



Ref – OFGEM/

The Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

Mallory Land Ltd
20 – 22 Wenlock Road
London
N1 7GU

+44 (0)20 3488 2206
contact@malloryland.com
www.malloryland.com

5th May 2017

Dear Sirs

**Consultation response on changes to the Capacity Market Rules 2014 (the “Rules”)
pursuant to Regulation 79 of the Capacity Market Regulations 2014 (the “Regulations”)**

We strongly object to the proposed change to the CM Rules removing the option for applicants to defer Relevant Planning Consents (CP190), if this means that planning consent must have been secured prior to the end of the pre-qualification period.

Developing a new build generating unit is a complex and costly process. In addition to co-ordinating a number of different parties, not least electric and gas DNOs, Local Planning Authorities and financing parties, developing a project to be eligible and pre-qualify for the soonest available Capacity Market Auction is a key variable in the success of a potential project.

Ofgem, BEIS and the EMR Delivery Body should recognise that CM participants require a high degree of continuity and stability in the auction eligibility criteria, process and timing.

As a developer, our projects can take over a year to develop and indeed we have been actively investing in the development of projects since last year based on the CM Rules and broad timetable of the 2016 CM auction. Substantial resource and financial investment has been committed prior to any planning submission, with pre-application processes actively moving forward, and applications to be submitted in advance of the pre-qualification deadline.

Based on the CM Rules and the broad timetable of the 2016 CM auction, our understanding prior to this Consultation was that the deadline for gaining Relevant Planning Consents would have been towards the end of October 2017. As now proposed this could be as early as 25th August 2017. This will detrimentally impact our business.

We would not plan to enter pre-qualification without planning consent, however, we cannot have complete control over the development process, particularly Local Planning Authorities. For this reason, the statement by National Grid that *“Applicants could have started the planning application*

*process prior to prequalification*¹, does not fairly reflect the long term and unpredictable nature of developing new build generation units where multiple strands need to be pulled together to deliver a project.

We are developing viable projects which will, if this change is introduced, not now be submitted for the 2017 CM auction. This proposed change will have a detrimental impact on our business, immediately resulting in a financial loss, as a number of projects cannot be held for future auctions, due to funding and other requirements placed upon us, including the requirement to demonstrate progress to a prescribed timeline enforced by DNO's in connection with electricity grid offers.

We are of the opinion that due to the short time period between the proposed change consultation, and its practical imposition, that the proposed change cannot be fairly applied this year, and should instead be deferred until 2018. Alternatively, if it is considered that a Rule change is required, then additional time should be provided to reflect the very significant adverse impact this has on developers and projects. We therefore propose that in this scenario Applicants would be required to provide evidence that they have, as a minimum submitted a planning application. Submitting a planning application demonstrates a high degree of financial and resource commitment in a project and recognises the unpredictable timetable of gaining planning consent.

Do please contact us if you require any further information.

Yours faithfully

Sarah Williams
Director
For and on Behalf of Mallory Land Ltd

Email: sw@malloryland.com

¹ EMR Delivery Body submitted "Proposal for a Capacity Market Rules Change" dated 11th November 2016