

Statutory consultation on changes to the Capacity Market Rules

Background on ENGIE

In the UK, ENGIE employs 20,000 people in a number of activities across the energy value chain, as well as through its extensive services business.

In generation, ENGIE is one of the country's largest independent power producers, with interests in approximately 4000 MW of plant. This comprises a mixed portfolio of generation assets that include gas, CHP, onshore wind, solar and the UK's foremost pumped storage facilities at First Hydro.

ENGIE operates an Industrial and Commercial (I&C) and Small and Medium Enterprise (SME) B2B electricity and gas supply business in the UK, and has recently entered the domestic retail market through its Home Energy business.

It owns the country's largest district heating business, providing district energy solutions to the public, commercial, industrial and residential sectors. Key sites include the Olympic Park District Heating facility in London. It is also one of the top five service companies in the UK, subsequent to the acquisitions of Balfour Beatty Workplace and Lend Lease FM.

Key points

- **ENGIE has identified a number of issues that would need to be considered to further develop Ofgem's preferred testing format (Of 15).**
- **ENGIE asks Ofgem to review its decision to reject CP 175. Without this change, a refurbishing CMU that fails to prove its connection capacity by a few kW will lose out on a 15 year refurbishing contract.**
- **ENGIE does not agree that Satisfactory Performance testing should be extended to summer. This creates an additional burden with no consumer benefit.**
- **ENGIE does not agree with Ofgem that de-ratings are a better solution to testing to address short delivery duration. ENGIE considers that Ofgem should either adopt testing as the solution to address short delivery durations or issue a separate consultation in this area setting out proposals as to how de-ratings will be determined.**

Responses to Consultation Questions

Question 1 - Do you agree with a financial penalty under Rule 6.8.4 for failing to meet refurbishment milestones?

1. Had this rule change been in place initially, it may have discouraged CMUs that took a refurbishment contract in the first auction from reverting to a one year agreement. To introduce this change now is too late – the threshold for obtaining a refurbishing contracts has been set at a level that in most cases is only likely to apply to coal plant. It is unlikely that coal plant would be seeking a refurbishing contract in future auctions when unabated coal plant is to be phased out by 2025. ENGIE does not therefore see a strong need for this change.

2. If Government does consider the change as necessary, it could consider requiring credit cover to be posted for future refurbishing contracts up to the point of meeting the Financial Commitment Milestone. A penalty for failing to meet the Substantial Completion Milestone and/or termination provisions similar to those in Rule in 3.3.3 (f) are not necessary as the CMU would also be an existing CMU and have TEC. It would therefore either be Operational in the Delivery Year through reverting to a one year agreement (so the capacity is in existence) or would give up TEC and pay the necessary termination fee.

Question 2 - 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).

3. A CMN is likely to be issued ahead of system warning messages. It would be more helpful to align the two to prevent capacity providers responding to the CMN when there is still margin above demand.

Question 3 - 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)

4. Ofgem proposes to introduce a new Rule 3.4.10 which requires those with relevant Balancing Services at the Application date to notify the SO of the type of service provided and key contract terms. ENGIE questions the benefit of this in particular for the T-4 auction as these contracts typically have a maximum of 2 years duration and will either have expired before the start of the Delivery Year or if they have been successfully re-tendered, the key terms may have changed. The information submitted will therefore be irrelevant and may lead to the EMR DB concluding incorrectly on capacity volumes, testing and output.
5. Changing the definition of Proven DSR to the DSR capacity as evidenced by the DSR test Certificate suggests a permanent link to a relevant frequency response contract. As highlighted in question 5, thought will need to be given to the situation where the two contracts are not aligned due to different procurement timescales and duration?
6. Balancing services are evolving. To avoid the Rules always playing catch up when new balancing services are developed or when nomenclature changes, it would be helpful if the relevant Balancing Services definition could be more generic – for example it could encompass any firm contract with the SO that relates to the provision of reserve or response (but not black start). Alternatively, Relevant Balancing Services could be defined outside of the Rules (in the Procurement Guidelines for example), allowing changes to the list to be made more easily.

Question 4 - Do you agree that this is an appropriate solution to the issue identified with the storage output formula under Rule 8.6.2? (Of13)

7. ENGIE agrees with this as it recognises and rewards the ability for storage to switch from importing to exporting in a stress event.

Question 5 - Do you agree this approach allows DSR providers of frequency response the ability to participate effectively during the testing regime? (Of14)

8. ENGIE welcomes Ofgem's decision to allow DSR providers of frequency response to participate in the Capacity Market. We also agree with the idea of capping the volume of capacity at the low frequency element of the asset's declared availability.
9. However there are still concerns like the ones raised above with the interlinking of contracts between frequency response services and the Capacity Market i.e. 4 year CM timescales versus 1-2 year FR contracts. This makes it impossible for FR providers to declare the FR contract status 4 years in advance.
10. Of14 appears to limit competition - the proposed interlinking of the FR and CM contracts would appear to prevent a customer from working with one provider for frequency response from a facility while using a different provider for the CM (new rule 14.5.9).

