Making a positive difference
**for energy consumers**

Gwneud gwahaniaeth gwirioneddol
**i ddefnyddwyr ynni**

Dear colleague

**Decision on further amendments to the Capacity Market Rules**

**Summary**


- This letter sets out our decisions on changes to the Capacity Market Rules[1] (the "Rules") pursuant to Regulation 77 of the Electricity Capacity Regulations 2014 (the "Regulations").
- When reaching our decisions, we have taken into account the 41 responses to our consultation.[2]
- We have decided to take forward 21 rule changes. 20 of these will be implemented in 2017 and one in 2019.
- We are delaying the implementation of CP190 to allow participants to defer the submission of their planning consent in the upcoming prequalification round. We have included the amendments this year, but they will come into effect in 2019.


**Introduction**

In our open letter of 15 September 2016 we invited Rules change proposals from stakeholders. We received 79 proposals, which are available on our website.

In line with Regulation 79 and our published guidance,[3] we consulted on the Rules change proposals submitted to us, as well as four changes that we suggested. The consultation ran from 25 March to 5 May 2017 (the "consultation"). We received 41 responses which are on our website. We also held a stakeholder workshop on 28 April 2017 to discuss the proposed Rules changes.

**Context**

The Capacity Market is governed by the Energy Act 2013 (2013/32), the Regulations and the Rules. The Regulations permit us to amend, add to, revoke or substitute any

[1] The latest version of the Rules can be found at https://www.ofgem.gov.uk/system/files/docs/2016/07/capacity_market_rules_2016_presented_to_parliament.pdf

[2] Our consultation and stakeholders' responses can be found at https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-amendments-capacity-market-rules-2014

[3] https://www.ofgem.gov.uk/ofgem-publications/89120/finalguidelinesforthecapacitymarketrulesaugust.pdf

provision of the Rules. When changing the Rules, we must have regard to our principal objective and general duties,[4] and the specific objectives set out in the Regulations:[5]

- promoting investment in capacity to ensure security of electricity supply;
- facilitating the efficient operation and administration of the Capacity Market; and
- ensuring the compatibility of the Capacity Market Rules with other subordinate legislation under Part 2 of the Energy Act 2013.

**Our decision on amendments to the Rules**

Annex A sets out our decisions and reasoning for each of the proposals. In making these decisions, we considered how the proposed amendments align with our statutory duties, the purpose of the Capacity Market, and the objectives of the CM Rules. We would like to thank all those who provided feedback and comments on the proposed changes. Where appropriate, we have amended our minded to decisions and drafting in light of stakeholders' feedback.

Following our consultation we have decided to take forward 21 amendments to the Rules. These include changes to demonstrating Satisfactory Performance Days; Prequalification requirements; enabling interconnectors to become Price-Makers; facilitating the participation of dynamic frequency response providers; and implementing a new baseline for storage CMUs. The changes we are making to the Rules improve the efficiency of the Capacity Market for participants and provide value to consumers.

We have decided to postpone the implementation of some amendments to allow NGET time to make the necessary changes to their systems. In response to stakeholder concerns, we have also decided to postpone the implementation of our amendments that would remove the option to defer the submission of planning consents. These changes will now come into effect in 2019 so that participants have sufficient warning for their projects that are already in the process of securing planning consents and Development Consent Orders.

**List of annexes**

- Annex A – summarises the responses we received for each Rules change proposal we consulted on and our decisions
- Annex B – provides a table summary of our decisions
- Annex C – summarises our decision on our proposal Of12 to introduce DSR Component reallocation
- Annex D – summarises our decision on our proposal Of13 to change the storage baseline methodology
- Annex E – summarises our decision on our proposal Of14 to facilitate the participation of dynamic frequency response providers
- Annex F – summarises our decision on our proposal Of15 to introduce amendments on selecting connection capacity

Alongside this decision, we have published a schedule showing the amendments we have decided to make. This version of the Rules also includes several changes we decided to make in 2016 with delayed implementation (CP128, Of10 and Of11).

[4] Ofgem's principal objective and general duties can be found at www.ofgem.gov.uk
[5] Regulation 78 sets out these objectives. Regulation 77(3)(a) states that the Authority must not make any provision in Capacity Market Rules which is inconsistent with the Regulations

**Next steps**

Section 41(9) of the Energy Act 2013 requires that the Authority when amending the Rules must, as soon as reasonably practicable after amendments are made, lay them before Parliament and publish them.

We expect the amendments to be laid before Parliament prior to 2017 Prequalification.

Yours faithfully

Mark Copley

Associate Partner, Wholesale Markets

# Annex A: Proposals and decisions (by Rules chapter)

This annex sets out a short summary of each of the proposals, a summary of the consultation responses, our decision, and our reasoning. Each proposal is referred to by the reference number allocated on our website. Our own proposals are labelled Of12-Of15.

## 1. General Provisions

**Proposals rejected**

### CP166 (Waters Wye Associates)

This proposal seeks to introduce a new role in the Rules for a 'Prequalification Agent'. This would allow an individual to represent more than one Applicant during the Prequalification process.

**Consultation responses and decision**
We received one response in support of our minded-to decision.

We have decided to reject this proposal. We continue to believe that this change would be of limited benefit. As the proposer noted, an Applicant can already receive advice from a third party on their Application. In addition, an Applicant is able to set up a user on the prequalification system, which is external to its company. This would not allow that user to bid into the auction as this is carried out on a separate IT system. Along with the prohibitions on disclosing auction information, which are listed in Rule 5.13.1(e), this would provide a safeguard against collusion in the auction.

NB: An Agent is able to act as the Bidder for a CMU on behalf of the Applicant. However, to guard against the risk of collusion an Agent cannot act for more than one party, and this is prohibited by Rule 3.3.5.

### CP172 (RWE)

This proposal seeks to increase the number of providers that can become secondary trading entrants by amending the definition of Secondary Trading Entrant to mean the 'Applicant for any Existing CMU that does not hold a Capacity Agreement following the T-1 Auction for a Delivery Year.'

**Consultation responses and decision**

We received one response disagreeing with our minded-to decision to reject the proposal. This response noted that there could be instances where a generator may not have taken part in the auction but is subsequently able to bring forward capacity.

We have decided to reject this proposal. Genuine capacity should be able to participate in the Capacity Market (the "CM"). However, we believe that the current proposal offers insufficient safeguards against gaming concerns.

The Rules are designed to offer protections against gaming risks, in particular the risks of auction withholding, as detailed in the Capacity Market Gaming and Consistency Assessment.[6] In its current form, we are concerned that the proposal could increase the incentives for withholding from the auctions and reduce auction liquidity. This proposal would give participants the option of receiving an agreement after the T-1 auction despite not participating in the auction. A participant could therefore choose to withhold capacity from the auction for wider portfolio gain, increasing costs to consumers.

**CP178 (E.On) and CP206 (Ecotricity)**

These proposals both seek to clarify the Rules for CMUs that are not named on the connection agreement. CP178 seeks to amend Chapter 3 to clarify that CMUs whose connection agreements are in the name of parties other than the Applicant are eligible for prequalification. CP206 seeks to amend the definition of Distribution Connection Agreement under the General Provisions so that a party is able to prequalify where it is not named on the agreement but has the right to use that grid connection.

**Consultation responses and decision**

We received one response welcoming the work of NGET to address the issue and requesting that the guidance should provide sufficient clarity.

We have decided to reject this proposal on the basis that NGET is planning to include the subject of parties not named on the connection agreement in their Prequalification Guidance documentation and therefore a change to the Rules is unnecessary.

**CP203 (Anonymous)**

This proposal seeks to amend the definition of Excluded Capacity to include Generating Units holding a Black Start contract.

**Consultation responses and decision**

We received two responses on our proposed rejection of this proposal. One respondent accepted that we cannot amend the General Eligibility Criteria in the Regulations but requested that we reassess our additional reasons for rejection because of the distortive effects of capacity providers who also hold a Black Start agreement. One respondent expressed support for our decision with the justification that ancillary services products need to remunerate providers appropriately for their services.

We are rejecting this proposal for two reasons. The first is that it requires a change to the General Eligibility Criteria, as set out in our consultation. The second is that we continue to believe that the CM and Black Start contracts remunerate providers for different services. The CM is designed to ensure generation adequacy. Agreements to provide the Black Start service relate to system security and not to generation adequacy. Black Start is the process used to recover from an event which results in the full or partial shutdown of the transmission system.

[6] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/252746/CRA_Report_on_the_Capacity_Market_Gaming_Risks.pdf

### CP207 (Ecotricity)

This proposal seeks to amend the Rules so that a carbon intensity limit of 450gCO2/kWh is established as part of the General Eligibility Criteria for all CMUs. This limit was chosen to reflect the Government's Emissions Performance Standard.

#### Consultation responses and decision

We received three responses on our minded-to decision to reject this proposal, which was on the basis that it would require changes to the Regulations. Two responses supported our decision, agreeing that this is a condition of the State Aid clearance and that implementation of an emissions limit could also have an effect on prices to the detriment of consumers. The original proposer argued that the availability of abatement and mitigation technologies means this proposal would not undermine technology neutrality. However, they also acknowledged that this proposal would require changes to the Regulations.

