would be required to submit Exhibits by difference only due to Rules changes or changes in underlying Application information. We also discuss our view regarding exhibit generation and management within the new EMR Delivery Body Portal (the "Portal") alongside the use of electronic signatures. We acknowledge full Evergreen implementation will not be possible for Prequalification 2021 however the use of electronic signatures will be via an offline solution.

Section 4: Relevant Balancing Services

1.8. The areas discussed in this section include those raised in the consultation of July 2020 relating to the Relevant Balancing Services ("RBS") and the potential inclusion of new services, along with establishing a revised governance framework. This section also provides an update on the possible inclusion of actions taken as part of Trans European Replacement Reserve Exchange ("TERRE") in the RBS list.

Section 5: Planning Consents

1.9. We propose to remove the requirement that Applicants submit Relevant Planning Consents ("RPC") at Prequalification and instead replace this with a declaration stating that Planning Consents have been obtained. However, we propose to maintain the option for Applicants to defer the declaration submission up to 22 days prior to the Capacity Market Auction (the "Auction"). We have also sought to clarify the relationship between Connection Capacity and the capacity allowable under the RPC and the scenarios in which each would be applicable.

Section 6: Capacity Market Register

1.10. We are proposing to update the Rules to align with the Delivery Body's current operating practice and give an updated position on CP270 and CP271 which would allow information published on the CMR to be at Capacity Market Unit ("CMU") component level. Further to this we are minded-to amend the Rules such that the Delivery Body is required to accurately reflect updates provided by Capacity Market parties on the CMR this would include the expected Substantial Completion Milestone ("SCM") date and the date on which a Metering Test Certificate is issued

Section 7: Further amendments to the Rules – Maximum Obligation Period

1.11. We propose to amend the Rules to allow a Prospective Generating CMU greater flexibility in determining the length of the Capacity Agreement they wish to bid for by amending the definition of the MOP. Under the existing Rules Prospective Generating CMUs can be limited to a specific Capacity Agreement length due to, among other factors, their Qualifying £/kW Capital Expenditure ("QCE") exceeding thresholds defined under the MOP.

Section 8: Previous Settlement Period Performance

1.12. An update on our proposal to potentially allow the requirements of Previous Settlement Period Performance under Rules 3.6.1(a), (b), (c) and Rule 3.6A.1 to be fulfilled by the use of an Applicant's previous Satisfactory Performance Day ("SPD") data.

Changes to be implemented for Prequalification 2021

1.13. As a function of the Capacity Market Rules change process, all Delivery Partners[8] hold regular meetings to discuss Ofgem and BEIS change proposals and agree a joint work programme. This involves frequent engagement with the Delivery Body, who ultimately implement changes through the Portal. For 2021, the agreed areas forming the joint work programme are:

- Delivery of BEIS regulatory changes for both the Capacity Market and Contracts for Difference ("CfD") schemes

[8] The Capacity Market Delivery Partners consists of the Department for Business, Energy & Industrial Strategy ("BEIS"), National Grid Electricity System Operator (NGESO) who act as the Electricity Market Reform Delivery Body ("NGESO DB" or "Delivery Body"), the Capacity Market Settlement Body and Ofgem

- Development of a new EMR Portal with increased functionality
- Delivery of Ofgem Rules changes
- Capacity Market and CfD business as usual activities

1.14. We have jointly agreed with Delivery Partners to delay the implementation of several Ofgem Rule proposals where a system change, i.e. a Portal change, is required to facilitate the implementation of the proposal or where a manual offline solution is not viable. This will enable the Delivery Body to effectively manage the 2021 work programme and minimise the delivery risk for forthcoming BEIS Capacity Market and CfD regulatory changes and ensure there is no undue impact on the Delivery Body's new Portal delivery plan. This would also minimise the risk of stranded asset spend on the existing Portal which could lead to higher consumer costs for short term benefit.

1.15. Table 2 summarises the Policy areas to be implemented for Prequalification 2021 and those which are proposed to be delivered for Prequalification 2022. Table 2 also highlights where we have proposed Rule amendments for the relevant Policy area. The Policy areas have corresponding [OFXX] which are included for ease of establishing the corresponding Rule amendment located within the amended Rules which can be found in Annex A.

1.16. Whilst we have agreed with the Delivery Partners to substantially reduce the number of Ofgem Rules proposals to be implemented for Prequalification 2021 delivery, we are conscious that there is the risk of a backlog of proposals for 2022 delivery. Therefore, we have requested the Delivery Body provide us with a forward plan for how the backlog of changes from 2021 will be managed alongside new proposals put forward for future delivery. This will support the ongoing work by all Delivery Partners to agree a joint work programme for regulatory and other changes for 2022 and beyond.

Table 2 Timelines and OF number for Rules proposals

Rule Proposal	Implementation	Rule change in Annex A?	OF# in Annex A
Applicant notice (offline solution)	2021	Rules change not required	N/A
Evergreen Prequalification (electronic signatures only)	2021	Rules change not required	N/A
Relevant Balancing Services	2021	Yes	[OF37]

Capacity Market Register (amendments to Rule 7.4.1(d) and Rule 7.5)	2021	Yes	[OF38]
Planning Consents	2021	Yes	[OF39]
Maximum Obligation Period	2021	Yes	[OF40]
Applicant notice (Portal solution)	2022 (proposed)	No	N/A
Reporting Requirements	2022 (proposed)	No	N/A
Capacity Market Register (remaining changes)	2022 (proposed)	No	N/A
Evergreen Prequalification (remaining changes)	2022 (proposed)	No	N/A
Amendments to Rule 4.4.4	2022 (proposed)	No	N/A
Previous Settlement Performance	Not applicable.	Not applicable	N/A

Consultation stages

1.17. This Statutory Consultation, following our Capacity Market Rules change consultation (July 2020), provides an update on our current minded-to position regarding Rule proposals and the draft legal text for proposed Rule amendments. This Statutory Consultation will be open until 18 June 2021, with the aim to issue the final Rules change decision on the Statutory Consultation at the end of June 2021.

1.18. Following our final decision, we aim for the Rules to be implemented prior to the opening of the 2021 Prequalification round to give Applicants sufficient notice to review the changes and act where appropriate.

1.19. We do not believe the changes proposed in this Statutory Consultation for Prequalification 2021 implementation will have a substantial impact on the Prequalification requirements that Applicants are subject to. We are not proposing changes which would require Applicants to undergo large administrative exercises in preparation for Prequalification but rather our proposals should reduce the administrative burden for Applicants.

How to respond

1.20. We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document's front page.

1.21. We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.

1.22. We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

1.23. You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

1.24. If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

1.25. If the information you give in your response contains personal data under the General Data Protection Regulation 2016/379 (GDPR) and domestic legislation on data protection, the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.

1.26. If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

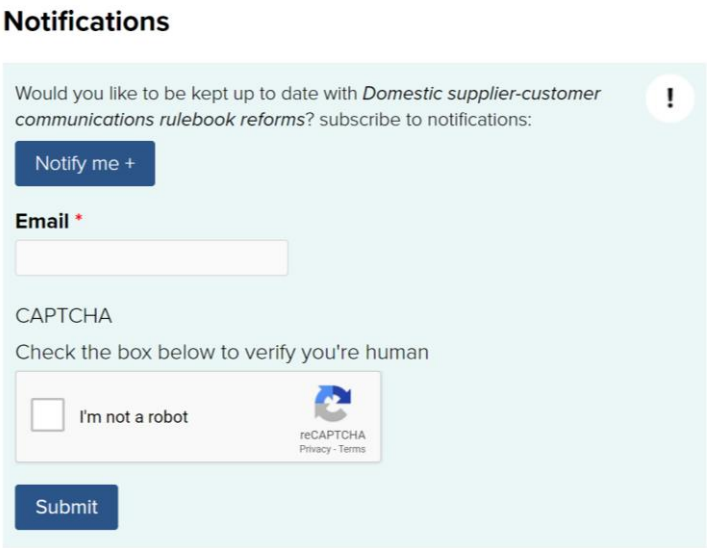
1.27. We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

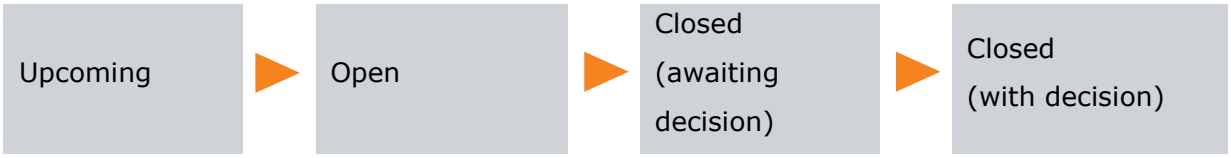
Please send any general feedback comments to stakeholders@ofgem.gov.uk

How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. Ofgem.gov.uk/consultations.



Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:



2. Applicant Notice

Section summary

We have set out proposals in this section to increase clarity in relation to notifications sent by the Delivery Body to Applicants regarding their Prequalification status where an Applicant has Conditionally Prequalified.

Background

2.1. The rules require the Delivery Body to send formal notice to Applicants under a range of scenarios. This includes decisions regarding an original Prequalification result, the results of any subsequent Reconsidered Decision and whether an Applicant has 'Conditionally Prequalified'. The Rules allow the Delivery Body to formally submit a Prequalification Decision notice to an Applicant via a revision of the Capacity Market Register ("CMR"), and nothing beyond this, to notify an Applicant where they have failed to meet the conditions of their Prequalification status and hence their status has changed from 'Conditionally Prequalified' to 'Not Prequalified'.

2.2. In our Capacity Market Rules change consultation (July 2020) we set out a proposal that the Delivery Body notify Applicants when their Prequalification status has changed beyond the requirement of updating the CMR. Our proposal would amend the Rules to stipulate that the Delivery Body issue formal notice to an Applicant when their Prequalification status changes from 'Conditionally Prequalified' to 'Not Prequalified' with the formal notice being sent to Applicants through the EMR Delivery Body Portal (the "Portal"). We proposed that this notice would not replace the existing requirement for the Delivery Body to update the CMR but rather be issued alongside CMR updates as part of the Applicant Notice process.

Feedback from Stakeholders

2.3. Over 80% of stakeholders responded in direct support of our proposal to amend the Rules to mandate a formal notice be sent to an Applicant from the Delivery Body in the event of a Prequalification status change. One stakeholder considered our proposal would have a limited impact as they have historically had no issues using the CMR to monitor

changes. Similarly, two further stakeholders stated that they did not hold strong views regarding our proposal.

2.4. Five stakeholders commented regarding the use of Egress to allow for secure encrypted communications between and Applicant and the Delivery Body. Common difficulties with Egress included: integrating Egress with existing IT systems, missing communications from the Delivery Body and the lack of ability to create audit trails.

2.5. Two stakeholders highlighted that communications between the Delivery Body and Applicants can lack clarity on occasion. For example, Applicants with multiple Capacity Market Units ("CMU") receive communications from the Delivery Body but it can be unclear which CMU the communication is referring to therefore increasing administrative burden on Applicants.

2.6. Stakeholders also provided a range of views relating to other notices issued by the Delivery Body. Common themes included: CMU identification on correspondence between the Delivery Body and an Applicant, continued use of Egress as a means of communication, the time taken for the Delivery Body to respond to Applicants.

Discussion and minded-to decision

2.7. After considering the stakeholder feedback regarding the proposal for the Delivery Body to formally notify an Applicant of a status change from 'Conditionally Prequalified' to 'Not Prequalified' we are minded-to proceed with this proposal. The majority of stakeholders are in support of our proposal and we believe the amendment to the Rules will clarify the position of Applicants whilst reducing administrative burden. We are also minded-to broaden our proposal slightly and include that the Delivery Body formally notify an Applicant of a status change from 'Conditionally Prequalified' to 'Prequalified'.

2.8. We note several proposals from stakeholders suggesting other changes in relation to notices issues by the Delivery Body. The theme of 'communications' between the Delivery Body and Applicants is apparent from the proposals suggested by stakeholders. We will consider how best to move forward with the proposals suggested. However, we note the Delivery Body have been proactively taking steps to ensure Applicants are effectively notified of any decisions that they make.

2.9. We also recognise that the Delivery Body are aiming to significantly improve communications with Applicants through the new Portal, the first phase of which is due

to go live prior to the 2022 Prequalification round. The Delivery Body are also exploring other encryption software to replace Egress as, in response to stakeholder feedback, the Delivery Body no longer utilises Egress in its communications with Capacity Market participants.

Implementation

2.10. A Portal change would be required for our Applicant Notice proposal to be implemented. We have accepted the Delivery Body's proposal to implement Applicant Notice through an offline process for 2021 Prequalification which will be similar to the process used for 2020 Prequalification. As such, the Rules will not be amended this year, but rather our aim is to amend the Rules for Prequalification 2022, to accommodate a Portal solution. Ultimately, we foresee that any future notifications between the Delivery Body and Applicants are delivered via the new Portal with the aim for this to be implemented in the new Portal for the 2022 Prequalification round.

3. Evergreen Prequalification

Section summary

In this section we discuss our proposals regarding Evergreen Prequalification. Specifically, our view that, with full Evergreen Prequalification, an Applicant would be required to submit Exhibits by difference only due to Rules changes or changes in underlying Application information. We also discuss our view regarding exhibit generation and management within the new EMR Delivery Body Portal (the "Portal") alongside the use of electronic signatures. We acknowledge full Evergreen implementation will not be possible for Prequalification 2021 however the use of electronic signatures will be available for Prequalification 2021 via an offline solution.

Background

3.1. In our First Policy Consultation we discussed two possible changes to the Prequalification process:

3.1.1. 'Evergreen' Prequalification – where the Portal stores and utilises information regarding existing prequalified Capacity Market Units ("CMU") and to allow re-submission of previous applications where no material changes to a CMU have occurred.

3.1.2. 'Rolling' Prequalification period – where the Prequalification window is open for a substantially longer period of time than the current time frame in place.

3.2. Upon receiving feedback from industry stakeholders we acknowledged in our Capacity Market Rules change consultation (July 2020), that there may be limited benefit in the concept of a 'Rolling' Prequalification period. We therefore proposed not to proceed with the concept of Rolling Prequalification.

3.3. With respect to Evergreen Prequalification the majority of stakeholders were in favour of this being implemented in the Portal. Therefore, we made clear that we expect Evergreen Prequalification to be implemented in the improved EMR Delivery Body Portal (the "Portal") as soon as reasonably practicable.

3.4. As part of Evergreen Prequalification we proposed that Exhibits would not need to be submitted annually by Applicants where there are no changes compared to the same Exhibit provided in the previous year. To accommodate this, we proposed to amend the Exhibits such that they are no longer year specific. Applicants would only need to provide Exhibits where there is a difference from the previous Application, where a Rules change requires an Exhibit to be submitted or where there is change in the underlying information.

3.5. We highlighted our position that we believe it is incumbent on the Applicant to ensure that their application meets the requirements of the current set of Rules each year when they apply. To provide assurance that the relevant information remains valid for the current year we proposed that an annual Exhibit would be submitted by Applicants to declare that their previous submitted Exhibits remain valid or have been amended where appropriate, this would likely be a variant of Exhibit A. The annual Exhibit would be a mandatory submission and where an Applicant fails to submit this then the Applicant would be considered to not have applied for the current Prequalification round.

3.6. We discussed that we were considering the possibility of Prequalification Exhibits being created and managed within the Portal which would replace the existing method of uploading copies of Exhibits to the Portal. As part of this we considered that this could also incorporate the use of electronic signatures. We requested that the Delivery Body develop the new Portal such that this could be implementable.

Feedback from stakeholders

3.7. Four stakeholders out of 14 suggested that there would be minor Rules changes required to facilitate the implementation of Evergreen Prequalification. Suggestions made by these stakeholders included revising Exhibits such that they are no longer year specific, amending Rule 3.3.6 to confirm that a separate application is not required for each auction and a review of the Rules regarding historic performance. One stakeholder believed that the Rules would require a full review to implement Evergreen Prequalification. The remainder of stakeholders believed that no Rules, or were not aware of any Rules, which would need to be amended to implement Evergreen Prequalification.

3.8. One stakeholder highlighted that for those Capacity Market Units ("CMU") that use historic data to determine de-rated capacity it should be considered how Evergreen

Prequalification would apply as the data would eventually become out of date, therefore updating the data must be simple. No other stakeholders raised concerns regarding information being provided at Prequalification which would prevent Evergreen from being an effective change.

3.9. However, the majority of stakeholders raised concerns regarding sufficient notice given to them regarding Rules changes being implemented as part of the annual Rules change process. Stakeholders believe that the pace of change in relation to the Rules is substantial and there can be insufficient time for them to adjust to any new requirements. This could be exacerbated if Evergreen Prequalification is implemented, as the onus is on Applicants to ensure that Exhibits are updated in line with Rules changes where required, thus leading to a greater number of CMUs not prequalifying.

3.10. All stakeholders were supportive of our proposals to allow Exhibits to be managed within the Portal. There was also strong support from stakeholders regarding the potential use of electronic signatures remaining a permanent feature within the Capacity Market with an appropriate assurance mechanism to ensure validation.

