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5 May 2017

Statutory consultation on changes to the Capacity Market Rules 2014 (the "Rules") pursuant to Regulation 79 of the Capacity Market Regulations 2014 (the "Regulations")

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, storage, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

We welcome the opportunity to comment on Ofgem's Capacity Market rule change proposals. We agree with the vast majority of Ofgem's proposed decisions and the reasoning behind the minded-to positions. We also welcome Ofgem's very constructive proposals for a revised approach to calculating connection capacity and look forward to more detailed consultation on, and implementation of, these proposals.

However, we do have concerns about Ofgem's change proposal based on RWE's CP169 proposal. We agree with Ofgem's decision to accept RWE's original proposal. However, Ofgem also proposes to change the requirements to demonstrate Satisfactory Performance Days so that, if a CMU fails to deliver energy during System Stress Events in two or more months during the summer, this will have similar consequences to similar failures during the winter months. There are good reasons why the original drafting of the Capacity Market Rules distinguished between summer and winter in this respect and we believe that Ofgem's proposal will lead to a disproportionate increase in risk for capacity providers that will ultimately be reflected in higher costs for customers but that it will not make a significant contribution to security of supply. We therefore believe that Ofgem should reconsider this proposal.

Our detailed responses to the consultation questions are set out in the attachment to this letter. We also provide drafting comments to Annex H, i.e. marked up draft copy of the proposed Rule changes, and further comments on some change proposals in the Appendices. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Guy Buckenham on 07875 112585, or me.

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I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

Angela Hepworth
Corporate Policy and Regulation Director

Attachment

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EDF Energy's response to your questions

CQ1: Do you agree with the introduction of a financial penalty under Rule 6.8.4 for failing to meet refurbishment milestones? (CP229)

Bidders in a capacity auction must be clear about the material terms of the agreement that will come into operation if their bid is successful. This is recognised by the grandfathering of key terms of the agreement in the Regulation 31 of the Electricity Capacity Regulations; these grandfathered terms include termination fees. Any penalty introduced under Rule 6.8.4. as a result of Ofgem's proposal should be subject to the same grandfathering protection. This is important so that bidders in a capacity auction have a clear understanding of the risks and rewards under the Capacity Market Rules on which to base their bid and can be confident that they will not be exposed to new or increased forms of penalty after they have entered into a capacity agreement.

With the above proviso, then Ofgem has to consider the balance of advantage for customers if they impose a financial penalty in respect of refurbishing capacity agreements awarded in future capacity auctions if they fail to meet refurbishing milestones. If there is a penalty, bidders for refurbishing agreements may well place higher exit bids, reflecting the extra risk that they will face if circumstances change and they are unable to complete their refurbishment plans. This may lead to higher clearing prices in the T-4 auction and/or fewer capacity providers entering into refurbishing agreements. As a result, CM clearing prices may be higher but, if capacity providers do still take refurbishing agreements, then there may be greater certainty that refurbishing agreements will be delivered for their full term, which may reduce the risk of higher capacity prices in subsequent years. Either way, the customer impact is likely to be fairly marginal, particularly given the relatively small number of refurbishing agreements that have been awarded.

On balance, it would probably be right to introduce a financial penalty in these circumstances for capacity agreements awarded in future auctions.

CQ2: Should the SO be required to update the information included in a CMN and if so what should such updates include? Please clarify why participants need this information in a CMN and cannot access it readily elsewhere? (CP216)

The Capacity Market Notice (CMN) website reports events that may lead to the occurrence of a System Stress Event on the GB electricity transmission system. The information is

updated when the status changes, e.g. when the notice is cancelled; interested parties can subscribe to the notices; and a link is provided to the Balancing Mechanism Reporting Service (BMRS) where further information can be found. We believe the SO is already providing the necessary information and we are not aware of additional information that the SO should be obliged to provide in a CMN.

CQ3: Do you think there are amendments that could be made to Schedule 4 which reduce the likelihood of future Rules changes being required if balancing service products are altered, which do not undermine the wider functioning of the Rules? (Of14)

In normal circumstances, balancing services products would not regularly be introduced or significantly altered. Ofgem's annual Capacity Market Rules process provides sufficient opportunity for Schedule 4 to be amended if such a product is introduced or significantly altered. Therefore, introducing amendments to Schedule 4 to reduce the number of Capacity Market Rules changes would be unnecessary.