We are rejecting this proposal because it would require changes to the Regulations. In addition, we have concerns that that this proposal could undermine technology neutrality. Any emissions limit should be left to wider policy development by Government.

## 2. Auction Guidelines and De-rating

**Proposals rejected**

### CP176 (EDF) and CP224 (Centrica)

These proposals raise concerns around the durability of battery storage technologies participating in the CM and therefore have a similar aim to CP163, CP164 and others. Both proposals seek to solve the issue by using de-rating factors. CP176 seeks to introduce a series of multipliers, based on different levels of durability, which would act to de-rate the relevant units further. Batteries with a lower durability would be de-rated more significantly relative to resources that can maintain delivery for a longer period. CP224 would alter the de-rating calculation for storage facilities so that durability is accounted for as well as availability. Both CP176 and CP224 make some assumptions about the duration of a Stress Event in order to set de-rating factors.

#### Consultation responses and decision

We are rejecting these proposals because BEIS and NGET are developing a new de-rating methodology for storage technologies. We received five responses, four of which asked for greater involvement in developing the new methodology. We understand that industry will have the opportunity to engage with BEIS and NGET in the development of their analysis during the course of this summer. NGET also confirmed in their response that they are intending to develop a new de-rating methodology during summer 2017.

### CP191 (NGET)

This proposal seeks to amend the de-rating factor calculation under Rule 2.3.5 so that output data is used to calculate the de-rating factors for Distribution Connected CMUs.

**Consultation responses and decision**

We received three responses to our minded-to decision to reject this proposal. Two of these responses agreed with our rejection with one noting that they would not support any proposal that treats distribution and transmission connection CMUs differently.

The other response, from NGET, recognised the concerns we identified in our minded-to decision, namely that there are challenges to de-rating Distribution Connected CMUs and limitations to data availability. NGET indicated that they are keen to work with us to develop a proposal to address these issues.

We have decided to reject this proposal as we believe that the methodology in its proposed form is not consistent with the intent of the de-rating process. However, we are supportive of a change which would improve the de-rating methodology and we are happy to work with NGET if they submit a further proposal.

### CP238 (Scottish Power)

This proposal seeks to amend the Generating Technology Classes listed under Schedule 3 so that the 'Storage' class is divided into two. One class would apply for pumped storage hydro stations and the second to batteries and other types of non-pumped storage plant. This aims to ensure that separate de-rating factors are applied to different types of storage.

**Consultation responses and decision**

We received one related response which was supportive of measures being taken by NGET and BEIS to develop a new de-rating methodology for Storage.

We have decided to reject this proposal. Further analysis of the de-rating methodology is needed before changing the list of classes under Schedule 3. As noted in our consultation, NGET is currently carrying out analysis to develop a new de-rating methodology and BEIS will consider amendments in this area following completion of the relevant analysis.

## 3. Prequalification Information

**Amendments we will make**

### CP190 (NGET)

This proposal seeks to amend Rule 3.7.1 to remove the option for Applicants to defer provision of Relevant Planning Consents until after prequalification.

**Consultation responses and decision**

We received 29 responses commenting on this proposal. 22 respondents opposed our minded-to decision to take this forward, of which eight opposed the principle of the change and 14 opposed immediate implementation. Five responses supported immediate implementation. Two further responses did not state whether they disagreed or agreed with the proposal.

In view of the stakeholder feedback we received, we have decided to postpone the implementation of this change for two years so that it will come into force for the 2019 prequalification window. This should allow providers who are currently seeking national planning consents to continue to apply for Prequalification without being prejudiced by this change. To enable this, we have also added a definition for the Sixth Full Capacity Auction under Rule 1.2.

We continue to believe that making this change will significantly simplify the prequalification process and reduce the number of unnecessary speculative applications. As the Capacity Market becomes more established Applicants will be able to plan sufficiently ahead of time to have secured Relevant Planning Consents by the Prequalification Window. The ability to defer Relevant Planning Consents to 22 working days before the auction has resulted in a number of speculative applications which have then been withdrawn when Planning Consents were not secured. We have also seen multiple applications for the same site at different levels of capacity, with all but one withdrawn at the Planning Consents deadline. Deferred submission of Relevant Planning Consents is not intended to be an option for delaying decisions regarding connection capacity or other parameters.

However, we accept that our proposal to implement this amendment immediately would have reduced the effective time to obtain planning consents for the 2017 Auctions without providing adequate notice to stakeholders. We acknowledge that the lead time on national planning consents for significant infrastructure projects can be up to 18 months. Immediate implementation could have deterred applicants with New Build projects from Prequalifying for the 2018 Auctions and therefore by deferring it we are ensuring that there is not a short-term adverse effect on competition and liquidity.

**CP192 (NGET)**

This proposal seeks to amend the Rules to clarify that where connection offers are provided in place of Distribution Connection Agreements they must be accepted connection offers.

**Consultation responses and decision**

We received two responses on our proposed amendments to clarify that connection offers provided in place of Distribution Connection Agreements should be accepted connection offers. Both responses suggested changes to the proposed drafting. One respondent requested the addition of flexibility for Connection Agreements that continue to be under negotiation. The other respondent suggested that the term 'accepted connection offer' should be defined in the Rules.

We have decided to make the amendments as proposed in our consultation. They will make the prequalification requirements clearer to applicants and potentially reduce the number of CMUs failing prequalification.

We do not agree with the consultation responses that further changes are required to our proposed amendments. We do not think connection agreements which are under negotiation should be allowed as they provide insufficient certainty that the unit will have a connection agreement in place by the Delivery Year. We also do not believe that the term "accepted connection offer" needs to be defined as it is already sufficiently clear.

### CP215 (ADE)

This proposal seeks to amend the Rules to permit aggregated Prospective CMUs applying through a Dispatch Controller. The Rules currently permit this for CMUs with units owned by more than one legal owner. This amendment would extend this provision to CMUs with all units owned by the same legal owner.

#### Consultation responses and decision

We received four responses on our minded-to position to take forward this proposal. Three respondents supported our position. One respondent opposed it because they believe changes made by Government last year already address the issue.

We have decided to take forward this proposal and allow a Dispatch Controller to act as the Applicant on behalf of Prospective CMUs which consist of one or more units, which may have one or more legal owners. We are also taking forward a further drafting amendment suggested by NGET to ensure that the cap on Connection Capacity is applied consistently.

We do not believe that changes made by Government last year address this issue. The Government made a similar change for Existing Generating Units last year and this change aligns the treatment for Prospective CMUs.

Our changes are beneficial as they correct for an anomaly, which occurs when ownership of generating units in an aggregated CMU is vested with one legal owner but the dispatch controller of that CMU is another legal person. Rules 3.2.6 and 3.2.7 currently permit CMUs with *more than one* legal owner and a different dispatch controller to participate. However, this excludes CMUs with *only one* legal owner and a different dispatch controller. This amendment is intended to correct this anomaly.

## Proposals rejected

### CP173 (RWE) and CP219 (ADE)

CP173 seeks to amend Rule 3.6.1(c) to remove the requirement for Non-CMRS[7] CMUs using Bespoke Metering Configuration Solutions to provide a supplier letter to confirm historic net output. CP219 seeks to amend the Rules to clarify how on-site generation can participate in the Capacity Market. The proposal would allow on-site generating CMUs to submit a letter from a Private Network owner or customer to satisfy the prequalification requirements under Rules 3.6.1 and 3.7.1.

#### Consultation responses and decision

We received four responses opposing our rejection of CP173 and two responses opposing our rejection of CP219. Stakeholders suggested that the lack of clarity regarding the requirements of Rules 3.6.1 and 3.7.1 have discouraged some participants from applying for prequalification. They suggest that the ability to prequalify relies on NGET's interpretation and that this interpretation is not made sufficiently clear to all participants. NGET expressed its support for our rejection

[7] Central Meter Registration Service

of CP219, stating that it supports our conclusion that on-site units are able to prequalify using the existing provisions.

We have decided to reject these two proposals as no further evidence has been provided demonstrating that on-site CMUs or CMUs connected to private networks have been unable to prequalify using the existing arrangements. NGET intends to clarify the requirements in its Prequalification Guidance.

**CP181 (E.On)**

This proposal seeks to amend Rule 3.4.7 to enable components that are part of a site which is only partially in receipt of low carbon support to participate in the CM.

**Consultation responses and decision**

We received three stakeholder responses to our minded-to position to reject this proposal. One response suggested that rejecting this proposal could result in suitable providers being excluded from the CM, as expensive metering arrangements would be required for sites to become eligible. One stakeholder suggested that cumulation of State Aid is unlikely given that a Stress Event was more likely to occur when renewable generation is low and therefore subsidised electricity from renewable generation would be less likely to contribute to the performance of the CMU.