3.11. Stakeholders could see no reason to maintain the annual Exhibit submission as part of the Prequalification process. One stakeholder suggested there may be value in retaining annual Exhibits related to information which is used by EMRS or replace the Exhibit with a Rule to ensure where a change has occurred that the Exhibit is resubmitted. Another stakeholder recommended a hybrid solution where annual submission of Exhibit A and Exhibit C is relaxed whilst retaining annual submission for the remainder Exhibits as the current proposal may lead to errors as the onus is on Applicants to determine whether Exhibits need to be updated.

Discussion and minded-to decision

3.12. Stakeholders responded in support of our Evergreen Prequalification therefore we are minded-to continue to progress Evergreen. We envisage that Applicants would be required to submit Exhibits during Prequalification by difference only i.e. where there is a difference between the previously submitted Exhibit driven by Rules changes or changes in underlying Applicant information. We are minded-to amend the existing Exhibits such that they are no longer year specific to achieve this

3.13. However, with respect to the Prequalification requirement relating to previous Settlement Period Performance this would only be valid for two subsequent

Prequalification rounds. Following this, new information must be provided by Applicants.

3.14. We also understand that certain exhibits associated with carbon emissions limits[9] may not be able to form part of the Evergreen Prequalification process and in these instances[10] new exhibits must be provided. We will ensure sufficient clarity is provided on how these exhibits interact with the Evergreen Prequalification process ahead of implementation.

3.15. We are minded-to continue with our proposal that an annual Exhibit be required for Applicants to declare that existing Exhibits remain valid or that they have been amended as appropriate. Where this annual Exhibit is not provided by an Applicant then it would be considered that the Applicant has not applied for the current round of Prequalification. Although we received mixed stakeholder responses to this proposal we believe it is necessary to provide sufficient levels of assurance without substantially increasing administrative burden.

3.16. We acknowledge feedback from stakeholders that our proposals may put further onus on Applicants to ensure that any changes in Rules are reflected in the Exhibits, therefore greater notice on Rules changes should be given, or a hybrid model, as suggested by stakeholders, should be implemented in place of our proposal. However, we do not see our proposal having a substantial impact on Applicants to ensure Rules changes are reflected in their Prequalification application. Under the existing arrangements Applicants are expected to ensure that their Prequalification application is aligned with existing Rules and we see no change to this expectation under our Evergreen proposal. We note that Rules changes may be issued close to the Prequalification window opening and we will consider how the process could be streamlined, however, we always endeavour to issue Rules changes with sufficient

[9] To ensure compliance with the carbon emission limits in respect of new and existing capacity participating in all future auctions, the Capacity Market (Amendment) (No. 2) Rules 2020 came into force on 30 June 2020 and amended the Rules to, amongst other changes, introduce a carbon emissions reporting and verification mechanism. In addition, the Capacity Market Amendment (No. 3) Rules 2020 came into force on 18 July 2020 to substitute Schedule 9 of the Rules.

[10] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/914049/Carbon_Emissions_Limits_in_the_CM.pdf

notice to allow Applicant's time to review and make amendments in their application where required.

3.17. In our July 2020 consultation we also outlined that we were also considering the possibility that Prequalification Exhibits be generated and managed within the Portal whilst also incorporating the use of electronic signatures within the Portal. It is clear from stakeholder feedback that there is wide agreement these proposals will go some way in reducing overall administrative burden for Applicants and increase general ease of application management. We believe these proposals will also alleviate concerns raised by stakeholders related to ease of updating relevant information in an application or when using historic performance in determining de-rated capacity. Given this, our minded to view is that the new Portal should be developed to deliver the aforementioned functionality.

Implementation

3.18. For the reasons outlined in Paragraphs 1.13-1.16 Evergreen Prequalification is proposed to be implemented for Prequalification 2022 and not for Prequalification 2021. This does not include the use of electronic signatures which will be in place for the 2021 Prequalification round. Electronic signatures will not be implemented into the existing Portal but will be delivered through the offline process which was used for Prequalification 2020 as a result of Covid-19.

4. Relevant Balancing Services

Section summary

The areas discussed in this section include those raised in the consultation of July 2020 relating to the Relevant Balancing Services ("RBS") and the potential inclusion of new services, along with establishing a revised governance framework. This section also provides an update on the possible inclusion of actions taken as part of Trans European Replacement Reserve Exchange ("TERRE") in the RBS list.

Questions

Question 1: Do you have any comments on the proposed revised governance framework and change process for the Relevant Balancing Services?

Question 2: Do you have any comments on the specific Rule amendments proposed in Annex A?

Question 3: Do you have any comments on the definitions of "Declared Availability" and "Contracted Output" outlined in Table 4?

Intertrips

Background

4.1. Intertrips are a tool available to National Grid Electricity System Operator ("NGESO") to manage constraints. They may be armed so that it automatically trips a breaker that reduces output or temporarily disconnects a generator from the transmission system when the intertrip receives a specific signal. The signal is delivered in the occurrence of a sudden event on the transmission system, such as a fault. An intertrip ensures that the relevant system will not be overloaded if an event such as a fault does occur.

4.2. System to generator operational intertripping schemes are commercial arrangements between NGESO and generators for the former to operate and manage the GB

Transmission System following credible unplanned faults. Providers participating in such commercial agreements may be disconnected or have their export capability reduced and are compensated for the interruption.

4.3. There are four categories of operational intertrips, as defined in the Grid Code. These can be summarised as follows:

Table3: Operational intertrip services

Operational intertrip service	Description
Category 1	Intertrip scheme arising from a variation to a connection design (requested by, and agreed with, a customer) consistent with the criteria specified.
Category 2	Intertrip scheme required to alleviate the overload that would occur on a circuit that connects a group containing the generator to the rest of the system.
Category 3	Intertrip scheme installed as an alternative to reinforcement of a distribution network, agreed between NGESO and the customer; where the scheme removes the risk of overloading the distribution system.
Category 4	Intertrip scheme installed at the request of NGESO under the circumstances where the use of such a scheme would be beneficial to facilitate the timely restoration of critical circuits.

4.4. In our consultation on Capacity Market Rules change proposals published in July 2020 we discussed a proposal on how intertrips should be accounted for in the Rules. Our proposed approach was for intertrip services to be accounted for within the Adjusted Load Following Capacity Obligation ("ALFCO") formula, as currently occurs for RBS, whereby the Capacity Obligation is reduced proportionately to the level of service provided.

4.5. The provision in Schedule 4 surrounding the RBS ensures that parties who are providing critical services to NGESO, and which affect their output during a System Stress Event, are not unduly penalised.

4.6. Our initial view was that Categories 2 and 4 operational intertrips relate to critical system management and system outages, and thus these should fall under the principle of the RBS framework. We believed Category 1 is defined as inherently being more a direct

customer choice, and for that reason our initial view was to exclude it as an RBS as the customer has chosen to increase their risk profile.

4.7. In regard to Category 3 intertrips, although they allow protection of the distribution network, it must be agreed between NGESO and the customer; allowing some form of customer choice in regard to their delivery risk. We thus sought industry views on the possible inclusion of Category 3 as an RBS, but our initial view was to exclude Category 3 intertrips from Schedule 4.

Feedback from stakeholders

4.8. Ten respondents supported the inclusion of Category 2 and 4 operational intertrips to the list of RBS. These respondents highlighted that these arrangements are imposed by the NGESO and therefore are not commercial decisions actively taken by the capacity provider. A general view presented by multiple stakeholders was that Capacity Market participants should not be incentivised to withdraw from or to fail to deliver services required by the System Operator to avoid Capacity Market penalties.

4.9. Four respondents stated that Category 3 intertrips should be classified as an RBS for the purpose of the Rules. However limited reasoning was provided, other than if there are instances where the generator has a Category 3 intertrip imposed on them, then it would seem appropriate for these to be included as RBS.

4.10. Four parties suggested that Category 3 intertrips should not be included in Schedule 4 of the Rules as this particular intertrip service is a commercial agreement between the customer and NGESO. Therefore, this will have been factored into their Capacity Market bidding strategy for of the capacity provider.

4.11. One respondent suggested that the RBS list should be extended to also cover commercial intertrip as there may be occasions where a market participant may not have entered commercial intertrip arrangements with NGESO at the point of entering the Capacity Market.

Discussion and minded-to decision

4.12. Taking into consideration the stakeholder feedback and our subsequent conversations with NGESO, we believe that Categories 1 and 3 generally are driven by customer choice and are a commercial agreement between the customer and NGESO. Therefore, these

arrangements should have been factored into the decision and the bidding strategy of the capacity provider in question. We propose to exclude Category 1 and Category 3 operational intertrips from the list of RBS.

