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**Consultation on changes to the Capacity Market Rules pursuant to Regulation 79 of the
Capacity Market Regulations 2014**

Dear CM Rules Team,

RWE welcomes the opportunity to respond to the Ofgem consultation on proposed changes to CM Rules. We are responding on behalf of the RWE companies operating in the UK.

We are broadly in agreement with many of the proposals that aim to simplify the Prequalification Process.

We have responded to the individual questions set in the consultation, and have in addition provided comments against a number of the change proposals.

Responses to Individual 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 derated capacity at TEC, or should the requirement for interconnectors to hold sufficient TEC be removed altogether?

If connection capacity is going to be reviewed by Ofgem in the near future, we query whether this is a worthwhile change to be carrying out now in advance of the review.

In general though, we agree that this would be consistent with the treatment of other CMUs, in that de-rating should apply to interconnectors and other CMUs in a consistent manner in order to ensure distortions in the application of the rules do not occur.

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Q2. CP129 (adding DSR components): Do you agree there are overall benefits to creating a bespoke process for adding new DSR CMU components? (Please provide evidence to support your answer)

We are of the opinion and in agreement, that the CM Rules should be technology neutral. Being able to add new components should be a feasible option for all CMUs and not just to benefit DSR providers. For example, under the current Rules, changing a diesel generator to a gas generator would result in a different generating unit and therefore be incompatible with the Rules. Therefore if a bespoke process for adding new CMU components is implemented, we believe it should apply to all providers.

Q3. CP95 (reallocating DSR components): Do you agree that the combination of CP124, CP129 and CP130 would be a better solution to the issues that CP95 seeks to address?

We agree with CP95 being rejected. However, we do not agree with the proposed alternative combination of CPs 124, 129 and 130 and in particular, we are primarily concerned with CP124 (see answer to question 7).

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?

We consider that more work should be done to provide the market with additional information when Capacity Market Warnings occur to ensure there is sufficient visibility across the industry. This is particularly important for smaller companies who may not have the capability to monitor multiple information outlets. We consider the Capacity Market Warnings should be posted on the BMRS website to aid transparency, but thought should be given to an alternative method of communication, if and when the BMRS is unavailable.

It is imperative that system warnings are aligned, and this should also include Capacity Market Warnings. It would be appropriate for this to be addressed through the Grid Code.

Q5. CP128 (LFCO formula): Do you agree that the LFCO formula will not scale delivery obligations appropriately during the first TA Delivery Year? Is this issue significant enough to require changes before first TA Delivery Year (starting in October 2016)? If so, how should the formula be amended?

If any changes are made to the TA, then care should be taken such that changes are not applied to subsequent CM auction delivery years without further consideration, in order to limit unintended consequences.

LFCO currently scales delivery obligation as a proportion of the sum of the demand not being met outside the Capacity Market, which seems correct and appropriate. We therefore believe that the formula works as it is currently written within the Rules.



Q6. CP115 (volume reallocation): Do you agree there is an issue with Rule 10.4.1 (c)(ii)? If so, would our suggested addition to this Rule fix the problem? If not, how should it be amended?

We are not of the opinion that 10.4.1(c)(ii) puts a requirement on a Transferee, but agree that the suggested change by Ofgem would make the intention clearer for participants.

Q7. Question 7 - CP124: Do you agree with our assessment of the benefits and risks with CP124?

We do not agree with Ofgem's assessment of the benefits and risks and would suggest that CP124 could discriminate in favour of larger aggregators to the disadvantage of smaller ones or non-DSR providers who are not offered the same option. This could therefore potentially stifle competition within the Capacity Market, with larger aggregators gaining an advantage at the expense of smaller ones.

Q8. CP98 and CP148 (FFR): Do you agree with the solution put forward in these proposals to ensure the participation of dynamic FFR in the CM? If not, what changes to the DSR test and volume calculation are necessary to achieve this?

Many technologies participate in dynamic FFR and we see no barriers to prevent these from contributing to the Capacity Market, and hence no particular Rule changes are therefore required.

Q9. Do you agree with our analysis and conclusions in relation to connection capacity?

We broadly agree with Ofgem's analysis.

Q10. 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?

If Connection Capacity is intended to be the maximum achievable output during a System Stress Event, then it would not be appropriate to require 3 separate demonstrations of the full Connection Capacity.

Achievable output is dependent on ambient conditions (especially temperature) and during a warm winter, CMUs may not be able to achieve their maximum output. Therefore we would recommend testing should be to the de-rated capacity level, but that historic evidence of achieving the Connection Capacity should be provided.