We have decided to reject this proposal because we remain of the view that the proposed change could lead to cumulation of State Aid, which is prohibited under the State Aid clearance granted for the Capacity Market. There is also a risk that capacity could be being delivered from units which are receiving low carbon support, and these are also prohibited from entering the CM.

**CP196 (National Grid Interconnector Holdings Ltd)**

This proposal seeks to clarify the Rules around Joint Owner declarations of Existing and New Build Interconnector CMU by either removing Rule 3.9.2(a), or Exhibit DA or DB.

**Consultation response and decision**

We received one response, which asked for clarity on the difference between exhibits.

We have decided to reject this proposal. As we set out in the consultation document, the two exhibits were put in place to accommodate different corporate governance structures. We encourage affected parties to seek their own legal advice as to which is the more appropriate declaration for their circumstances.

**CP197 (National Grid Interconnector Holdings Ltd)**

This proposal seeks to amend the Rules to relax the requirements for New Build and Refurbishing Interconnector CMUs, in relation to the non-GB part of the project, to provide the relevant Planning Consents alongside the declaration.

**Consultation responses and decision**

We received two responses. One respondent disagreed with our proposed rejection, noting that credit cover could be an appropriate way of mitigating the risk to consumers of deferring planning consents to after the auction. One

respondent agreed with our proposed decision, noting that no additional flexibility is needed for Interconnectors.

We have decided to reject this proposal. We continue to believe that the risk of an interconnector failing to obtain planning permission should not be borne by GB consumers.

**CP200 (Waters Wye Associates)**

This proposal suggests amending the Rules to allow Applicants to opt-out of the CM process during the Tier 1 disputes window. Currently the Rules allow participants to opt-out only during the Prequalification Window.

**Consultation responses and decision**

We received one response in favour of our minded-to decision.

We have decided to reject this proposal. As we said in our consultation, allowing CMUs to submit an opt-out notification during or after the disputes window would require wider changes to the Rules to account for the associated consequences. We believe that the risk of generators needing to use this provision is low and that the Rules already provide mitigating tools for some CMUs as they may effectively 'opt-out' by not confirming entry into the auction. Given this, we do not believe the benefits of this proposal outweigh the costs of introducing new arrangements.

**CP223 (ADE)**

This proposal seeks to amend the Rules to simplify the metering arrangements by reducing small generators and DSR participants' dependence on Suppliers and Meter Operator Agents. In our consultation we proposed to make changes to account for situations where supplier letters refer to individual units as opposed to the CMU as a whole, but we were minded to reject the introduction of an Independent Metering Expert role.

**Consultation responses and decision**

We received one response on this proposal. While the response was supportive of the changes we are planning to make, it also suggested that further action is required to improve information and data flows between suppliers, customers, and aggregators. The respondent highlighted issues with the dependence of small generators and DSR participants on supplier co-operation.

We have decided to make the changes proposed in our consultation, with minor amendments to ensure that the drafting reflects our intent. This includes changes to clarify requirements for Generating Units that comprise a CMU. However, we have decided to reject the proposed introduction of an Independent Metering Expert.

While we recognise the issues raised by the respondent, in our minded-to decision, we noted specific concerns around the practical role and enforcement of an Independent Metering Expert, and we received no new evidence to address these concerns.

We note that the proposer is exploring alternative approaches to address the issues identified, and we welcome further proposals in this area.

**CP225 (Centrica)**

This proposal seeks to amend the Rules to facilitate the participation of Generating Units located on customer sites, in particular higher load factor units that are regularly in merit. The proposal would provide alternative Prequalification requirements under Rules 3.6.1 and 3.6.3 for on-site generating units that have established their connection capacity under Rule 3.5.3.

**Consultation responses and decision**

We received two responses opposing our rejection of this proposal. The respondents acknowledged that the Rules currently allow on-site Generating Units – including high load factor units such as CHPs – to prequalify, but expressed dissatisfaction at the certainty of the route to prequalification and at the level of information that NGET provides regarding this.

One respondent commented that the lack of an adequate DSR baseline for small, on-site, high load factor Generating Units is preventing over 500MW of capacity from participating in DSR CMUs. We considered a proposal in this area in 2015 (CP49) in which we determined that CHP units do not comply with the definition of DSR under the Regulations. This holds that DSR is "the activity of reducing the metered volume of imported electricity of one or more customers below a baseline, by a means other than a permanent reduction in electricity use".[8]

We have decided to reject this proposal as the Rules already allow on-site Generating Units to prequalify. As we cannot amend the Regulations we are unable to make a change to the DSR baseline for high load factor Generating Units.

**CP226 (Centrica)**

This proposal would amend Rule 3.7.3 so that New Build Distribution CMUs are no longer able to defer providing a copy of their Distribution Connection Agreement or Private Network agreement until after Prequalification.

**Consultation responses and decision**

We received two responses. One disagreed with our minded to decision on the basis that the current arrangements allow distribution-connected generators to defer connection agreements at Prequalification, while transmission-connected generators are not able to. The second (and confidential) response supported our position. It argued that implementing the proposal would undermine competition in the CM.

We have decided to reject this proposal because there are practical considerations which may prevent New Build Distribution CMUs from providing a Distribution Connection Agreement or Private Network agreement four years ahead of the Delivery Year. We do not believe a full justification has been provided as to why such arrangements are also required for Generating CMUs. The Rules outline penalties for a failure to deliver on a CM obligation, and should ensure that participants have a strong incentive to bid in sites which will be able to secure a Connection Agreement or Private Network agreement for the Delivery Year.

[8] Decision letter on changes to the CM Rules, June 2015. https://www.ofgem.gov.uk/sites/default/files/docs/2015/07/20150528_response_document_revised.pdf

**CP227 (EP Invest Ltd)**

This proposal would remove the requirement for a Mandatory CMU which is submitting an Opt-Out Notification to state whether the CMU will be closed down, temporarily non-operational, or operational during the Delivery Year.

**Consultation responses and decision**

We have decided to reject this proposal. We received one response which agreed that the Applicant is best placed to give a view of the plant's likely future. However, they argued that:

- If an Applicant submitted an Opt-Out Notification for a CMU but declared it would remain operational, the CMU should be excluded from participating in the subsequent T-1 auction; and
- If the Opt-Out Notification declared that the CMU would close, the CMU should not be excluded from future auctions.

These suggestions were not included in the original proposal and so we are not taking them forward. We also believe these changes run counter to a change we made last year. Following consultation, we amended the Rules to clarify that parties could participate in the T-1 if they had opted out of the T-4 but declared they would be operational (Of3).[9]

**CP229 (EP Invest)**

This proposal would prevent a Generating CMU from participating in a T-1 auction for a Delivery Year for which it has at any time previously held an agreement but no longer does due to that agreement having been reduced in length.

**Consultation responses and decision**

We received one response to our proposed rejection of this proposal and 11 responses to our consultation question on whether financial penalties should be introduced for failing to meet Refurbishment Milestones alongside the current consequence of the capacity agreement being reduced in length to one year.

The proposer believed that exclusion of such plant from the T-1 auction is the best means of deterring reductions in agreement length intended to arbitrage between the T-4 and T-1 auctions. The respondent agreed that a penalty – if sufficiently high – could also be a sufficient deterrent.

Of the 11 responses to the consultation question, eight indicated support for the introduction of a financial penalty for a Refurbishing CMU reducing its agreement from a duration of three years to one year. Three respondents opposed the introduction of a penalty, saying further evidence is needed; that the change is coming too late; and that such a penalty would create too much risk for project developers in capital expenditure constrained environments.

[9] Decision letter on changes to the CM Rules, July 2016. www.ofgem.gov.uk/system/files/docs/2016/07/decision_on_statutory_consultation_on_amendments_to_the_cm_rules_june_2016.pdf

Taking into account the responses to our consultation, we have decided to reject this proposal. We continue to have concerns about banning providers whose capacity agreements have been reduced in length. We believe there are legitimate reasons for deciding not to undertake refurbishment work and we do not want to discourage providers from taking efficient decisions to stay open, available, and in the market by excluding them from the T-1 auctions.

Introducing a ban could have severe negative consequences. A ban could substantially reduce auction liquidity by decreasing the number of eligible providers. This would result in a risk of increasing the clearing price to the detriment of consumers.

We continue to believe that a financial penalty would be a more appropriate and proportionate punishment for CMUs that opt not to undertake refurbishment and reduce the term of their agreement.

While the introduction of a penalty was supported by the majority of stakeholders, there was no consensus on the value or design of the financial penalty. Several different penalty levels were suggested, including TF2, TF3, and TF4, (£25/kW, £10/kW, and £15/kW respectively) and some respondents suggested that any penalty should only be applied to the capacity that was projected to be added to the CMU as a result of refurbishment. We will continue to consider the consultation question, the parameters of a possible new penalty, and the implementation.