However, we note that National Grid is planning to set out their vision for balancing services and products when they publish their ancillary services product strategy; this is expected imminently. This is likely to lead to the introduction of new and different ancillary services products and may therefore require some further changes to the Capacity Market Rules. However, the publication of this product strategy should provide greater certainty and stability of balancing services in future and so should minimise the need for further changes to the Rules. We recommend that National Grid and Ofgem work closely to ensure that the interaction between ancillary services products and the Capacity Market is clear and mutually understood, including which products should be listed as Relevant Balancing Services under Schedule 4. For those products to be added as a Relevant Balancing Service, National Grid should advise Ofgem in a timely manner of the appropriate definitions of "Declared Availability' and 'Contracted Output'.

CQ4: Do you agree that this is an appropriate solution to the issue identified with the storage output formula under Rule 8.6.2? (Of13)

EDF Energy believes that the term "B" in its original and proposed form is likely to over-reward storage capacity in the Capacity Market and should be removed completely.

Ofgem states that the new proposal would 'align the methodology with DSR'. We do not believe that the methodology should align storage assets with DSR. In other respects, storage is regarded as a form of generation. This position should continue for the Capacity Market and therefore, storage should not be subject to baselining in the same manner as DSR.

However, we agree with Ofgem that the current form of Rule 8.6.2, in which the term B refers to the two settlement periods before the publication of a Capacity Market Notice

(CMN), is inappropriate. It could, for example, incentivise a storage provider for delaying charging until shortly before the expected publication of a CMN and to continue charging during the four hours between the CMN and a possible stress event, which could potentially contribute to an earlier than expected start to the stress event.

We believe that the right answer would be to remove the term B from Rule 8.6.2 altogether; however, Ofgem's proposal is less harmful than the current form of Rule 8.6.2.

CQ5: Do you agree this approach allows DSR providers of frequency response the ability to participate effectively during the testing regime? (Of14)

Yes.

CQ6: Do you agree that no change is required to the calculation of output during Satisfactory Performance Days and Stress Event periods once all frequency response services are included under Schedule 4? (Of14)

Yes.

CQ7: Do you agree that the current metering arrangements are suitable for DSR providers of frequency response services? (Of14)

Yes.

CQ8: Do you agree with our conclusions with regard to our preferred testing format? (Of15)

EDF Energy supports the proposal that generators should be able to self-nominate capacity; we agree with Ofgem that 'providers are best placed to determine the capability of their units' and that there are problems with each of the three currently available methods of determining connection capacity. Testing requirements are necessary to ensure that at pre-qualification, applicants state an appropriate value of capacity for the delivery year. We believe it is necessary for the testing to take place prior to the T-1 auction, ensuring the Delivery Body is provided with the opportunity to procure any undelivered capacity. We agree that to ensure consistency with the within-year testing obligations the tests should be done using Historic Metered Output data; one year's data is an appropriate dataset to use. We agree with Ofgem's rationale to reject other options such as increasing the number of Satisfactory Performance Days or Active Testing during the relevant winter period.

We welcome the direction of travel but we believe that Ofgem needs to address two further components, which have not been addressed in Annex F.

Firstly, these proposals are specifically for transmission-connected capacity. With the increasing amount of distribution-connected generation competing in the Capacity Market, Ofgem should consider also extending this to distribution-connected generation. This would lead to a consistent approach to ensuring the delivery of reliable capacity from all existing generation assets in the Capacity Market.

Secondly, Ofgem must consider how these proposals will apply in a T-1 auction, as there will not be the opportunity for misquoted capacity to be repurchased following this point. We suggest that capacity providers should choose their own value of capacity, but it must be demonstrated at pre-qualification that the generator can meet or exceed this capacity using Historic Metered Output data from the 12 months prior to the pre-qualification window to be consistent with the approach in the T-4 auction.

Ofgem must work carefully with National Grid to ensure that the calculation of the de-rating factors remains appropriate with this new methodology.

We would also draw Ofgem's attention to a misunderstanding of the existing legislation in the consultation document which refers to the termination fee rates TF3, TF4 and TF5 as the "non-grandfathered termination fee rates". The Electricity Capacity (Amendment) Regulations 2016, which introduced the TF3, TF4 and TF5 rates, also amended Regulation 31(2)(i) of the Electricity Capacity Regulations 2014 to refer to "the rate at which each termination fee is payable", thus including them in the grandfathering provisions within the Regulations.

CQ9: Do you think our proposed approach to setting incentives (threshold and penalty) will effectively reduce instances of overstating capacity? (Of15)

EDF Energy agrees with the need to test the self-nominated capacity, but notes that there is a certain amount of uncertainty when estimating the capacity capability. Therefore, we support the need for a threshold above which a termination fee would not apply. Ofgem has set this at 97% and we are concerned that this may be too high; we would like Ofgem to publish the analysis that underpins the decision to use a 97% threshold. The threshold should be no lower than the threshold for new build and refurbishing capacity for meeting its substantial commitment milestone, which is 90%.