Q11. 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 do not believe that TEC is a barrier to genuine capacity, and believe that CMUs should ensure they have sufficient TEC to meet their delivery and testing obligations.

Q12. 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)?

We do not consider that there is a significant risk of capacity being withheld as a result of generators being given a free choice of Connection Capacity. However, a prudent approach would be to set minimum capacity thresholds expressed in percentages of historic maximum output.

Further Comments

Of2 Ofgem

We agree with the proposal and would appreciate clarification that the definition of Legal Right includes compulsory acquisition powers (including powers to acquire land and/or rights in land as well as powers of temporary possession and construction) granted in a Development Consent Order. We would suggest the minor redrafts below, to clarify the extent of the rights as well as the beneficiary (which is not the CMU but its owner or business partner):

*“**Legal Right** means, for the purposes of using land, any legal or beneficial interest in (or right, title or interest in) land upon which a relevant CMU is or will be located **situated** (which for the purposes of property located in Scotland means any estate, interest, servitude or other heritable or leasehold right in or over land) including any leasehold interests or other rights **or powers** to occupy or use and any **development, statutory, contractual or personal rights in favour of the relevant CMU** relating to the occupation, use **relevant CMU** or acquisition of such land or property (whether or not Scotland) in connection with the relevant CMU) “*

Of3 - Ofgem

The introduction of this change proposal could cause an unintended consequence, by introducing large volatility in the T-1 auctions (depending on whether plant had opted out of the T-4 and then wished to participate in the T-1).

An Opt-out Notification declares that a CMU will remain operational during the delivery year to which the capacity auction relates. Therefore should a CMU wish to participate in a T-1 auction, a submission to the Regulator that it wishes to change its declared status and explaining why, should be a requirement. We note that the Opt-out declaration has been worded differently on the Delivery Body’s Prequalification system and we recommend NGET change this to align with the Rules.

Alternatively, the Opt-out Notification could be amended to introduce an option to notify the Delivery Body that the CMU intends to participate in the T-1 auction, and therefore its capacity should not be considered as contributing capacity, when setting the capacity requirement for the T-4 auction.



Of5 – Ofgem

We are comfortable with the policy intent of this proposal in that the provisions are designed to ensure that Line Loss Factors are applied consistently, and that no disadvantages arise from the application of LLFs. Clarification of what information is required in the DNO letter, is also welcome.

Of6 – Ofgem

We are of the opinion that the suggested amendment for Rule 3.7.1 regarding the expiry of planning permissions for New Build CMUs as a termination event makes sense.

Certain planning permissions are limited to the lifetime set for a specific development. In the case where a planning authority has imposed such a condition, it could be difficult to get an exact match between the planning length and the capacity contract.

It is therefore imperative that the definition of the explicit expiry date is made very clear within Rule 3.7.1. Currently this could be interpreted as being: either the expiration of planning permission due to failing to commence works by a set date prior to a Capacity Agreement beginning; or when the planning permission sets a time limit on a development which is before the end of the CA. We are interpreting it as the latter definition.

CP161 – VPI Immingham

We believe that the definition of 'Directors' is already clear by virtue of Rule 3.12.6 but we agree that the proposed change would add clarity in relation to the entire CM Rules. We suggest two minor additional changes as follows:

- Rule 1.2 – definition of "Director": minor redraft to refer to Exhibits A to I"..
- To show the defined term of 'Director' with an initial capital letter throughout the CM Rules as follows: "Director(s)" or "board of Director(s)".

CP143 - NGET

We support the rejection of this change proposal as the current Rule drafting is already sufficiently clear. In addition, we agree that CP157 deals with any concerns adequately.

CP160 – UK Power Reserve

We support Ofgem's decision not to express a time limit in relation to the definition of Legal Right for the reasons provided in the consultation.



CP131 – ESC

Just as a Final Physical Notification (FPN) is not an appropriate measure of the delivery from a generating CMU, we do not consider the use of IST data to be an appropriate tool for measuring interconnector delivery, as it would not account for technical failures during System Stress Events. Therefore we consider that metered volume adjusted by actions the SO takes (similar as for other CMUs) is the appropriate measure to be used.

CP145 – NGET

The current definition of a System Stress Event which relates to instructed demand disconnection, is appropriate and feeds into the calculation of delivery obligations in the form of ILR (Involuntary Load Reduction). Therefore we do not think there would be any reduction in administrative costs arising from the proposal. We agree with Ofgem that there is a risk that cash-out price may not reach VoLL in a stress event and vice versa.

Yours sincerely,

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Sent by email