**CP233 (ESC)**

This proposal seeks to amend the Rules to clarify how auxiliary load should be divided for sites that share the load amongst a number of generating units, and where the auxiliary load is not separately metered for each unit. This proposal seeks to amend the Rules to clarify how auxiliary load should be divided for sites that share the load amongst a number of generating units, and where the auxiliary load is not separately metered for each unit. It proposes to introduce 'multipliers', which would be specified at Prequalification and which would subdivide the CMUs auxiliary load between units based on the unit's share of the overall capacity of the site.

**Consultation responses and decision**

We received support from stakeholders on the principal of this change. However, several stakeholders suggested that the proposed drafting did not sufficiently address the issue. One response noted that fixed multipliers might result in inaccurate metering results when one of the units is not running.

NGET suggested that due to the complexity of the issue and proposal, there is a risk that if implemented this year the collected data may not be adequate for the settlement calculations as intended by this proposal.

We agree that further changes are needed to the drafting to ensure this proposal works effectively and that more time is required for systems changes to ensure the data collected is adequate for settlement. For these reasons, we are not in a position to take this proposal forward during this round as initially outlined. We continue to believe that a change to the Rules would be beneficial and we intend to consult on revised drafting next year.

In addition to this specific change both NGET and ESC have suggested that, from an operational perspective, there may be merit in collecting some data, including auxiliary load multipliers, after Prequalification. Amending the timing of data

collection would require additional amendments to the Rules. We encourage NGET and ESC to think further about the best way to implement this.

**CP235 (ESC)**

This proposal seeks to amend the Rules to require all participants, other than Unproven DSR CMUs, to provide 'Boundary Point MPANs' and/or 'Boundary Point MSIDs', where applicable, to NGET during Prequalification in order for line loss factors to be applied to metered volumes.

**Consultation responses and decision**

We received four responses supportive of our proposed amendment to the Rules. However, stakeholders also pointed out the difficulty that New Build CMUs would face in providing MPANs or MSIDs in time for Prequalification, and a need for an exemption to be put in place in line with Unproven DSR CMUs.

One stakeholder highlighted that there is a risk of double-counting Line Loss Factors for DSR CMUs as these are often already included in supplier letters to DSR providers. Another response noted that drafting should allow for instances where a party may lack boundary meters, for example if it is connected to a private wire or is situated on a customer site.

We have decided not to take forward this proposal. We continue to believe the principle of the proposal is appropriate, but that it would be preferable to collect Boundary Point MPANs and MSIDs after Prequalification. This requires a significant change to our proposed drafting, so we intend to consult on alternative drafting next year.

**CP239 & CP240 (Scottish Power)**

These proposals both relate to Unproven DSR CMUs. CP239 seeks to amend the Rules so that Unproven DSR cannot use Generating Units unless they already exist and have been notified as part of the Prequalification process. It would also introduce new reporting requirements to monitor delivery. CP240 would amend the Rules so that Unproven DSR CMUs cannot comprise Generating Units.

**Consultation responses and decision**

We received three responses on our proposed rejection of these proposals. Two respondents agreed with our minded-to decision, saying the proposals were an attempt to limit competition and drive up clearing prices in future auctions to the benefit of incumbent generators. The original proposer responded that this change would complement the changes made by Government to the Transitional Auction and would confirm that the Unproven DSR CMU category was not designed to bring forward mature behind-the-meter generation.

We have decided to reject these two proposals as some of the proposed changes would require amendments to the Regulations and it is not within our powers to make such changes.

Further, we are not convinced that these changes are warranted. The Unproven DSR CMU category was designed to provide flexibility for DSR portfolios, acknowledging the different business model employed by DSR providers relative to other market participants. The ability to delay testing of the DSR CMU and confirm components is allowed so that providers can confirm the most reliable

configuration ahead of the delivery period. In these circumstances we believe credit cover is the best mechanism for reducing the risk of speculative projects.

## 4. Determination of Eligibility

**Amendments we will make**

**CP195 (National Grid Interconnector Holdings Ltd)**
This proposal seeks to amend the Rules to allow New Build and Refurbishing Interconnector CMUs to bid into the auction as Price-Makers.

**Consultation responses and decision**

We received two responses. One respondent was in favour of our minded-to position to take forward the changes, while the other argued that interconnectors should not require Price-Maker status, as they are not subject to the same costs and risks as other CMUs.

We have decided to make this amendment. We believe that this change will lead to more consistency between the Rules for Interconnector CMUs and Generating CMUs. Different CMUs will have different costs and commercial arrangements. However, we do not believe that the differences in commercial arrangements are a sufficient reason to preclude an application to be a Price-Maker.

**Of12**

This proposal seeks to amend the Rules to allow DSR CMU components to be altered during a Delivery Year. This greater flexibility is to ensure DSR CMUs or portfolios have the capability in the Rules to maintain reliability throughout the Delivery Year. We have raised this proposal as a way of coordinating a number of proposals received in this area over the past three consultation periods (CP46, CP95, CP129, CP130, CP217, and CP220).

**Proposed decision**

Further details on our final decision on DSR component reallocation and the underlying reasoning for this decision can be found in Annex D. To summarise, we are taking forward the principle of DSR component reallocation, but following stakeholder feedback we no longer believe that additional tests are required within the same Delivery Year. In our consultation, we noted that the changes would not take effect until 2018 Delivery Year. We will consult on the legal drafting of this change next year.

**Proposals rejected**

**CP165 (VPI Immingham) and CP230 (Energy UK)**
These proposals seek to amend Rule 4.6.1 to clarify that, where a party is requesting a reconsidered decision from NGET and is conditionally prequalified, the deadline to post

Credit Cover for the relevant CMU falls 15 Working Days from the date of the Tier 1 appeal outcome.

**Consultation responses and decision**

We received two comments from stakeholders, neither of which objected to our minded-to decision to reject the proposal. One respondent agreed with the issues we raised with the Regulations, but asked that Ofgem pass the proposal to BEIS. The other response highlighted concern over gaming, if applicants had more time to post credit cover.

We have decided to reject these proposals, on the basis that the deadlines for applicants providing Credit Cover are detailed in Regulation 59, which we do not have the authority to amend. We have ensured that BEIS are aware of the proposal.

### CP170 (RWE)

This proposal would amend Rule 4.5.1 so that where a decision is made not to prequalify a CMU, NGET would have to provide detailed information in the Prequalification Decision notice as to why the decision has been made.

**Consultation responses and decision**

We received six responses opposing our initial rejection of this proposal. Respondents believe NGET has not provided adequate reasoning in its previous Prequalification decisions and that it has been difficult to reach NGET staff for further information during the window for submitting Requests for Reconsideration.

We have decided to reject this proposal. NGET's role in assessing Prequalification applications is a public function and accordingly we expect NGET to provide sufficient reasons for rejection so that if applicants wish to request reconsideration they are able to provide the necessary information. In 2016/17, we overturned Prequalification decisions for eight CMUs where NGET failed to provide adequate reasons for rejection at Prequalification.[10]

NGET has responded that it will inform applicants of the reasons why an application has been rejected and that new guidance will be issued before the Prequalification Window.

### CP179 (E.ON) and CP202 (Alkane)

CP202 seeks to amend the Rules so that Generating Units/components can be reallocated freely, and so that any number of components at any number of sites can be combined within a CMU to meet an existing obligation. Likewise, CP179 seeks to provide flexibility for Generating CMUs in terms of removal and addition of Units within the CMU. We note the proposals expand upon a previous submission (CP107) by asking to allow reallocation as well as allow components to change site location.

[10] https://www.ofgem.gov.uk/publications-and-updates/ofgems-determinations-tier-2-contracts-difference-capacity-market-disputes

**Consultation responses and decision**

We received three responses to CP179 and three responses to CP202.

Stakeholders argued that the rejection of these proposals was discriminatory in favour of DSR, and pointed out what they considered to be the limitations of volume reallocation and secondary trading. Specific types of generation that might benefit were cited had this proposal been accepted. Drax argued for an 'an equivalent process to Prequalification' for substituted assets.

We have decided to reject these proposals. The Rules ensure that the nature and composition of Generating CMUs is determined at Prequalification - this helps to make sure that reliable units participate in the auction and ultimately in the Delivery Year, providing a valuable safeguard for consumers.

We do not believe sufficient justification has been provided as to why a change to the design of the CM is required, other than the argument that additional flexibility is being provided to DSR.

We do not believe that the Rules are unduly discriminatory in favour of DSR in this respect, as it is in the nature of DSR services that they are comprised of a portfolio of individual customers. Flexibility to switch DSR components to respond to these changes is therefore necessary to maintain reliability.

**CP183 (E.ON)**

This proposal seeks to amend Rule 4.9.1 to require NGET to notify secondary trading entrants of a Prequalification decision sooner than the current requirement of three months.

**Consultation responses and decision**

We received two responses on our proposed rejection of this proposal. Both respondents suggested that NGET should be able to process the Applications for Prequalification of secondary trading entrants much faster than the current requirement of three months and have used NGET's ability to Prequalify more than 50GW of capacity during the Prequalification Window as evidence of this.