4.13. We are aligned with the stakeholder feedback received in relation to the inclusion of Category 2 and 4 in the RBS list. We still believe that these arrangements do not represent a generator opting for a lower standard of connection and thus should fall under the principle of the RBS framework. We propose to include Category 2 and Category 4 operational intertrips in the list of RBS.

4.14. Regarding commercial intertrip services, we still believe that these should not be included as RBS and providers should factor these arrangements into their decision to enter the Capacity Market.

TERRE

Background

4.15. Although not in response to a specific question asked as part of the First Policy Consultation, two respondents suggested that Schedule 4 and the RBS list should be updated to include actions taken as part of Trans European Replacement Reserve Exchange ("TERRE"). TERRE is project designed to deliver a European platform for the exchange of balancing energy from replacement reserves.[11]

4.16. In respect of the suggestion to include TERRE in the RBS list, we noted that there could be an argument for its inclusion due to its status as an exchange for a Replacement Reserve product but sought further industry views. In addition, we noted the uncertainty surrounding the implementation of GB's access to the TERRE market.

Feedback from stakeholders

4.17. Eight stakeholders of 15 suggested that TERRE should be included as an RBS. However, several of these stakeholders noted the uncertainty faced by NGESO in regard to potential implementation so highlighted it should not be seen as a priority for inclusion as a RBS.

[11] https://www.entsoe.eu/network_codes/eb/terre/

These participants suggested developments should be monitored and it should be swiftly included if TERRE is introduced in GB.

Discussion and minded-to decision

4.18. There are still high levels of uncertainty regarding the implementation of GB's access to the TERRE market. To date BEIS have not provided guidance on GB use of the EU market platforms and the Electricity Trading (Development of Technical Procedures) (Day-Ahead Market Timeframe) Regulations 2021 published on 23 March 2021 contain no reference to EU market platforms.

4.19. As such NGESO are still awaiting further legal clarity from government which will shape the implementation timeline. On 3 February 2021, the GB TERRE Implementation Group outlined a high-level timeline for "Scenario 1" which contains a potential go-live date of mid-2022.[12]

4.20. We are minded-to include TERRE as an RBS once the GB's access to EU market platforms or other alternative access arrangements to access the TERRE market is resolved. However, considering the continued uncertainty around the implementation of TERRE we do not think it is appropriate to take forward Rules amendments currently. We propose to monitor developments through the GB TERRE Implementation Group and manage potential changes to the Rules through the proposed Capacity Market Advisory Group.[13] The revised framework proposed for the RBS list below should facilitate amendments to be progressed at pace to respond to market developments.

Dynamic Containment, Dynamic Moderation and Dynamic Regulation

Background

[12] https://www.nationalgrideso.com/document/186521/download
[13] https://www.ofgem.gov.uk/publications-and-updates/capacity-market-workshop-rules-change-process

4.21. As part of their consultation response NGESO raised a Rules change proposal, seeking to include Dynamic Containment ("DC"), Dynamic Moderation ("DM") and Dynamic Regulation ("DR") services in the RBS list under Schedule 4.

4.22. DC is a new frequency response service which was launched on 1 October 2020. It is a fast-acting, post-fault service that contains frequency within the statutory range in the event of a sudden demand or generation loss. It is the first in a new suite of frequency response services, which will help NGESO reach their ambition of competition everywhere and operating a zero-carbon system. DM and DR products will complete the suite in 2022, with the former designed to manage sudden frequency imbalances in intermittent generation and the latter to manage small deviations when frequency is close to 50Hz.

4.23. NGESO highlighted that the omission of these services puts potential providers at risk to penalties in the Capacity Market if they are providing balancing services, therefore discouraging them from taking part in DC, and consequently acting as a barrier to entry.

Feedback from stakeholders

4.24. Six respondents also raised the proposed classification of the DC service as a RBS and suggested inclusion in Schedule 4 of the Rules. The reasoning provided by participants was broadly aligned with that given by NGESO which is detailed above.

Discussion and minded-to decision

4.25. We understand that a significant quantity of DC is required to protect against losses on the GB transmission system, and we acknowledge the concern from providers of risks arising from a potential conflict between DC and the Rules.

4.26. We note the similarities between these new products and existing RBS (e.g. firm frequency response). Our view is that they should be treated equally as they play a critical role in maintaining system stability and the Rules should not create disincentives for participants to deliver these grid services. We propose that they be included in the RBS list. We are aiming to futureproof the Rules by not only including DC, which is already live, but also DM and DR which are set to go live in 2022.

4.27. Table 4 below outlines the proposed definitions for the terms "Declared_Availability$_{ij}$" and "Contracted_Output$_{ij}$" for the purpose of the Non-Balancing Mechanism Adjustment Formulae in Rule 8.5.2(b).

Table 4: Proposed Non-Balancing Mechanism Adjustment Formula definitions for DC, DR and DM

Balancing Service	"Declared_Availability$_{ij}$"	"Contracted_Output$_{ij}$"
Dynamic Containment	Equal to the Contracted Quantity of DC-low or DC-high (as applicable) multiplied by 0.5, for the settlement period(s) in question. Where Contracted Quantity has the same meaning as defined in the Dynamic Containment Glossary of Terms and Rules of Interpretation.	Is equal to the amount of energy (in MWh) actually delivered by the Response Unit for the settlement period(s) in question. Where such an amount can be calculated using the Dynamic Containment Performance Data (defined in the Dynamic Containment Service Terms) submitted by the Response Unit for the settlement period(s) in question.
Dynamic Regulation	Equal to the Contracted Quantity of DR-low or DR-high or DR-high+low (as applicable) multiplied by 0.5, for the settlement period(s) in question. Where Contracted Quantity has the same meaning as defined in the Dynamic Regulation Glossary of Terms and Rules of Interpretation.	Is equal to the amount of energy (in MWh) actually delivered by the Response Unit for the settlement period(s) in question. Where such an amount can be calculated using the Dynamic Regulation Performance Data (defined in the Dynamic Regulation Service Terms) submitted by the Response Unit for the settlement period(s) in question.
Dynamic Moderation	Equal to the Contracted Quantity of DM-low or DM-high (as applicable) multiplied by 0.5, for the settlement period(s) in question. Where Contracted Quantity has the same meaning as defined in the Dynamic Moderation Glossary of Terms and Rules of Interpretation.	Is equal to the amount of energy (in MWh) actually delivered by the Response Unit for the settlement period(s) in question. Where such an amount can be calculated using the Dynamic Moderation Performance Data (defined in the Dynamic Moderation Service Terms) submitted by the Response Unit for the settlement period(s) in question.

Wider changes to the RBS framework

Background

4.28. We understand the need for the Rules to adapt at pace in response to new ancillary services and products developed by NGESO and this was reiterated by stakeholders in bilateral meetings held in the consultation period of July to October 2020. The current framework requires a full formal Rules change process to be progressed or an urgent modification[14] for services to be added or removed from Schedule 4.

4.29. As new balancing services are developed by NGESO to adapt to the changing system conditions, the uptake of these new services by participants may be affected through interactions with the Rules. We want to ensure a robust process exists that can be conducted at pace to assess and classify new products as RBS, where appropriate. In this regard we believe the Rules and associated RBS framework may benefit from amendments.

4.30. In addition, as increasing volumes of flexibility services are being procured at distribution level there may be merit for investigation into how these services may be accounted for under the Rules.

Feedback from stakeholders

4.31. Multiple participants suggested that there should be a wider review of the RBS framework to ensure the services listed in Schedule 4 remain appropriate and take account of new NGESO balancing products being introduced to manage the system. Moreover, participants highlighted that there is a growing need to keep the list of RBS under regular review and introduce a process to enable new services to be added to the list of RBS in a timely manner without the need for a Rules consultation. An example was provided to have NGESO manage the RBS list under Ofgem supervision rather than this information directly being in the Rules.

4.32. Two respondents suggested that a principles-based approach to the RBS list would be preferable. They suggested that rather than continuing to update a prescribed list, the Rules could outline principles for what types of services should count as an RBS. These respondents stated it would reduce the burden of having to update the current RBS list

14 https://www.ofgem.gov.uk/system/files/docs/2016/09/revised_guidelines_for_the_capacity_market_rules_150916.pdf

especially in the context of new balancing and system management services being developed. In a similar vein to the principles-based approach, an additional party suggested that the Rules should be amended to include a catch all category for all ESO frequency and reserve services. One stakeholder outlined an idea to define RBS in such a way to include Distribution Network Operator ("DNO") and instructions but exclude services that are voluntary (e.g. an ancillary service that has been tendered for and a contract awarded).

4.33. Three stakeholders highlighted the need for clarity on the inclusion of balancing services procured at the distribution level by DNOs, as these types of services are increasingly being procured. These stakeholders suggested that DNO-procured services should be classed as an RBS.