Question 6 - 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)

11. ENGIE agrees with Ofgem's decision to allow providers of static FFR and FCDM to prove their ability to deliver the service been based on their actual dispatch response. The dynamic FFR base lining methodology appears to be complex and would benefit from a worked example.

Question 7 - Do you agree that the current metering arrangements are suitable for DSR providers of frequency response services? (Of14)

12. Yes

Question 8 - Do you agree with our conclusions with regard to our preferred testing format? (Of15)

13. ENGIE supports the principle that CMUs should be able to set and demonstrate their connection capacity. ENGIE is however unsure that it will result in providers bidding in the capacity they can actually deliver and may still lead to connection capacity being overstated at prequalification (see question 9). Other issues that may need to be addressed are:
 - The proposals make no reference to TEC. Where the choice of connection capacity would lead to TEC being exceeded if all CMUs at a connection were to operate simultaneously, how would this be dealt with?
 - It is not clear whether this proposal also relates to and would work for new build CMUs or refurbishing CMUs.
 - The proposal to self-nominate connection capacity should not just apply to transmission connected CMUs but to all CMUs.
 - Thought needs to be given as to how a CMU without a contract in the testing period which does not generate can prove its performance – the CMU might for example be on outage for the whole year. One solution is to have a higher penalty rate if the testing is delayed beyond the testing window.

- TEC would be needed in the year before the delivery year in order to satisfy the tests. For those without TEC (in the T-1 auction for example), this is a costly enabler to participating in the following year's CM.
- In the example given, the penalties for failing to meet the 97% threshold can exceed the CM payment. Elsewhere in the CM, penalties are capped at the annual payment and this premise needs to extend to proving connection capacity should this change be implemented.

Question 9 - Do you think our proposed approach to setting incentives (threshold and penalty) will effectively reduce instances of overstating capacity? (Of15).

14. To an extent ENGIE agrees. Providers may however choose a connection capacity at pre-qualification that is higher than typical levels of maximum output and hope to be able to prove they can meet it – as long as they meet the 97% level they are no worse off. There is therefore every reason to bid in a higher volume into the T-4 auction. With Government buying c. 50GW in the T-4 auction, this would leave them with potentially 1500MW of shortfall always to buy in the T-1. We have previously raised concerns that there may be little capacity and hence little liquidity in the T-1 auction.
15. An alternative solution to discourage setting a 'challenging' connection capacity could be to have a two tier penalty rate, with one rate from 100% to 97% and a higher rate below 97%. Or if the shortfall through overstating connection capacity does have to be made up in the T-1 auction the CMU would pay the higher of the T-1 auction clearing price and the T-4 clearing price on the difference between the connection capacity and proven capability down to 97% and TF5 thereafter.

Other comments:

CP175

16. ENGIE raised CP175 to address the situation where a refurbishing CMU fails to prove that they are 'Operational' at the connection capacity by a few kW and as a result loses its refurbishing contract and reverts to a one year agreement. Ofgem's reasoning for rejecting CP175 is threefold:
- Ofgem says it has no evidence that reaching full connection capacity has been a challenge for refurbishing CMUs or that additional flexibility is needed. This is not surprising - the CM has not yet started and the CMUs that did enter into three year refurbishing agreements in the 2014 T-4 auction have all reverted to one year agreements. There can therefore be no evidence as to whether this a problem.
 - Ofgem notes that as some refurbishments may only increase capacity by a small amount, allowing a 90% threshold would not give evidence that the refurbishment was successful. The CM Rules and Regulations do not require a refurbishment to lead to a higher output compared to the pre-refurbishment CMU and requiring the CMU to be Operational at the connection capacity therefore creates an inconsistency. In 2016, Ofgem approved Rule change CP126 (raised by Energy UK). CP126 recognised that not all refurbishments lead to an increase in capacity and that the Rules were not suited to such circumstances. This reason for rejection is therefore not relevant.