We have decided to reject this proposal. NGET is not resourced for performing Prequalification assessments throughout the year in the same way as during the Prequalification Window. NGET has suggested that it will endeavour to make decisions on applications as quickly as possible and that it should not regularly take three months. This should only be the case where NGET is using its resources for its other roles or when it receives a significant number of applications.

There is currently no evidence of this being a problem. Once secondary trading has been implemented, we would welcome any evidence to suggest that liquidity has been affected by the three month response time.

**CP187 (Uniper Energy)**

This proposal would amend the Rules so that additional capacity from the refurbishment of an Existing CMU (which is already a Capacity Committed CMU from the T-4 auction) can be bid into the T-1 auction for the same Delivery Year.

**Consultation responses and decision**

We received two responses from stakeholders in favour of our minded-to decision.

We have decided to reject this proposal because it would require amendments to the Regulations. Further, whilst we understand this change may increase liquidity in the T-1 auction, we are concerned that it introduces complexity and potentially undermines the current arrangements for Refurbishing CMUs.

**CP199 (National Grid Interconnector Holdings Ltd)**

This proposal seeks to change the Rules so that New Build Interconnectors are eligible for five year agreements, and existing Interconnector CMUs undergoing significant refurbishment work are eligible for three year agreements.

**Consultation responses and decision**

We received one response to our consultation suggesting that a change to the Rules and Regulations as outlined in the original proposal would better align them with other Capacity Providers and technologies.

We have decided to reject this proposal on the basis that it would require changes to the Regulations.

## 5. Capacity Auctions

No amendments were proposed for this Chapter.

## 6. Capacity Agreements

**Amendments we will make**

**CP236 (BEIS)**
This proposal seeks to amend the Rules to ensure Prospective CMUs cannot delay their Metering Test until the Long Stop Date (following their Minimum Completion Milestone or Substantial Completion Milestone). It would prevent them from receiving Capacity Payments during a period where they could potentially be operating with non-compliant metering. The proposed amendments also clarify the timetable for Metering Assessments and Metering Test Certificate submissions for Prospective CMUs.

**Consultation responses and decision**

We received two responses from stakeholders in favour of our proposed decision to take forward a change which prevents Capacity Payments going to potentially non-compliant participants.

We have decided to take forward this proposal. Our changes will bring forward the requirement on Capacity Providers to submit their Metering Test Certificate as a part of the Minimum Completion Requirement or Substantial Completion Milestone. This will ensure that all Capacity Providers are have compliant Metering Systems in place ahead of the Delivery Year.

## Proposals rejected

### CP175 (Engie)

This proposal seeks to align the definition of 'Operational', for Refurbishing CMUs, under Rule 1.2, with the treatment of New Build CMUs. It proposes that Refurbishing CMUs would obtain a status of 'Operational' when an Independent Technical Expert certifies that they have reached 90% of their de-rated capacity, as opposed to the current standard of reaching their full connection capacity.

#### Consultation responses and decision

We received a response from the original proposer, saying that the lack of evidence that we referenced in our proposed decision is because Refurbishing CMUs have not yet had to reach their relevant milestones because the first T-4 Delivery Year has not yet begun.

We have decided to reject this proposal as refurbishments do not necessarily have to increase capacity and, if they do, they may do so by only a small amount. In such a situation, allowing a 90% threshold would not give evidence that the refurbishment has been successfully completed as the 90% threshold could be met by the initial, pre-refurbished capacity of the plant, or could even be below the initial capacity of the CMU. In addition, we believe that appropriate implementation of this change would require changes to the Regulations, which we do not have the power to do.

### CP180 (E.On)

This proposal would amend Rule 6.10.1 so that a Termination Event applies not to the Capacity Agreement as a whole but only to the relevant component and the associated capacity. The proposal is most concerned with avoiding the risk that where one component fails the whole CMU is terminated, therefore penalising a proportion of capacity that may have successfully delivered

#### Consultation responses and decision

We received four responses on our proposed rejection of this proposal. All four opposed our minded-to decision, claiming that introduction would ensure that consumers and DSR customers are not affected unnecessarily by events outside the control of aggregators or because of a fault or failure of a generator. Several stakeholders raised the issue of the need to incentivise providers to continue to deliver even where a component or generating unit has broken, so as to ensure system reliability.

We are continuing to reject this proposal. The Termination Events set out under Rule 6.10.1 do not only arise because of a fault with one component or generating unit that leads to non-delivery. They may also arise because the Rules have been breached, for example due to a missing Connection Agreement. Therefore, we believe it is still appropriate for a termination to apply to the whole

CMU. We note that the Rules and Regulations have been designed to ensure participants develop and maintain CMUs which can reliably deliver on their de-rated capacity. The Rules already provide for volume reallocation and obligation transfer to help CMUs address unavailability. Further, we expect the market to incentivise providers to remain operational even where a component has failed.

We do not believe that a different regime should be implemented for aggregated CMUs because we would expect aggregators to perform thorough due diligence on any potential customers. However, we recognise that it may not be appropriate for all components in a CMU to become excluded capacity following termination of the CMU. We encourage stakeholders to consider whether a further proposal needs to be raised on this issue.

### CP198 (National Grid Interconnector Holdings Ltd)

This proposal seeks to amend Rule 6.7.7 so that, for the purposes of an Interconnector CMU, the definition of 'Transmission Licensee' also includes equivalent parties in respect of the non-GB part of the Prospective Interconnector project. This would enable an Interconnector CMU to extend its Long Stop Date in line with failures to provide an active connection by the equivalent to the GB Transmission Licensee in the non-GB part of the project.

#### Consultation responses and decision

We received one response disagreeing with decision to reject this proposal. The original proposer alleged that the current Rules result in undue discrimination of Interconnector CMUs because they face construction risks in two jurisdictions.

We are rejecting this proposal. We continue to believe that the risk of an Interconnector failing to obtain a transmission connection for the non-GB part of the project should not be borne by GB consumers. Instead, interconnector projects can price this risk into their auction bidding strategy.

## 7. Capacity Market Register

**Amendments we will make**

### CP174 (RWE)

This proposal seeks to amend Rule 7.7.1 to clarify how factual inaccuracies on the Register may be amended. It specifically seeks to allow Prequalified CMUs to request amendments to the Register, rather than only Capacity Committed CMUs as per the current arrangements.

#### Consultation responses and decision

We did not receive any responses to this proposal during the consultation.

We have decided to make the amendments proposed in our consultation, as there is a benefit in ensuring the register is accurate for all CMUs.

### CP213 (Scottish Power)

This proposal seeks to amend Rule 7.4.1 so that the Generating Technology Class of a CMU is listed on the Capacity Market Register.

**Consultation responses and decision**

We received seven responses during the consultation, all of which supported our proposed decision to take forward this proposal. NGET's response confirmed that it is working on a solution to ensure that both Generating Technology Class and Primary Fuel Type are captured on the public Capacity Market Register. Another response recommended that the Register for the last six Capacity Market auctions be updated to include this information to help analysts track changes in the technology mix.

We have decided to make the amendments proposed in our consultation. We expect NGET to update past Registers where this information is available to them. The change should provide transparency and help industry analyse the CM, help participants make more informed bidding decisions, and therefore lead to more efficient auction outcomes for consumers.

**CP237 (NGET)**

This proposal seeks to amend the Rules so that the value of the Auction-Acquired Capacity Obligation (AACO) used in the Load Following Capacity Obligation (LFCO) calculation considers how the value of the AACO as initially notified and published on the CM Register may have changed between the relevant auction and Delivery Year. For example, when a New Build CMU meets the Substantial Completion Milestone but can deliver only a proportion of the initial de-rated capacity. The proposal suggests there is inconsistency in the use of AACO under Rule 7.4.5 and Rule 8.5.3 and proposes introducing a new term to describe the adjusted AACO value to be used in the LFCO formula.

**Consultation responses and decision**

We received four responses to our proposal to take this forward. Stakeholders supported the clarity that this rule change could bring. NGET and ESC both raised the need to keep the original value of AACO, ie the volume of capacity acquired during the auction, as this is required to perform some calculations.

We have decided to take this proposal forward with the drafting as outlined in our consultation, as it clarifies the correct value of capacity to use in the calculation of the Load Following Capacity Obligation. We understand that NGET's systems have been designed to keep the original value of capacity obligation to ensure that future calculations can be carried out.

**Proposals rejected**

**CP201 (Alkane)**

This proposal seeks to amend Rule 7.7.3 so that NGET must provide the reason(s) for refusing a request to update the Register in accordance with Rule 7.7.1. The Rules currently require NGET to consider a request to update or rectify the CM Register, but only direct that NGET may provide reasoning why such a request has been refused.

**Consultation responses and decision**

We received six responses on our proposed rejection of this proposal. Our decision was welcomed by NGET, who said they "will endeavour to provide participants with sufficient information and will be as transparent as possible within the confines of the Rules and Regulations." Four respondents opposed our proposed decision, arguing that it is difficult for small parties to interpret the Rules and Regulations and that NGET should therefore have to inform parties of the specific Rules and Regulations they use in their decisions.