Discussion and minded-to decision

4.34. The idea of a principle-based approach has been raised before but we believe Schedule 4 provides necessary clarity to applicants and providers as to which specific services are deemed an RBS and would thus be exempt from certain penalties.

4.35. Reflecting on industry engagement held during the consultation period of July 2020, and stakeholder feedback received, we propose to develop a more flexible approach surrounding the RBS framework.

4.36. The current framework requires a full Rules change process to be progressed or an urgent modification[15] to be raised, in addition to laying a revised set of Rules in order to add a balancing service to the RBS list. We note that the services that NGESO procure are evolving and this creates an issue as any changes to the RBS cannot be delivered at pace. An accurate RBS list is crucial as it ensures market participants are incentivised to provide system critical services required by NGESO. There is also a further question of how DNO services which are becoming more standardised are accounted for in the Capacity Market framework.

4.37. Schedule 4 currently consists of the RBS list, along with the Non-Balancing Mechanism Adjustment Formulae section which defines "Declared Availability" and "Contracted

15 https://www.ofgem.gov.uk/system/files/docs/2016/09/revised_guidelines_for_the_capacity_market_rules_150916.pdf

Output" for each of the services listed. We propose to move the current Rules located in Schedule 4 to a Delivery Body owned formal guidance document (the "Relevant Balancing Services Guidelines") of which Ofgem would retain corresponding oversight and approval.

4.38. The Relevant Balancing Services Guidelines will be published on the EMR Delivery Body website. The proposed new approach for the Relevant Balancing Services Guidelines[16] would be as follows and the Delivery Body:

4.38.1. must, on the request of the Secretary of State or the Authority, and

4.38.2. may, at any other time,

consult[17] interested parties as to whether the Relevant Balancing Services Guidelines are fit for purpose and/or whether the inclusion of additional services (for which it may make proposals) would be beneficial.

4.1. We envisage that the trigger for review would be initiated by the Delivery Body based on direct industry correspondence.[18] However, as clarified in the proposed Rules, Ofgem or BEIS also hold the power to trigger a review of the Relevant Balancing Services Guidelines.

4.2. Following the consultation, the Delivery Body will be required to submit to the Authority within seven Working Days of the close of the consultation period, a report setting out:

4.2.1. the revisions originally proposed;

4.2.2. the representations (if any) made to the Delivery Body in response to the consultation; and

4.2.3. any changes to the revisions.

[16] The contents of the "Relevant Balancing Service Guidelines" document would mirror the current contents of Schedule 4, in addition to the proposed inclusion of DC, DM, DR, Category 2 and 4 operational intertrip services.

[17] Consultation period of 28 days

[18] We recognise that proposals could come through feedback to policy consultations led by Ofgem or BEIS, in addition to Capacity Market Advisory Group discussions (once established)

4.3. The Authority will then determine (after consultation with the Delivery Body, Electricity Settlements Company and such other persons as it considers desirable) whether to approve or reject any amendments to the Relevant Balancing Services Guidelines.

4.4. The Delivery Body must subsequently update the Relevant Balancing Services Guidelines within seven Workings Days following the Authority determination on amendments.

4.5. We believe that there are adequate assurances due to the formal Ofgem approval requirement, in addition to there being a sufficient route for industry to comment through consultation, or by raising concerns with Ofgem directly.

4.6. This more agile approach aims to ensure the RBS list can be amended at pace, to reflect new NGESO balancing services being developed in addition to wider market changes.

4.7. Regarding the inclusion of DNO level services we note the importance of a competitive market for balancing and flexibility services in the wider context of the UK's Net Zero targets. We acknowledge that the RBS framework should incentivise market participants to behave efficiently when deciding to provide system critical services outside of the Capacity Market. We propose to monitor the standardisation of the DNO level services and establish if these need to be captured under the RBS framework to incentives efficient market behaviour. The revised framework will allow the RBS list to be updated quickly and efficiently should the future decision be made to include DNO level services.

4.8. Furthermore, we envisage that the revised Rules change process and proposed Capacity Market Advisory Group will act, in addition to statutory consultations, as a forum to discuss the potential amendments to the Relevant Balancing Services Guidelines and inclusion of new services to the RBS list.

Questions

4.9. Do you have any comments on the proposed revised governance framework and change process for the Relevant Balancing Services?

4.10. Do you have any comments on the specific Rule amendments proposed in Annex A?

4.11. Do you have any comments on the definitions of "$Declared\_Availability_{ij}$" and "$Contracted\_Output_{ij}$" outlined in Table 4?

5. Planning Consents

Section summary

We propose to remove the requirement that Applicants submit Relevant Planning Consents ("RPC") at Prequalification and instead replace this with a declaration stating that Planning Consents have been obtained. However, we propose to maintain the option for Applicants to defer the declaration submission up to 22 days prior to the Capacity Market Auction (the "Auction"). We have also sought to clarify the relationship between Connection Capacity and the capacity allowable under the RPC and the scenarios in which each would be applicable.

Questions

Question 4: We believe the process for an Applicant to declare that RPC has been obtained is no different to the existing process where the declaration is made within the Portal via a checkbox. Do stakeholders foresee any further changes required to be made to the existing declaration process to facilitate our proposal?

Question 5: In scenarios where capacity is required to be redistributed among components, specifically where RPC has been deferred, do stakeholders believe that deadlines should be prescribed to ensure these changes are enacted before confirmation of entry to the relevant Auction?

Background

5.1. Applicants are required to declare in their Application that they have secured Relevant Planning Consents ("RPC") thus satisfying one of the requirements of Prequalification for the Capacity Auction. Where an Applicant has secured RPC prior to the closure of the Prequalification window they are required to submit documentary evidence of RPC to the Delivery Body.

5.2. In the event that an Applicant has not secured RPC prior to closure of the Prequalification window they are able to declare that they will obtain RPC no later than 22 Working Days prior to the commencement of the first Bidding Window in relation to the Capacity Market Auction (the "Auction"); essentially allowing the Applicant to defer RPC.

5.3. The option for Applicants to defer RPC was due to be removed through the implementation of CP190, as per our 2017 Rules change decision[19]. We believed this would reduce administrative activities conducted by the Delivery Body hence reducing cost to consumers and increasing efficiency of the Capacity Market. However, at the time of this decision we did not consider the length of time it may take for large Applicant projects to secure a Development Consent Order ("DCO"), which will be required when a project does not fall under The Town and Country Planning Act[20], and can take a period of approximately 18 months to two years to secure. This may impact the ability of an applicant to secure RPC prior to the next Prequalification Window. Therefore, in the Decision on the First Policy Consultation we decided to halt the implementation of CP190.

5.4. Halting the implementation of CP190 would allow Applicants to defer their RPC until 22 working days prior to the Auction. In our Capacity Market Rules change consultation we set out proposals for how we would take this forward with amendments to further reduce administrative burden for Applicants whilst maintaining delivery assurance, these amendments are set out below.

5.4.1. Remove the requirement to provide RPC documentation at the Prequalification stage but instead replace this with a declaration stating that RPC has been achieved at the point of Prequalification;

5.4.2. The deferral provision relating to RPC would still exist, however an Applicant would be deferring the submission of the aforementioned declaration rather than the RPC documents

5.4.3. Ensure a sufficient framework still exists to allow the Delivery Body to request and review further information from the Applicant to verify any declarations made with respect to RPC;

5.4.4. Require Applicants to submit the maximum output capacity allowable under their RPC alongside the aforementioned RPC declaration; and

5.4.5. Clarify that where the Despatch Controller and Legal owner of the Capacity Market Unit ("CMU") are two separate legal entities the RPC declaration should be made

[19] https://www.ofgem.gov.uk/publications-and-updates/decision-statutory-consultation-amendments-capacity-market-rules-1
[20] https://www.legislation.gov.uk/ukpga/1990/8/contents

by the Legal Owner and that our proposals would apply to all CMUs and not only those who have applied for a DCO.

5.5. We also proposed to clarify, within the Rules, the interaction between Connection Capacity and the maximum allowable capacity stated in an Applicant's RPC. The Rules recognise that Connection Capacity can be greater than the capacity stated in the RPC, although under such scenarios the Applicant must submit technical documentary evidence to the Delivery Body justifying the difference. We outlined our position that where an Applicant sufficiently justifies the difference between their maximum capacity allowable under their RPC and their Connection Capacity, the Connection Capacity should be set at the maximum capacity allowable under their RPC.

Feedback from stakeholders

5.6. A total of 14 stakeholders responded to our question seeking feedback on whether our proposals were appropriate and if any further amendments should be made, 13 stakeholders supported our proposals directly. Suggested amendments from stakeholders included a broader review of information Applicants are required to submit as part of their Application and whether some information is still appropriate. One stakeholder suggested that it may be appropriate to strengthen Rule 6.10.1 in relation to accuracy of information an Applicant submits whilst another suggested that the Delivery Body sample a random selection of RPC to provide governance.