Below the threshold, we agree that a termination fee should apply for the capacity that cannot be proven at testing; TF5, which aligns with the termination fee payable by providers who close down before the Delivery Year, is the correct termination fee to use.

Appendix A – Comments on Annex H

Note: we have primarily commented on the changes made, not verified whether all necessary knock-on changes have been made.

CP190
The drafting appears to contain the following issues.

- 4.8.1 Reference to CP190 change is not needed
- Table of contents – reference to Rule 4.7 needs to be removed

CP192
The drafting contains no definition of an "accepted connection offer". As there is no definition the drafting leaves National Grid with discretion as to what constitutes an accepted offer and what is evidence of acceptance of an offer.

CP215
The drafted rule changes do not achieve the stated aim of the rule change proposal. In particular 3.2.8 (b) refers to all units being in the same legal ownership which is contrary to the intent of the rule change proposal. In any case 3.2.6 appears to allow prospective CMUs to have multiple legal owners. BEIS appear to have already made the necessary change.

CP233
We do not believe the rule change proposal adequately addresses the problem. We would suggest that the issue would be better addressed by requiring auxiliary load to be metered. Metered auxiliary load could then be allocated by multiplier values to each unit in line with the proposal but allowing the participant to allocate load in line with actual technical plant characteristics so long as 100% of load is accounted for.

We would also suggest that the drafting avoids the use of the term 'auxiliary load' in both upper and lower case to avoid confusion. It is not clear whether auxiliary load is to be metered or not.

CP235
The drafting ignores the issue that new build units cannot provide these details at prequalification so need the same exclusion as Unproven DSR CMUs. National Grid currently appears to allow this.

There is a further issue with definitions in that the drafting does not make clear that CMUs will only have a MSID or a MPAN. MSIDs should also be defined in the Rules.

There is a minor point that the "Metering Point Administration Number" is referenced but the definition is for "Meter Point Administration Number".

OF12
OK

CP195
OK

CP236
OK**CP174**
OK

CP201
OK

CP237
OK

CP213
This proposal seeks to amend Rule 7.4 so that the Generating Technology Class of a CMU is listed on the Capacity Market Register. We support this proposal but the drafting does not appear to work because CMUs do not have Technology types, this is a property of a Generating Unit.

In addition, we would like to broaden the proposal to include unit capacities which would then fully meet the stated aim of helping industry to analyse the CM.

Suggested drafting (blue is Ofgem change, green our changes) would be

7.4.1 ……
(a) …….
(ii) a description of the CMU including (where applicable) each Generating Unit or DSR CMU Component comprising such CMU and in the case of a Generating CMU, the Connection Capacity, De-rated Capacity, Primary Fuel Type and Generating Technology Class [CP213] for ~~the CMU~~ each Generating Unit comprising such CMU.

CP167
Drafting appears to just define RfR. It does not place an obligation on National Grid to publish a value for RfR even though the proposal would require this.

OF13
Drafting would be assisted by use of brackets as shown below.

B is the aggregate for all Generating Units comprised in the Generating CMU of the mean average metered Consumption (in MWh) of each such Generating Unit in the Settlement Periods, which fall on the same day and period as the Relevant Settlement Period in each

of the previous 6 week (if any such Generating Unit was generating electricity during any such Settlement Period or available to provide a frequency response service due to a Relevant Balancing Service Contract [Of13], its Demand during that Settlement Period is deemed to be zero).

CP169

EDF Energy agrees with RWE's original proposal but does not agree with Ofgem's proposed further revision to the Rules. We believe that it will lead to a disproportionate increase in risk for capacity providers that will ultimately be reflected in higher costs for customers but that it will not make a significant contribution to security of supply.

The Capacity Market framework provides two parallel sets of controls to ensure security of supply:

- There are rules to ensure that capacity providers put capacity in place that is capable of delivering (**existence** of capacity). These rules include the testing requirements to demonstrate satisfactory performance under Rule 13.4.
- There are also rules to ensure that capacity providers actually deliver capacity when required to do so if there is a stress event (**performance** of capacity).

We believe that this is a sensible approach. It recognises that stress events will be relatively infrequent events and it is necessary to verify that capacity exists and is capable of delivering without waiting for a stress event to occur. It also recognises that even the most reliable capacity may be unable to respond in a specific stress event because of a planned or unplanned outage.