We have decided to reject this proposal because we believe NGET already have this requirement. NGET's role in assessing Prequalification applications is a public function and accordingly we expect them to provide sufficient reasons for rejection so that if applicants wish to request reconsideration they are able to provide the necessary information. In addition, we have decided to take forward our proposed amendment to Rule 7.7.3, to clarify that NGET *shall* - as opposed to *may* - provide reasons for their decision.

### CP205 (UK Power Reserve) and CP232 (Energy UK)

These proposals seek to amend the Rules so that the Authority is required to conduct an audit, or review a sample, of initial Prequalification decisions and reconsidered decisions that are not raised to an appeal.

#### Consultation responses and decision

We received two responses on our proposed rejection of these proposals. The respondents urged us to reconsider our decision because stakeholders do not currently have faith in NGET's processes.

We have decided to reject this proposal because Regulation 77(3)(b)(ii) of the Electricity Capacity Regulations 2014 prohibits us from introducing additional functions on the Authority in the Rules. However, we already have the relevant powers to conduct audits of NGET's processes and have done so in the past, and will be able to do so in future if we deem it necessary.

## 8. Obligations of Capacity Providers and System Stress Events

**Amendments we will make**

### CP167 (RWE) and CP194 (NGET)

These proposals submitted by RWE and NGET seek to amend the Rules to clarify the value of Reserve for Response (RfR) within the Load Following Capacity Obligation formula detailed under Rule 8.5.3. RWE's proposal seeks to clarify what the value of RfR should be where no value has been published. NGET's proposal seeks to clarify that the most recent version of the Electricity Capacity Report (ECR) should be taken to provide the value of RfR for the relevant Auction Window. For example, where a T-1 Auction Window is scheduled for December in Year Y, the value of RfR should be taken from the ECR published earlier in the same year Y, and not from a previous publication.

#### Consultation responses and decision

We received two responses during the consultation. NGET responded that they will highlight the RfR figure more prominently in the ECR so that Applicants are

aware of the figure before the start of the Delivery Year. The other response suggested that our proposed drafting amendments did not place an obligation on NGET to publish a value for RfR, even though the proposal would require this.

We have decided to make the amendments proposed in our consultation. Given that the value of RfR affects participants' obligations, bidders should have clarity around the value of RfR, and the value used for each Auction Window should be the most up-to-date figure.

We have revised the drafting to require NGET to publish an RfR value in each annual ECR and made one further alteration to ensure our change reflected NGET's proposal in CP194. We consider these changes consistent with the purpose of the proposals and in keeping with our consultation.

## Proposals rejected

### CP185 (E.ON)

This proposal seeks to amend Rule 8.3.3(c) to clarify the decision process by which NGET determines whether a Metering Test is required.

#### Consultation responses and decision

We received one response from NGET, which referenced its recently published Metering Assessment Guidance[11], and which wished to clarify that that the assessment that it carries out is based on advice from ESC.

We have decided to reject this proposal because NGET has already published guidance on this issue and a Rules change is not necessary.

### CP216 (ADE)

This proposal would amend rule 8.4.6 in relation to the information included in a Capacity Market Notice (CMN) or the period to which a CMN applies to give greater clarity to participants.

#### Consultation responses and decision

We received 17 responses, including replies to CQ2, which asked whether the SO should be required to update the information included in a CMN and if so what should such updates include; and why participants needed this information in a CMN and could not access it readily elsewhere. Six of the respondents agreed that no change was required. The remainder felt some additional information would be beneficial. However, there was no clear agreement as to what that information should include.

We have decided to reject the proposal. We agree that it is important for all participants to have access to the necessary information to inform their despatch decisions. However, the CMN is not intended to be a dispatch tool. Therefore, we think it is more appropriate to signpost where participants can access information, for example via Elexon's email alerts on System Warnings, than to

[11] Metering Assessments, Guidance for Capacity Market Participants, February 2017 (EMR Delivery Body).

require its inclusion in a CMN. NGET's auction guidance could include where to find this information. We encourage participants to inform the SO if they identify further information that would be useful to market participants.

## 9. Transfer of Capacity Obligations

**Proposals rejected**

**CP182 (E.On)**
This proposal seeks to amend Chapter 9 of the Rules to allow Capacity Agreements to be transferred following the T-4 auction for a relevant Delivery Year, rather than following the T-1 auction as is currently the case.

**Consultation responses and decision**

We received two responses to our minded-to decision. The first disagreed with our position, suggesting that a change would allow CMUs to resolve issues related to delivery at an earlier stage. The second recognised our concerns with the proposal in its current form, but suggested that alternative changes may be beneficial.

We have decided to reject this proposal. In our consultation, we noted that we rejected similar proposals (CP127 and CP132), and rejected these on the basis that the current secondary trading arrangements are untested and it would be preferable to have further evidence before considering a change. The responses we received did not provide further evidence to support these changes, and hence we continue to reject the proposal on this basis.

**CP188 (Moyle Interconnector Ltd)**
This proposal seeks to amend Rule 9.2.6 so that a Capacity Obligation for the 2017/18 Delivery Year may be transferred to an Interconnector CMU.

**Consultation responses and decision**

We received no responses to our minded to decision.

We have decided to reject the proposal on the basis that it is no longer required. All Prequalified interconnectors received Capacity Agreements for the 2017/18 Delivery Year and so will not require the ability to take on agreements through the secondary trading market.

**CP189 (Moyle Interconnector Ltd)**
This proposal seeks to amend the Rules to permit a CMU to increase its Capacity Obligation via secondary trading to match its available capacity at the time of transfer, even if this value is greater than at the time of its Prequalification for the relevant Delivery Year.

**Consultation responses and decision**

We received no responses to our minded to decision and in line with our consultation we have decided to reject this proposal. We believe capacity should be identified and made eligible for trading using existing processes where possible, as these have suitable checks in place.

## 10. Volume Reallocation

**Proposals rejected**

**CP168 (RWE)**
This proposal seeks to introduce a new role in the Rules for a 'Volume Reallocation Agent'. This would allow an individual to represent more than one Applicant during the reallocation process to better facilitate volume trading.

**Consultation responses and decision**

We received two responses in support of the proposal's intent, but no new arguments were provided.

We have decided to reject this proposal because it would be preferable to assess the existing arrangements and investigate alternative options before making substantial changes. We are pleased to note from the responses that the industry has been considering how to facilitate efficient Secondary Trading and Volume Reallocation. However, before making a change in this area, we would like to see that industry has considered a range of options, including potential IT solutions.

## 11. Transitional Arrangements

No amendments were proposed for this Chapter.

## 12. Monitoring

No amendments were proposed for this Chapter.

## 13. Testing Regime

**Amendments we will make**

**CP169 (RWE)**

This proposal seeks to solve an issue in the requirement to demonstrate Satisfactory Performance Days (SPDs). Rule 13.4.5 states that if a CMU fails to produce an output of at least 1kWh in two separate stress events in two separate months then it will be required to demonstrate an additional three SPDs during Winter. The proposal noted that if the Stress Events happened after Winter, the CMU would have no ability to perform

the additional SPDs. It therefore proposed that Rule 13.4.5 only apply to the Winter period.

In our consultation we agreed with the proposer that the current Rules create a perverse outcome. However, rather than remove the requirements of Rule 13.4.5 in summer, we proposed alternative requirements for this period. We proposed that CMUs, if they failed to generate at least 1kWh in two separate Stress Events in two separate months during summer, would have to generate six additional Satisfactory Performance days during summer. This would remove the possibility of a CMU not having the opportunity to demonstrate the additional requirements.

**Consultation responses and decision**

We received seven responses on our proposed decision. Three stakeholders supported the original proposal, which would remove the perverse outcome described, and no respondents were against it. However, there was strong opposition from stakeholders to our proposed additional requirements, which would have added six Satisfactory Performance Days during summer. Stakeholders thought this would create an unacceptable risk for generators conducting maintenance over summer and did not think that secondary trading could adequately mitigate this.

Most respondents considered the extra SPDs unnecessary and that sufficient incentives for availability in summer are already in place. A number of respondents also thought the possibility of extra SPDs in summer could force plants to change their maintenance schedules, leading to inefficiency in the market. Additionally, stakeholders thought that generators may build a premium into their bids to account for the risk of additional summer SPDs to the detriment of consumers.

We have decided to take forward the amendments originally proposed, which stakeholders supported and which mean that the requirement for additional SPDs in Rule 13.4.5 will only apply in Winter. We believe this change is necessary to prevent a perverse outcome in the Rules, where a requirement to demonstrate SPDs in Winter is created after Winter has finished, giving generators no ability to perform the SPDs. We believe the amendment is necessary for all CMUs, including those with existing obligations.

However, we will not be taking forward our additional proposal, to require six additional Satisfactory Performance Days during summer. We agree with stakeholders that additional SPDs in summer could have unintended consequences, including the alteration of scheduled maintenance, and are unlikely to benefit consumers.