5.7. One stakeholder highlighted, in their view, that there was limited benefit in replacing RPC with a declaration stating that RPC has been achieved. If RPC is available they felt there is no strong reasoning as to why it should not be submitted as part of the Prequalification process.

5.8. All stakeholders agreed with our proposal to clarify that the declaration stating that RPC has been achieved should be made by the Legal Owner and not the Despatch Controller, where they are two separate Legal entities. However, one stakeholder did highlight that the Legal owner may not have access to the EMR Delivery Body Porta (the "Portal") and therefore the declaration should be made by the Legal Owner but submitted by the Despatch Controller.

5.9. We received mixed responses from stakeholders regarding our proposal to clarify the relationship between Connection Capacity and maximum allowable capacity under the RPC. While several stakeholders broadly agreed with the principles to clarify the

relationship, they did question the need for technical documentary evidence to be submitted where there is a variance between the Connection Capacity and the maximum allowable capacity under the RPC when under such a scenario the Connection Capacity would be set to the value stated in the RPC.

5.10. One stakeholder raised that the process to update Connection Capacity is not clear in a scenario where the RPC declaration is deferred, and once approved, the capacity value stated in the RPC is lower than the Connection Capacity submitted at Prequalification. Another stakeholder highlighted that capacity limits captured in RPC, in some circumstances, cover a connection site but not individual generator unit level and therefore the Rules should recognise this. Other stakeholders believe it would be appropriate to maintain the Rules and allow Applicants to notify and justify to the Delivery Body the reasons for the difference where applicable

Discussion and minded to decision

5.11. Following the review of stakeholder responses we are minded to continue to take our proposals forward, however, have considered further amendments based on the stakeholder feedback we have received. For simplicity we have summarised below our minded to position regarding RPC including any further amendments.

5.11.1. We will remove the requirement for Applicants to provide evidence of RPC at the Prequalification stage. Instead, Applicants will be required to submit a declaration stating that the necessary RPC has been obtained. Feedback from stakeholders highlights the vast majority support our proposal and we believe that this will reduce administrative burden for both the Delivery Body and Applicants.

5.11.2. In a scenario where an Applicant is the Despatch controller but the Legal Owner is a separate entity we propose that confirmation of RPC being obtained is reviewed between the Despatch Controller and Legal Owner. The Despatch Controller then, as the Applicant, declares that RPC has been obtained. The Declaration would be made by the Applicant within the Portal via a checkbox. This proposal is a slight change to the one we set out in our Capacity Market Rules change consultation (July 2020) as stakeholders highlighted that the Legal Owner may not have access to the Portal. We believe this proposal is no different to the existing process in place, other than RPC documents are no longer required to be submitted, and therefore would circumvent any access issues to the Portal

and the need for Applicants to follow a new process when submitting the declaration.

5.11.3. The deferral provision allowing Applicants to defer the submission of RPC up to 22 working days prior to the Auction will continue to exist although, as explained previously, Applicants will be deferring the submission of the declaration under this scenario. Where an Applicant chooses to defer the RPC declaration, the Applicant will be required to submit a Director's Certificate 22 working days prior to the Auction to confirm RPC has been obtained. This would be in addition to the Applicant declaring RPC has been obtained via the checkbox within the Portal. We believe it is appropriate to continue the requirement that a Director's Certificate is to be submitted alongside the declaration as an Applicant would have already conditionally Prequalified where the RPC declaration is deferred. Therefore, the assurances made by a Director during the Prequalification period via signed Exhibits would no longer be valid post Prequalification.

5.11.4. Through Rule 12.3 the Delivery Body will be able to request and review further information from an Applicant to verify any declaration made with respect to RPC. We do not see any amendments required to Rule 12.3 to facilitate this however we have proposed a draft amendment to Rule 8.3 which we believe is required to implement this proposal. Stakeholders agreed that the Delivery Body should have the facility to require further information where needed. We believe that this would also provide a level of governance regarding the RPC declaration process as highlighted by a stakeholder. We acknowledge that a stakeholder suggested that Rule 6.10.1 be strengthened in relation to accuracy of information an Applicant submits however we believe the additional governance provided by our proposal alongside existing assurances within the Rules mitigates any risk with respect to accuracy of information.

5.11.5. We are minded to continue with our proposal that alongside the RPC declaration at Prequalification, or 22 working days prior to the Auction, stating that RPC has been obtained, an Applicant would also be required to state the maximum allowable capacity under their RPC.

5.12. In scenario where an Applicants Connection Capacity is greater than the maximum capacity allowable under their RPC we proposed that the Connection Capacity be set to the value stated in the RPC. Our proposal was made on the basis that capacity providers

should only be paid for capacity the can reliably and permissibly generate in a system stress event.

5.13. Upon reviewing stakeholder feedback we are minded to amend this proposal further. An Applicant can legally generate capacity up to the value stated in their RPC. Under a scenario where an Applicant's Connection Capacity is greater than the maximum capacity allowable under their RPC, the Connection Capacity should be set to the maximum output permissible under the RPC by the Delivery Body. However, we agree with stakeholders it is an excess administrative burden to request Applicants provide technical documentary evidence to justify the difference when, in scenarios where there is a difference, the Connection Capacity will be set to the maximum capacity allowable under the RPC.

5.14. Therefore, we are minded to remove the requirement for technical documentary evidence to be submitted under a scenario where there is a difference between Connection Capacity and the maximum output allowable under the RPC. We have proposed amendments to Rule 3.7.1(b) to facilitate this.

5.15. To confirm, where an Applicant has not obtained RPC and has chosen to defer the declaration, the Delivery Body will use the Connection Capacity stated in the Application to update the Capacity Market Register ("CMR"). Once the Applicant has obtained RPC, the Applicant is required to submit the maximum capacity allowable under the RPC to the Delivery Body alongside the declaration of RPC being achieved and the Director's Certificate. The Delivery Body will then update the CMR where the existing capacity value on the CMR exceeds that allowable under the RPC. We have proposed amendments to Rule 7.5.1 to allow the Delivery Body to update the CMR following Prequalification. This includes the Delivery Body redistributing capacity among components, where applicable. Our minded-to position is that Applicants will have the opportunity to amend the redistributed capacity among components provided this is submitted to the Delivery Body by the confirmation of entry to the Auction.

5.16. We acknowledge stakeholders submitted mixed responses to this proposal however we believe clarity between Connection Capacity and the maximum allowable capacity under the RPC will benefit all parties in reducing administrative burden. We have also seen Tier 1 and Tier 2 appeals as a result of confusion in this area, we seek to clarify Rules where possible to reduce any confusion or differing interpretation of the Rules between the Delivery Body and Applicants.

Questions

5.17. We believe the process for an Applicant to declare that RPC has been obtained is no different to the existing process where the declaration is made within the Portal via a checkbox. Do stakeholders foresee any further changes required to be made to the existing declaration process to facilitate our proposal?

5.18. In scenarios where capacity is required to be redistributed among components, specifically where RPC has been deferred, do stakeholders believe that deadlines should be prescribed to ensure these changes are enacted before confirmation of entry to the relevant Auction?

6. Capacity Market Register

Section summary

We provide an update in relation to CP270 and CP271, and several other changes to the Capacity Market Register ("CMR") we proposed in the policy consultation of July 2020, along with corresponding industry feedback.

Questions

Question 6: Do you have any comments on the Rule drafting provided in Annex A?

CP270 and CP271

Background

6.1. Where a Capacity Market Unit ("CMU") is made up of more than one component, the Capacity Market Register ("CMR") currently shows the aggregate capacities for each CMU. The CMR does not provide details of the underlying units (each with its own Connection Capacity, De-rated Capacity and Generating Technology Class). We considered CP270[21] and CP271[22] as part of our 2017 Rules change process. These proposals sought to include additional fields in the CMR to increase transparency. They recommended the inclusion of more detailed component-level information to be displayed on the CMR for each individual CMU component or Generating Unit, including Connection Capacity, De-rated Capacity, Generating Technology Class and Fuel Type.

6.2. In addition, CP271 proposed to require the CMR to include information on the nature of the Demand Side Response ("DSR") provided, including a distinction between DSR capacity units that are and that are not supported by an on-site generating unit.

[21] https://www.ofgem.gov.uk/publications-and-updates/edf-energy-capacity-market-rules-cp270

[22] https://www.ofgem.gov.uk/publications-and-updates/edf-energy-capacity-market-rules-cp271

6.3. As noted in our Decision on the First Policy Consultation, we proposed to take forward CP270 and CP271 following the completion of OF12.[23] This was because both CP270 and CP271 required component level data to be collected and stored within the Portal, which OF12 would enable. OF12 was completed and went live in October 2019.

