Energy for generations

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Dear sir/madam

ESB welcomes the opportunity to respond to Ofgem's consultation on Capacity Market rule changes. We are generally supportive of the changes proposed, feeling that they strike the correct balance between making improvements to the functioning of the Capacity Market whilst maintaining a level of regulatory certainty.

Our response is split in to two sections. The first focuses on answering the questions put forward in the consultation document and the second highlights some proposals that we feel require further clarification.

We would be happy to discuss our response further.

Regards,

Will Chilvers

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ESB response to consultation questions

Q1. CP136 (interconnector capacity): Do you agree that de-rating from CEC rather than TEC is a more appropriate way to measure the De-rated Capacity of Interconnector CMUs? Do you agree with the suggestion to cap Interconnector de-rated capacity at TEC, or should the requirement for interconnectors to hold sufficient TEC be removed altogether

We agree that interconnectors should be de-rated based on CEC rather than TEC as this is the most accurate indication of actual capacity and is consistent with the treatment of other CM participants. An interconnector's TEC should reflect a maximum output it believes is consistently achievable given prevailing market and technical conditions. Awarding capacity agreements greater than an interconnector's TEC would risk over-stating their potential contribution to security of supply at any given time. Therefore we agree that interconnector de-rating should be capped at TEC.

We do not see any justification for removing the requirement to hold sufficient TEC for an interconnector as this is a requirement for all other CMUs. We note that although interconnectors are not currently charged for holding TEC if this situation were to change it would give interconnectors an unfair cost advantage, further distorting market signals for interconnectors.

Q4. CP108 (CM warnings): Do you think there is a need to align Capacity Market Warnings with other existing system warnings? If so, how would you suggest this is done? Are there any associated risks?

At present we are satisfied that the timings and conditions for issuing a Capacity Market Warning are appropriate, but without seeing them in action it is difficult to judge how the market will react to them and the interactions they may have with other tools for balancing the system. The Transitional Auctions coming in to delivery this winter will provide a good test for the appropriateness of Capacity Market Warnings and we would encourage a review of their efficacy after this Winter when actual data is available.

Q 9: Do you agree with our analysis and conclusions in relation to connection capacity?

It is difficult to comment on the Ofgem analysis without seeing the detailed methodologies and findings. We would however comment that a power station's MEL is related to its maximum output under typical market conditions, with many stations able to exceed this MEL if necessary particularly if there are financial incentives to do so, such as avoided CM penalties. There are also a number of plants in the CM that state their capacity based on average output or TEC. Again, under stress conditions and with the correct incentives these are likely to be able to deliver greater volumes in order to avail of CM over-delivery payments. Without taking these elements into account it is difficult to assess the true extent of the supposed capacity gap. We would also support that the satisfactory performance demonstration would require testing up to the connection capacity level to prevent any opportunities for overstating maximum potential capacity under "Option A" of the Open Let ter.

Question 10: Would the satisfactory performance requirements remain appropriate if we test up to connection capacity? In particular, would it be appropriate to demonstrate satisfactory performance on three separate days, and for CMUs to lose all capacity payments if this is not met?

In the market it is quite common for a plant to have a CEC that is higher than its TEC. Any generator delivering power in excess of their TEC during a period that is not a system stress event is deemed to be in breach of their obligations under the CUSC. It would not be reasonable to require generators to generate outside of their licence conditions in order to comply with Capacity Market rules. One way in which this proposal could work would be to put forward a CUSC modification providing a derogation for over production during Capacity Market satisfactory performance tests as notified by the Delivery Body. This would allow thorough industry analysis to be carried out, highlighting any unintended consequences and technical challenges of such a change.

Question 11: Would market rules around exceeding TEC result in genuine capacity being excluded under this approach? Does the ability to purchase short term TEC help address this? If not, is this a significant enough issue for concern?

We believe that the requirement to hold TEC up to a CMUs de-rated capacity and the penalties for under delivery against obligations remain the best way for ensuring plants do not overstate their capacity.

Given the cost of TEC products it is perfectly reasonable for plant to hold TEC below their CEC if they will not be generating above a certain level under normal market operation. If a plant were required to hold TEC up to their CEC this would increase their costs, which would need to be recovered in full through the CM auctions.

Applying for STTEC is a lengthy and expensive process with no guarantee of the TEC being provided, therefore applications for products such as STTEC would not provide a solution to this issue.

Question 12: Do you consider that there is a significant risk of capacity withholding if generators are given a free choice of connection capacity? Would any additional measures be needed to help mitigate this risk (e.g. minimum capacity thresholds or supporting justifications for going below certain thresholds)?

Given the current over supply in the Capacity Market we do not see any advantage in Capacity Providers holding back capacity but if in the future supply margins were to tighten this could become an issue. One remedy for such a situation could be to monitor a capacity provider's normal market operations and submitted MEL data, with the introduction of a new penalty for CMUs that hold capacity agreements below their actual output or stated MEL in the market. This would ensure that providers gave and accurate representation of their achievable capacity or suffer reduced running and revenues in the wholesale market.

<u>Proposals requiring further clarification</u>

Of1: This proposal would extend the definition of Defaulting CMU to include a CMU that has engaged in or is suspected of engaging in Prohibited Activities under the Rules, and participated in the auction, but was not awarded a capacity agreement.

Whist we are generally supportive of the rule change we are concerned that the draft legal text includes the wording 'or suspected'. Only CMUs that have actually engaged in Prohibited Activities should be considered Defaulting CMUs, the use of 'suspected' is too broad and it is unclear what would constitute 'suspected' engagement in Prohibited Activities. The use of this wording should also be revised in part (b) of the definition of a Defaulting CMU.

Of6: We propose to amend Rule 3.7.1 so that, where planning permissions for New Build CMUs contain an explicit expiry date, that expiry date must not be within the period of the Capacity Agreement that the CMU is applying for.

We welcome greater clarity in the rules around the validity of Relevant Planning Consents. We would however suggest that that the draft legal text of Rule 3.7.1 (b)(i) should be amended to allow for Relevant Planning Consents that expire simultaneously with the Capacity Agreement. We suggest the wording be amended to read:

where the Relevant Planning Consent is time limited, documentary evidence showing that the duration of the Relevant Planning Consent is longer than or equal to the duration of the Capacity Agreement; and [Of6]

Of7: This proposal would amend Rule 3.7.2(c) and add Rule 8.3.6(aa) to prevent Prospective CMUs from citing the same capital expenditure in more than one multi-year capacity agreement.

We welcome this rule change and its intent to prevent CMUs from citing the same capital expenditure in more than one multi-year agreement. For clarity we would suggest the wording of 3.7.2 (c) be amended to read:

"……..such Capital Expenditure not having previously been considered in respect of any application for prequalification by a CMU which subsequently gained a Capacity Agreement with a duration exceeding one Delivery Year……."

For consistency the wording of 8.3.6 (b) should also be amended to read:

the relevant Capacity Provider must provide the Delivery Body, no later than three months after the start of the first Delivery Year, with a certificate from an Independent Technical Expert confirming that it is satisfied, on the basis of evidence reviewed, that the Total Project Spend incurred has not previously been considered in respect of any application for prequalification by a Prospective CMU which subsequently gained a Capacity Agreement with a duration exceeding one Delivery Year; [Of7]