NB: Several stakeholders highlighted that in our consultation we wrongly stated that SPDs are assessed on the basis of the Adjusted Load Following Capacity Obligation (ALFCO). We therefore incorrectly stated that due to the lower level of System Demand and high level of wind generation we would expect it to be easier to pass SPDs during the summer. To clarify, SPDs are instead assessed based on Auction Acquired Capacity Obligation, and the same level of performance must be demonstrated at any time of year.

**CP171 (RWE)**

This proposal seeks to amend Rule 13.4.3 so that NGET must notify Capacity Providers within five working days if a SPD has not been notified in accordance with the Rules.

**Consultation responses and decision**

We received three responses on our proposed decision to take this forward. We received one drafting suggestion and one response in favour of our proposed decision. NGET responded that the speed of its response depends on receiving information from ESC. NGET has therefore proposed to make an amendment that applies this requirement from the point when it has received this information.

We have decided to make the proposed amendments. This change will help Capacity Providers by forewarning them of a failure to correctly demonstrate satisfactory performance and potentially provide them the opportunity to organise a further demonstration before the end of Winter.

We have decided to make one small amendment to account for the potential delay in the provision of information from ESC to NGET. NGET's obligation to notify Capacity Providers within ten Working Days will now only begin once it has received the relevant settlement or metering information from ESC.

**CP231 (Energy UK)**

This proposal seeks to amend the Joint DSR Test drafting so that, similarly to the standard DSR Test, where a CMU Portfolio demonstrates a proportion of their nominated DSR de-rated capacity the Proven DSR Capacity is reduced to match the proven volume, rather than requiring a new Joint DSR Test to prove 100% of nominated capacity as is currently required.

**Consultation responses and decision**

All four stakeholders who responded to this proposal supported our proposed amendments.

We have decided to make the amendments proposed in our consultation. The changes provide flexibility to the portfolio DSR testing arrangements introduced last year and align with the flexibility afforded in the standard DSR testing regime. One further minor amendment has been added in line with NGET's consultation response confirming that in the event of a Joint DSR Test demonstrating that a Capacity Committed DSR CMU has a Proven DSR Capacity of less than 2MW, the General Eligibility Criteria set out in the Regulation are not met.

**CP234 (ESC)**

This proposal seeks to amend the Rules to allow DSR CMUs that are Balancing Mechanism Units to use their existing BSC compliant metering, rather than being required to use Bespoke Metering.

**Consultation responses and decision**

We received four responses to this proposal. All supported our minded to decision to take forward the change. One of the respondents argued that storage CMUs should also be allowed to use their BSC compliant metering rather than Bespoke Metering. The Rules already exempt Generating Units which are BM Units from having to provide an Approved Metering Solution (see rule 1.2, Approved Metering Solution definition). This would include relevant Storage CMUs. One respondent thought our drafting changes necessitated definitions of BMU and of non-BMU DSR units.

We have decided to take forward this proposal. BMUs entering as DSR CMUs should not have to use a Bespoke Metering solution where their existing BSC compliant metering is suitable. We note that a BM Unit is already defined in the Rules by reference to the BSC, and we have amended our drafting to remove potential confusion by reference to 'non-BMU DSR CMUs'

**Proposals rejected**

**CP163, 164 (Engie); CP204 (UKPR); CP209, 210, 211 & 212 (Scottish Power)**

Each of these proposals seeks to amend the testing regime under Chapter 13 to ensure CMUs can deliver for more than 30 minutes. Specifically, they propose to alter the requirements to demonstrate satisfactory performance under Rule 13.4.1 so that a Capacity Committed CMU would be required to demonstrate the relevant volume for more than one Settlement Period.

Both CP163 and CP164 seek a two-hour demonstration (four consecutive Settlement Periods) on one of the Satisfactory Performance Days (SPD). CP164 differs from CP163 in that it would grandfather changes to the testing arrangements for existing agreements. CP204 proposes to require demonstration for four hours (eight consecutive Settlement Periods) on one of the three SPDs, with existing arrangements grandfathered for those with existing agreements. CP209, CP210, CP211 and CP212, submitted by Scottish Power, cover the four combinations of six or four consecutive Settlement Periods and grandfathered, or non-grandfathered provisions.

These proposals raise concerns that, given a growth in small-scale generation and storage, capacity that is only able to deliver for one Settlement Period may displace capacity able to deliver for a longer duration even though System Stress Events may last for longer than one Settlement Period.

**Consultation responses and decision**

We received five responses which supported our proposed decision to reject these proposals. We also received two responses which argued that the testing regime is a more appropriate way to address plant durability concerns than changes to de-rating factors.

We have decided to reject these proposals. Amending the testing regime alone is not the most appropriate solution for addressing plant durability as it could result in a valid source of capacity being unable to participate in the CM. It would also be premature to make these changes, as BEIS and National Grid are currently undertaking a study into short-duration technologies and developing a method for addressing the concerns raised. They will consult on this in summer 2017. Industry stakeholders will be given an opportunity to engage with this analysis and put forward their concerns in respect of plant durability and whether this should be addressed solely by de-rating or other means.

**CP186 (E.ON)**

This proposal seeks to amend Rule 13.2.3 so that DSR Tests can take place during the Prequalification Assessment Window.

**Consultation responses and decision**

We received three responses on CP186. Two disagreed with our minded to decision to reject the proposal, citing the length and unpredictability of the DSR Tests and arguing that NGET's workload is not a sufficient justification for rejecting this proposal. NGET supported our rejection of this proposal.

Two respondents noted that the time available to undertake DSR Tests could be reduced if changes occurred to the Prequalification window, eg if auctions were not undertaken at the same time each year.

We have decided to reject this proposal. Currently Capacity Providers have a significant amount of time to undertake the necessary DSR Tests or Joint DSR Tests. These may take place prior to the Prequalification Assessment Window, or after the award of a Capacity Agreement up to one month prior to the commencement of the Delivery Year.

**CP221 (ADE)**

This proposal would amend the Rules so that, where a DSR CMU has failed to demonstrate satisfactory performance up to the volume of the Capacity Obligation, but has demonstrated at least 90% of the required volume, a CMU may choose to reduce its Capacity Payments proportionally, rather than continue to attempt to demonstrate satisfactory performance. It is proposed that where this option to reduce Capacity Payments is taken, the relevant CMU is subject to an additional penalty equal to TF1 multiplied by the under-delivery volume.

**Consultation responses and decision**

We received no responses to our minded-to position on this proposal.

We have decided to reject this proposal. We do not want to encourage speculative applications from potentially unreliable CMUs or aggregated portfolios. Where there is a legitimate issue with a DSR CMU or component, the existing arrangements should provide sufficient means to maintain reliability to meet the satisfactory performance requirements.

**CP228 (EP Invest)**

This proposal would amend 13.4.1 so that, where a CMU that has failed to demonstrate satisfactory performance during the Delivery Year, for example due to a Unit breaking down, the CMU will have its Capacity Obligation and Payments reduced to reflect the third highest net output demonstrated in the relevant Delivery Year. The proposed amendment is suggested to ensure that the remaining Units within a CMU are still incentivised to meet a CM Obligation during the Delivery Year.

**Consultation responses and decision**

We received one response disagreeing with our proposed rejection of this proposal.

We have decided to reject this proposal. We believe a CMU that has failed to demonstrate SPDs because of the failure of one generating unit will still be incentivised by the wholesale market price to be available and delivering during times of system stress.

We continue to believe that the proposal to reduce obligations to the level of the third highest net output demonstrated during the Delivery Year is not an appropriate mitigation. Resetting an obligation to the level of the third highest net output demonstrated during the Delivery Year is not suitable if that output was delivered prior to any of the units failing.

## 14. Data Provision

**Proposals rejected**

**CP177 (EDF)**

This proposal seeks to allow ESC to share Capacity Market metering data with Elexon (BSCCo) if required. This would be achieved by adding a provision to Chapter 14.

**Consultation responses and decision**

We received no responses to our proposed rejection of this proposal.

We have decided to reject this proposal on the basis that it would be inconsistent with the Regulations. The Regulations prohibit the disclosure of data collected by ESC to be shared except where certain circumstances are met.

## 15. Schedules & Exhibits

**Amendments we will make**

**CP193 (NGET)**
This proposal seeks to amend the format of the Exhibits to include an 'Application Year' to ensure Applicants are submitting new Exhibits in each Prequalification round.

**Consultation responses and decision**

We received one response to our minded decision, supporting our proposed decision.

We have decided to make this change to clarify the Prequalification requirements for participants and to allow NGET to easily identify that separate Exhibits have been submitted in each Prequalification round.

**Of14**

**Background**

This proposal consolidates several proposals (including CP162, CP184, CP208, CP222) we have previously received relating to the participation of frequency response providers in the Capacity Market. The proposal relates specifically to providers of Firm Frequency Response, Enhanced Frequency Response, and Frequency Control by Demand Management, but the proposed rule changes would have affected all 'Relevant Balancing Services'

**Final Decision**

We have decided to make amendments that will add EFR as a relevant balancing service. However, we have decided not to take forward changes that add a baseline methodology for dynamic FFR providers.