6.4. In the Capacity Market Rules change consultation in July 2020 we stated that we were still planning to implement CP270 and CP271. The Capacity Market (Amendment) (No.2) Rules 2020[24] set out a requirement for CMUs that include fossil fuels to declare, as part of the Fossil Fuel Emissions Declaration, the type of fossil fuel at component level. We noted that our proposed change relating to CP270 and CP271 supports the principle of further transparency and facilitates the publication of component level information.

Feedback from stakeholders

6.5. Although feedback was limited, respondents to the Capacity Market Rules change consultation (July 2020) highlighted support for CP270 and CP271. These parties stated that this information should be provided on the CMR to support the efficient operation of the Capacity Market by improving market transparency and providing a better understanding of the capacity operating in the Capacity Market.

Discussion and minded-to decision

6.6. We are still minded-to implement CP270 and CP271. This would amend Rules 3.4.5A, 7.4 (a) (ii) and 7.5, and would result in more detailed component level information being available on the CMR. These changes can provide valuable information for market participants; giving greater insights into Auction behaviour and may help inform policymaking in the future.

6.7. We are also minded to amend the Rules to require that, where the information has already been collected at the time of application, the above new categories of information

23 https://www.ofgem.gov.uk/system/files/docs/2019/07/decision_on_amendments_to_the_capacity_market_rules.pdf

24 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897600/The_Capacity_Market__Amendment___No._2__Rules_2020.pdf

are recorded on the CMR for capacity providers who hold Capacity Agreements that have not expired or been terminated when these Rules changes come into force.

Additional changes to the CMR

Background

6.8. In addition to CP270 and CP271, we received additional suggestions for amendments to the CMR. It was noted that the items below, which are already published on the CMR, required corresponding Rule amendments under Rule 7.4.1(d) and under Rule 7.5 to align the Delivery Body's current operating practice with the Rules:

6.8.1. credit Cover amount;

6.8.2. parent company details;

6.8.3. secondary trading details;

6.8.4. confirmation of meeting the FCM;

6.8.5. meter Point Administration Number details;

6.8.6. agreement duration; and

6.8.7. relevant Delivery Year.

6.9. We also proposed to publish information on whether a CMU was subject to Substantial Completion Milestone ("SCM") and the expected date on which SCM would be achieved on the CMR. It was highlighted that this new data would provide useful inputs for various modelling work streams led by National Grid Electricity System Operator ("NGESO") and would allow a more accurate understanding of forthcoming capacity. This would align the requirements for publication of SCM information with those already published for Financial Completion Milestone ("FCM") on the CMR.

6.10. In direct response to what further data would be useful to include on the CMR, respondents also raised items including:

6.10.1. information on whether Satisfactory Performance Days ("SPDs") have been achieved;

6.10.2. the amount by which a CMU has traded all or part of its obligation,

6.10.3. any Secondary Trading Entrants or CMUs that take capacity; and

6.10.4. the date on which a Metering Test Certificate awarded.

6.11. We outlined the stakeholder suggestions contained within paragraphs 6.10.1 to 6.10.4 required further assessment and due to their connections with Secondary Trading we believe this further analysis would be better completed and discussed as part of our Secondary Trading work stream.

6.12. However, we maintained that the date on which a Metering Test Certificate awarded would be a beneficial addition to the CMR, and would further increase the transparency of the CMR. We were minded to make this amendment, along with the proposal to include the expected SCM date on the CMR.

Feedback from stakeholders

6.13. All respondents were again supportive of the proposed amendments, highlighting the importance of data transparency for the efficient operation of markets and for performance assurance purposes.

6.14. The majority of the responses focussed on the format and usability of the CMR, outlining the potential for one single database across all registers, a more user-friendly format, the ability for data to be automatically populated from the EMR Delivery Body Portal (the "Portal") and the ability for the CMR to highlight any amendments. In addition, the accuracy of the current data was also raised, with participants flagging occasions where data contained on the CMR has been incorrect.

6.15. One party stated that the CMR needs to be streamlined and proposed several amendments including removing the storage facility category; moving towards having a single connection capacity and de-rated capacity column; removal of all anticipated de-rated capacity columns and metering assessment questions.

6.16. Several respondents raised that the publication of termination notices would be a beneficial amendment to the CMR and would improve the efficiency of Secondary Trading. Additionally, one party raised the preference of the CMU secondary trading contact details being located on a restricted access area of the Portal rather than being in the public domain on the CMR to reduce potential exposure to phishing emails.

Discussion and minded-to decision

6.17. Taking into consideration the stakeholder feedback received, we are still minded-to implement the changes outlined in Paragraphs 6.8.1 to 6.8.7. We are also still minded to amend the Rules to mandate the publication of information on whether a CMU is subject to SCM, the expected date on which SCM would be achieved and the date on which a Metering Test Certificate is awarded on the CMR. These additions should help improve market transparency and provide a better understanding of the capacity operating in the Capacity Market.

6.18. Regarding the proposals outlined in Paragraphs 6.10.1 to 6.10.4, we still hold the view that due to their connections with Secondary Trading this further analysis would be better completed and discussed as part of our Secondary Trading work stream. Similarly, we believe the proposals noted in Paragraph 6.16 require cost-benefit assessments before Rules amendments are progressed and this assessment would again be best placed within the future Secondary Trading work stream.

6.19. In response to the stakeholder feedback relating to the usability and format of the CMR, including the comments noted in Paragraph 6.15, we would like to highlight the industry engagement being undertaken by the Delivery Body to ensure the revised CMR planned for delivery in 2022 meets the needs of stakeholders. We are monitoring the progress of the development of the CMR to ensure industry parties are being engaged sufficiently. We would encourage industry parties to provide feedback where possible either to the Delivery Body directly or to us.

6.20. More generally, and in line with feedback received, we welcome efforts made by the Delivery Body to enable the continued maintenance of accurate data on the CMR.

Implementation

6.21. Table 5 provides clarity on the specific Rule amendments being implemented ahead of the 2021 Prequalification round. Where implementation dates are set for future years, we aim to provide Rules text drafting in a follow up statutory Rules change consultation.

Table 5: Proposed implementation dates for CMR changes

Amendment	Rules text drafting provided in Annex A	Implementation

Rule amendments under Rule 7.4.1(d) and under Rule 7.5 to align the Delivery Body's current operating practice with the Rules: ● **credit Cover amount;** ● **parent company details;** ● **secondary trading details;** ● **confirmation of meeting the FCM;** ● **meter Point Administration Number details;** ● **agreement duration; and** ● **relevant Delivery Year.**	Yes	2021
CP270 and CP271	No	2022 (proposed)
Information on whether a CMU was subject to SCM and the expected date on which SCM would be achieved	No	2022 (proposed)
Date on which a Metering Test Certificate awarded	No	2022 (proposed)

Questions

6.22. Do you have any comments on the Rule drafting provided in Annex A?

7. Further amendments to the Rules - Maximum Obligation Period

Section summary

We propose to amend the Rules to allow a Prospective Generating Capacity Market Unit ("CMU") greater flexibility in determining the length of the Capacity Agreement they wish to bid for by amending the definition of Maximum Obligation Period (the "MOP"). Under the existing Rules Prospective Generating CMUs can be limited to a specific Capacity Agreement length due to, among other factors, their Qualifying £/kW Capital Expenditure ("QCE") exceeding thresholds defined under the MOP.

Questions

Question 7: Do you agree with our suggestion to amend the definition of Maximum Obligation Period to allow greater flexibly for Prospective Generating CMUs in selecting a Capacity Agreement length?

Question 8: Do you foresee any unintended consequences as a result of implementing this proposal?

Background

7.1. We are aware of elements of the Rules which could lead to decisions being made based on interpretation of the Rules by Delivery Body differing to the interpretation of the Rules made by an Applicant.