The Capacity Market framework provides some measures to manage risks to the system and risks to the capacity provider; these include:

- Derating – the SO buys enough capacity to allow for a reasonable level of capacity outage;
- Load Following Obligations – the SO buys enough capacity for the expected annual peak so the obligation on individual providers is scaled down when the total requirement is less than this peak value;
- Secondary trading – there are means to reallocate obligations and risk between capacity providers recognising that some CMUs may overdeliver and some may underdeliver in a stress event.

Within this framework, we believe that there are good reasons for the current design that includes an initial requirement to demonstrate satisfactory performance days in winter rather than summer: winter is when the capacity is usually most needed and this approach ensures that capacity is tested at a reasonably early stage of the Delivery Year.

We do not believe that the requirement for additional testing under the existing Rule 13.4.4 if a CMU fails to deliver even 1kWh in every stress event in two separate months of the winter is designed with the primary purpose of providing a **performance** incentive to

meet capacity obligations in a stress event; if it were, the criterion would be delivery of the full capacity obligation in all stress events. As it stands, this requirement recognises that consistent failure to deliver in any winter stress event could be seen as prima facie evidence of a potential concern over the **existence** of capacity able to deliver reliably; therefore, additional testing is required to allay this concern.

However, if a CMU has met the requirements to demonstrate satisfactory performance during the current Delivery Year, failure to respond to stress events during the summer months, when the total capacity requirement on the system is typically lower than in winter should not be seen as strong evidence of a concern over the existence of capacity that is capable of delivering reliably:

- The CMU has already demonstrated satisfactory performance in the current Delivery Year;
- Although the CMU may fail to respond because of unplanned outage, the cause could also be a planned maintenance outage, which may last for several weeks;
- The Capacity Market framework provides no relief from capacity obligations for maintenance periods; during a planned or unplanned outage, the operator remains exposed to penalty risk under the Capacity Market Rules but may manage this risk through secondary trading, assisted by the scaling down of capacity obligations through the load following rules.

As a result, the additional testing requirement will lead to increased risk for a capacity provider, particularly where maintenance outages are scheduled for late summer with little or no time subsequently to demonstrate additional satisfactory performance days before the end of the Delivery Year. It is perhaps even conceivable that, in some circumstances, this requirement could encourage a generator to reduce their commercial risk by deferring an outage into the following winter even though this might reduce the overall security of the system.

Moreover, as stress events in summer months are likely to be quite rare, it remains possible that a capacity provider with unreliable or inoperable capacity could be tempted to take no action thus gambling on there being no stress events.

For these reasons, we do not believe that Ofgem's proposal will help to ensure security of supply in a cost-effective manner.

However, if Ofgem decide to proceed with this proposal, then there are some technical points to be considered:

- It will be necessary to define "Summer" (which presumably means 1st May – 30th September in this context).
- It does not make sense in the new Rule 13.4.6 (b) to suspend payments from 1st May in respect of a failure that will not become apparent until the end of June at the earliest.

- It may also be necessary to consider why the proposed rules would penalise a failure to respond to two stress events in Winter or two stress events in Summer but this would not apply to two stress events in, say, the consecutive months of April and May because one is classified as Winter and one is classified as Summer.

CP171
Working Days should be a capitalised term.

CP231
Drafting works.

CP234
Definitions of a BMU and non-BMU DSR units are required.

CP193
Drafting works.

Appendix B – other comments

CP191
This proposal seeks to amend the de-rating factor calculation under Rule 2.3.5 so that Distribution Connected station is utilised to better capture distribution-level scenarios.

Ofgem proposes to reject this proposal because the methodology proposed is not consistent with the intent of the de-rating process. While Ofgem welcomes further proposals and analysis in this area, the lack of available data makes it very difficult to provide further proposals; we recommend that Ofgem works with BEIS and National Grid to develop solutions to provide much greater transparency of the capacity contribution of decentralised generation.

CP175
This proposal seeks to align the definition of 'Operational', for Refurbishing CMUs, under Rule 1.2, with the treatment of New Build CMUs.

Ofgem proposes to reject this proposal. Ofgem states that there is no evidence that reaching full connection capacity has been a challenge for Refurbishing CMUs or that additional flexibility needs to be introduced to allow them to become Operational. We believe it should be recognised that refurbishment is not always carried out to increase capacity. Other possible reasons could include improved efficiency or reliability, life extension or improved environmental performance, all of which may contribute to the long term provision of economic and reliable capacity to ensure security of supply at an affordable cost for customers.

EDF Energy
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