- Ofgem believes that the change would require changes to the Regulations. ENGIE recognised this and proposed a drafting that we considered did not require changes to the Regulations. The definition of 'Operational' could be further reworked as follows:

(c) for a Refurbishing CMU, whose Connection Capacity is greater than the Connection Capacity of its equivalent Pre-Refurbishment CMU, an Independent Technical Expert has issued a certificate confirming that the relevant test from "(a), (aa) or (b) above has been met (substituting FON for ION where applicable), and the CMU and supporting infrastructure has been fully commissioned (as defined in the Regulations) to the extent that it is at least capable of operation at its Connection Capacity multiplied by 90% of its de-rated capacity obligation; and

(d) for any Refurbishing CMU, whose Connection Capacity is less or equal to the Connection Capacity of its equivalent Pre-Refurbishment CMU, an Independent Technical Expert has issued a certificate confirming that the CMU and supporting infrastructure has been fully commissioned (as defined in the Regulations) to the extent that it is at least capable of operation at its Connection Capacity multiplied by 90% of its de-rated capacity obligation

17. ENGIE considers that the reasons for rejecting CP175 are flawed asks Ofgem to reconsider its decision here.

CP 169

18. ENGIE supports the intent of CP169 as raised by RWE but does not agree with Ofgem that testing should be extended to summer.
19. CP169 was meant to avoid unnecessary running in winter just in case a stress event happened in the summer. Ofgem's proposed amendment will mean that CMUs will that would otherwise have shutdown for the summer months either to take a long outage or for commercial reasons will instead do the required testing either at the beginning or end of the summer testing period. Ofgem's proposal will not therefore demonstrate that a CMU is available throughout the Delivery Year, it will merely be a 'box ticking' compliance requirement that provides no benefit to the consumer.
20. Ofgem's proposed amendment to CP169 also fails to recognise that the Secondary Trading arrangements have been put in place to allow CMUs to be unavailable for part of the Delivery Year. This can be achieved through trading on the obligation (and also the SPD testing) and also through ex-post volume reallocation where the obligation continues to rest with the Transferor. Volume reallocation is likely to be the preferred route for managing non delivery due to the strict limitations on who can participate in Obligation Trading. Ofgem's proposal to extend testing to summer would be severely restrictive to those seeking to manage summer shutdowns using volume reallocation as they cannot pass on the testing obligation. It may also be challenging to meter the capacity obligation on CCGTs in summer due to the impact that higher ambient air temperatures have on output.
21. We also do not agree with Ofgem that CMUs will delay their satisfactory performance testing (SPD) to summer. Ofgem appears to believe that the level of delivery for SPDs relate to the LFCO - this is not the case. The testing obligation requires the CMU to operate at its connection capacity which the same year round. Failure to demonstrate SPDs on three occasions in winter

will result in at least one month's lost income. A CMU would not want to lose this income so would not delay testing to the summer when the delivery level is the same.

22. It may be the case that in linking the testing obligation under Rule 13.4.1 to 'capacity obligation' in the Regulations (defined as delivery capacity when required to do so) has created confusion as to what must be done to meet the SPDs. Either the definition of capacity obligation in the Regulations needs to be better drafted or Rule 13.4.1 could require CMUs to demonstrate their Auction Acquired Capacity Obligation plus any obligations acquired through secondary trading.
23. Finally, in the last ten years there have been two occasions when demand had to be curtailed by the SO, one of these was a Saturday in February, the other was in late May. ENGIE does not consider this provides any evidence that a higher penalty should be applied for failure to demonstrate satisfactory performance in winter.

CP163/164/204/201/211/212

24. Each of these proposals seeks to amend the testing regime to ensure that CMUs can deliver for longer than 30 minutes. ENGIE raised the first change proposals in this area and this precipitated other changes, some of which address the issue of short delivery duration through de-ratings rather than through testing.
25. ENGIE did consider de-ratings when developing its modifications but rejected this solution. The intention of the modifications were to require capacity to have the ability to deliver energy for a useful period of time. Applying a greater de-rating reduces the problem of short delivery duration but does not eliminate it – applying a 25% de-rating factor (for example) to 1GW of batteries that obtain a contract on the auction will still mean that 250MW of capacity than can deliver energy for longer will not get a contract.
26. ENGIE also viewed the use of testing as a simpler solution. De-ratings have been applied in the capacity market to reflect plant reliability not deliverability. Once they are used to also capture the latter, bespoke de-ratings become necessary – for example different sources of DSR even with the same generic source (e.g. refrigeration) will need different de-ratings to reflect how long they can safely reduce load. Assumptions would also have to be made as to the likely duration of a system stress event – without any ever occurring that meet the definition in the CM Rules, this is guesswork and does not provide a suitable foundation for setting de-rating factors.
27. ENGIE does not therefore agree with Ofgem that de-ratings are a more appropriate solution to address short delivery duration. Asking the SO to develop a new de-rating methodology is premature. Instead, ENGIE considers that Ofgem should either adopt testing as the solution to address delivery durations or issue a separate consultation in this area setting out proposals as to how de-ratings will be determined.

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