7.2. A scenario in relation to this, which has arisen from Tier 2 Capacity Market appeals for Prequalification year 2020, is regarding application of Rule 1.2 which sets out the definition of the 'Maximum Obligation Period' (the "MOP")

7.3. Prospective Generating Capacity Market Units ("CMU") can be awarded Capacity Agreements of 15 years, 3 years or 1 year in length. Rule 1.2 states, under the definition of the MOP the criteria that determine the length of a Capacity Agreement that can be

awarded with respect to the T-4 Auction. In reference to Rule 1.2 the definition of the MOP:

> *means, in respect of the T-4 Auction:*
>
> *(a) fifteen Delivery Years, including the first Delivery Year for which the Capacity Agreement is awarded, for a Prospective Generating CMU:*
>
> > *(i) for which an Applicant has stated pursuant to Rule 3.7.2(a), that to the best of its knowledge and belief the CMU will meet the Extended Years Criteria when completed;*
> > *(ii) for which an Applicant has stated pursuant to Rule 3.7.2(d), that Qualifying £/kW Capital Expenditure is expected to equal or exceed the Fifteen Year Minimum £/kW Threshold; and*
> > *(iii) in respect of which none of the Generating Units comprising the Prospective Generating CMU are already the subject of a Capacity Agreement which has not been terminated;*
>
> *(aa) fifteen Delivery Years, including the first Delivery Year for which the Capacity Agreement is awarded, for an Unproven DSR CMU for which an Applicant has stated pursuant to Rule 3.10.1(aa)(i) that Qualifying £/kW Capital Expenditure is expected to equal or exceed the Fifteen Year Minimum £/kW Threshold;*
>
> *(b) three Delivery Years for a Prospective Generating CMU or Unproven DSR CMU for which an Applicant has stated pursuant to Rule 3.7.2(d) or Rule 3.10.1(aa)(i) (as the case may be) that Qualifying £/kW Capital Expenditure is expected to equal or exceed the Three Year Minimum £/kW Threshold and to be lower than the Fifteen Year Minimum £/kW Threshold, including the first Delivery Year for which the Capacity Agreement is awarded; and*
>
> *(c) for all other CMUs (including Prospective Generating CMUs not included in (a) or (b) or Unproven DSR CMUs not included in (aa) above), one Delivery Year,*
>
> *and, in respect of the T-1 Auction, means one Delivery Year for all CMUs, and, in relation to where Rule 5.16.2 applies to a CMU, means one Delivery Year*

7.4. From paragraph (a) of the definition of MOP in Rule 1.2 where a Prospective Generating CMU has a 'Capital £/kW Qualifying Expenditure' (the "QCE"), also defined in Rule 1.2,

that is equal to or exceeds the 'Fifteen Year Minimum £/kW Threshold' that the Prospective Generating CMU can be awarded a 15 year Capacity Agreement provided all other criteria in paragraph (a) are met. From paragraph (b) of the definition of MOP, where the Prospective Generating CMU has a QCE that is equal to or greater than the 'Three Year Minimum £/kW Threshold' but where the QCE is less than the Fifteen Year Minimum £/kW Threshold that the Prospective Generating CMU can be awarded a 3 Year Capacity Agreement provided all other criteria from paragraph (b) are met.

7.5. A literal reading of paragraph (b) of the existing definition of MOP would preclude Prospective Generating CMUs from bidding for 3 year Capacity Market Agreements as a result of their QCE exceeding the Fifteen Year Minimum £/kW Threshold and therefore could result in them being reverted to a 1 year Capacity Agreement.

Discussion and minded-to decision

7.6. We are satisfied that the Policy intent regarding paragraph (b) of the definition of MOP in Rule 1.2 was to clarify that Prospective Generating CMUs who have a QCE greater than or equal to the Three Year Minimum £/kW Threshold should be permitted to bid for a 3 year Capacity Agreement; and that the words 'and to be lower than the Fifteen Year Minimum' was intended to convey that those who meet other criteria for a 15 year Capacity Agreement but have a QCE greater than the three year threshold but less than the fifteen year threshold may only be permitted to have a 3 year Capacity Agreement rather than a 15 year Capacity Agreement.

7.7. We are therefore proposing to amend paragraph (b) of the definition of MOP such that Prospective Generating CMUs may bid for either a 3 year or 15 year Capacity Agreement where the QCE is equal to or exceeds the three year or fifteen year thresholds and where the Prospective Generating CMU meets the other respective criteria in paragraph (a) or paragraph (b) of the definition of MOP. To achieve this, we are minded-to remove the Fifteen Year Minimum £/kW Threshold from paragraph (b) of the definition of MOP.

7.8. We do not believe that removing this would affect Security of Supply or lead to an increase in consumer costs in facilitating the Capacity Market. Removing this would also give greater flexibility to Prospective Generating CMUs with respect to the length of Capacity Agreement they wish to bid for.

Questions

7.9. Do you agree with our suggestion to amend the definition of Maximum Obligation Period to allow greater flexibly for Prospective Generating CMUs in selecting a Capacity Agreement length?

7.10. Do you foresee any unintended consequences as a result of implementing this proposal?

8. Previous Settlement Period Performance

Section summary

An update on our proposal to potentially allow the requirements of Previous Settlement Period Performance under Rule 3.6.1(a), (b), (c) and Rule 3.6A.1 to be fulfilled by the use of an Applicant's previous Satisfactory Performance Day ("SPD") data.

Background

8.1. Currently, each Applicant for an Existing Generating Capacity Market Unit ("CMU") must identify in their application three Settlement Periods on separate days in the 24 months prior to the end of the Prequalification Window, where the relevant CMU delivered a net output equal to or greater than its Anticipated De-rated Capacity (Rule 3.6.1(a), (b) and (c)). The Applicant must also specify the physically generated net outputs or Metered Volume where applicable, in MWh to three decimal places for each of those Settlement Periods. Interconnector CMUs also have a similar requirement under Rule 3.6A.1.

8.2. We proposed to allow the requirements of Previous Settlement Period Performance under Rule 3.6.1(a), (b), (c) (and potentially Rule 3.6A.1) to be fulfilled by the use of an Applicant's previous Satisfactory Performance Days ("SPD") data. This would apply to Applicants prequalifying the same CMU in an identical form to when it gained and delivered upon its obligations under a Capacity Market Agreement for the past two delivery years.

8.3. We proposed that where the relevant Applicant chooses the above option, the Delivery Body should use that Applicant's respective SPD data, and this should provide sufficient delivery assurance.

8.4. We did however highlight that there may be overlap between BEIS' forthcoming review on Connection Capacity, which follows on from amendments we previously considered

(OF15)[25] and our proposal to allow the requirement of Previous Settlement Performance to be met with past SPD data.

Feedback from stakeholders

8.5. In response to the policy consultation all respondents were supportive of the proposal. However, several respondents stated that the proposed new process of proving historic performance should be optional, as there may be a need for a CMU to seek future obligation which is lower in capacity than in prior years. A stakeholder also suggested use of the process should be restricted to CMUs being prequalified with the same components as in previous years.

8.6. It was also raised that the benefit of the proposal would be limited for most Capacity Providers and Ofgem's previous connection capacity proposal (OF15), and BEIS' subsequent planned review of Connection Capacity would, implement a more comprehensive solution with stronger delivery assurance.

8.7. A stakeholder highlighted that further clarifications are needed around the potential scenario where there is an upward change in a derating factor of a CMU or if there is a revision of volumes in future settlement runs. The stakeholder suggested that, in these specific cases, SPD data would no longer demonstrate an output equal to or above the derated capacity for the relevant Prequalification.

8.8. The Delivery Body noted several complexities with implementation, risks with correctly tracking data across agreements and that the proposed change would require the integration of SPDs into the Prequalification process, thereby requiring significant process and system change to facilitate.

Discussion and minded-to decision

8.9. We note the feedback received in relation to the proposal, the potential impacts of the change, along with the implementation concerns. We agree that the proposed process

[25] https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-amendments-capacity-market-rules-2014-0

would not have adverse effects on delivery assurance but acknowledge that our proposal presents limited benefit to all categories of Capacity Providers.

8.10. We understand that BEIS are still minded to consult on proposals relating to the demonstration of Connection Capacity at Prequalification. This forthcoming work follows on from amendments we previously considered in respect to the calculation of Connection Capacity.

8.11. Although there is merit to our proposal outlined above, we are of the view that the forthcoming work led by BEIS on Connection Capacity will lead to a more robust, holistic set of proposals with benefit for a wider set of Capacity Providers.

8.12. We are therefore proposing to not progress amendments relating to the utilization of SPD data as proof of historic performance currently.

Appendices

Index

Appendix 1 – Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

3. With whom we will be sharing your personal data

(Include here all organisations outside Ofgem who will be given all or some of the data. There is no need to include organisations that will only receive anonymised data. If different organisations see different set of data then make this clear. Be a specific as possible.)

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for ***(be as clear as possible but allow room for changes to programmes or policy. It is acceptable to give a relative time e.g. 'six months after the project is closed')***

5. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at https://ico.org.uk/, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas (Note that this cannot be claimed if using Survey Monkey for the consultation as their servers are in the US. In that case use "the Data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in term of data protection will not be compromised by this".

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system. (If using a third party system such as Survey Monkey to gather the data, you will need to state clearly at which point the data will be moved from there to our internal systems.)

9. More information For more information on how Ofgem processes your data, click on the link to our "Ofgem privacy promise".