For a detailed summary of stakeholder responses and our decision, please refer to Annex E.

## Proposals rejected

### CP214 (ADE)

This proposal seeks to amend Schedule 2 of the Rules, which calculates the baseline for DSR CMUs, so that Demand Samples are adjusted to reflect Triad Management actions as well as balancing services.

#### Consultation responses and decision

The original proposed welcomed our support for accounting for Triad Management actions in the DSR baseline and our recommendation that industry continue to work to develop a more detailed methodology.

We have decided to reject this proposal. We continue to encourage industry to collaborate with NGET to develop a more detailed proposal on this issue.

### CP218 (ADE)

This proposal seeks to amend the Rules to remove the requirement for sites that include renewable generation to meter those assets through the Bespoke Metering Requirements.

#### Consultation responses and decision

One respondent disagreed with our proposed rejection of this proposal, highlighting the significant cost of installing bespoke metering.

We have decided to reject this proposal as the metering requirements for renewable components are necessary to provide certainty that the CMU is not benefitting from low carbon support, which is prohibited by the Regulations.

The existing metering requirements also ensure ESC is able to perform its settlement functions. We have not received adequate evidence on the equivalence of the suggested metering solutions. In particular, any FiT-accredited meters do not provide the necessary functionalities to enable low-carbon generation to be deducted.

We acknowledge the concerns raised by stakeholders regarding the cost of installing compliant metering and believe it could be an unnecessary barrier. We would therefore welcome evidenced and detailed proposals on metering standards that provide certainty the CMU is not receiving low carbon support, and provide sufficiently robust data to ESC.

## Annex B: Summary of proposals

| Ref. No. | Summary of Proposal | Decision |
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| **CP162** | This proposal from the Renewable Energy Systems Group seeks to include Enhanced Frequency Response (EFR) capacity in the list of 'Relevant Balancing Services' (listed under Schedule 4). | Take forward |
| **CP163** | This proposal seeks to change the Rules to more fully define what is meant by capacity through extending the definition of one of the Satisfactory Performance tests as defined in Rule 13.4.1. This change would apply from the 2017 set of Capacity Market Rules. | Reject |
| **CP164** | This proposal seeks to change the Rules to more fully define what is meant by capacity through extending the definition of one of the Satisfactory Performance tests as defined in Rule 13.4.1. This change would apply to capacity market contracts awarded after the 2016 auction that relate to delivery after 2020/21. | Reject |
| **CP165** | This proposal seeks to amend Rule 4.6.1 specifically to clarify that, where a party is appealing a decision at Tier 1 and is conditionally prequalified, the requirement (deadline) to post Credit Cover for the relevant CMU falls 15 Working Days from date of the Tier 1 appeal outcome. | Reject |
| **CP166** | This proposal seeks to introduce a new role in the Rules for a 'Prequalification Agent'. This would allow an individual to represent more than one Applicant during the reallocation process with the aim of better facilitating volume trading. | Reject |
| **CP167** | This proposal seeks to clarify the value of RfR in the event that it is not published in an Electricity Capacity Report prior to the T-4 auction for the relevant delivery year. | Take forward |
| **CP168** | This proposal seeks to introduce a new role in the Rules for a 'Volume Reallocation Agent'. This would allow an individual to represent more than one Applicant during the reallocation process with the aim of better facilitating volume trading. | Reject |
| **CP169** | This proposal seeks 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 of a Delivery Year, in the Winter period only, the CMU is required to demonstrate satisfactory performance on six separate days. | Take forward |
| **CP170** | This proposal seeks to amend Rule 4.5.1 so that where a decision is made not to Prequalify a CMU following the Prequalification Assessment Window, the Delivery Body provides detailed information in the Prequalification Decision notice as to why the decision has been made. | Reject |
| **CP171** | This proposal seeks to amend Rule 13.4.2 so that the Delivery Body must notify Capacity Providers within five working days if a satisfactory performance day has not been notified in accordance with the Rules. | Take forward |
| **CP172** | This proposal seeks to amend the definition of Secondary Trading Entrant to mean the 'Applicant for any Existing CMU that does not hold a Capacity Agreement following the T-1 Auction for a Delivery Year.' | Reject |
| **CP173** | This proposal seeks to amend Rule 3.6.1 so that an alternative method is available to Non-CMRS CMUs using Bespoke Metering Configuration Solutions to demonstrate historic net output, provided a supplier is unable to do so. | Reject |
| **CP174** | This proposal seeks to amend Rule 7.7.1 to clarify how factual inaccuracies on the Register may be amended - who may request, and with regard to what CMU. The proposal specifically seeks to allow the Register to be amended for Prequalified CMUs, and not only Capacity Committed CMUs. | Partially take forward |

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| **CP175** | This proposal seeks to align the definition of 'Operational', for Refurbishing CMUs specifically, under Rule 1.2 with the treatment of New Build CMUs. | Reject |
| **CP176** | This proposal would amend the de-rating factors so that de-rated capacity is scaled to account for a technology's ability to meet different duration stress events. The proposal would suggest new definitions and a new Schedule be added to the Rules so that a 'Duration Value Scalar' can be calculated for 'Limited Duration' assets. The proposal relates to CP163 and CP164. | Reject |
| **CP177** | This proposal seeks to allow the Settlement Body to share Capacity Market metering data with Elexon (BSCCo) if required. This will be achieved by adding a provision to Chapter 14 (Data Provision). | Reject |
| **CP178** | This proposal seeks to amend Chapter 3 to clarify that CMUs whose connection agreements are in the name of parties other than the Applicant are eligible for prequalification. | Reject |
| **CP179** | This proposal seeks to amend the Rules so that Generating CMUs have the ability to alter their components (remove or replace) with the same flexibility afforded to DSR CMUs. | Reject |
| **CP180** | This proposal would amend Rule 6.10.1 so that the relevant Termination Event applies not to the Capacity Agreement as a whole but to the relevant component and its associated capacity. | Reject |
| **CP181** | This proposal seeks to amend Chapter 3 of the Rules to enable CMUs that are part of a site which is only partially in receipt of low carbon support to participate in the CM. | Reject |
| **CP182** | This proposal seeks to amend Chapter 9 of the Rules to allow Capacity Agreements to be transferred following the T-4 auction for a relevant Delivery Year, rather than following the T-1 auction as is currently drafted. | Reject |
| **CP183** | This proposal seeks to amend Rule 4.9.1 so that the Delivery Body is required to notify secondary trading entrants of the prequalification decision within 3 months. | Reject |
| **CP184** | This proposal seeks to amend Schedule 4 so that EFR is listed as a 'Relevant Balancing Service'. | Take forward |
| **CP185** | This proposal seeks to clarify the decision process by which the Delivery Body determines if a Metering Test is required. It would amend Rule 8.3.3. | Reject |
| **CP186** | This proposal seeks to amend Rule 13.2.3 so that DSR Tests can take place during the Prequalification Assessment Window. | Reject |
| **CP187** | This proposal would amend the Rules so that additional capacity available due to the refurbishment of an Existing CMU (which is already a Capacity Committed CMU) can be bid into the T-1 auction for the same Delivery Year. | Reject |
| **CP188** | This proposal seeks to amend Rule 9.2.6 so that a capacity obligation for the 2017/18 delivery year may be transferred to an Interconnector CMU. | Reject |
| **CP189** | This proposal seeks to amend the Rules to permit a CMU increase its Capacity Obligation via secondary transfer to meet its available capacity at the time of transfer, even when this value is greater than at the time of its prequalification for the relevant Delivery Year. | Reject |
| **CP190** | This proposal seeks to amend Rule 3.7.1 to remove the option for Applicants to defer provision of Relevant Planning Consents. | Take forward |
| **CP191** | This proposal seeks to amend the de-rating factor calculation under Rule 2.3.5 so that Distribution Connected station data is utilised to better capture distribution-level scenarios. | Reject |
| **CP192** | This proposal seeks to amend the Rules to clarify the requirements for acceptable prequalification submissions, specifically with regard to connection agreements. | Take forward |

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| **CP193** | This proposal seeks to amend the format of the Exhibits to include an 'Application Year' to ensure Applicants are re-submitting Exhibits in each prequalification process. This would prevent Applicants having to enter the Tier 1 process to submit a new Exhibit. | Take forward |
| **CP194** | This proposal seeks to redefine the definition of RfR to ensure an up-to-date value is available for calculations in delivery years where T-1- or Early Auction-procured capacity is included. The current definition was drafted to account for T-4 auctions only. | Take forward |
| **CP195** | This proposal seeks to amend the Rules to allow New Build and Refurbishing Interconnector CMUs to bid into the auction as Price-Makers, aligning the Rules for Interconnector CMUs with Generating CMUs. | Take forward |
| **CP196** | This proposal suggests that Exhibits DA and DB are similar and it is unclear which is required for an Unincorporated Joint Venture. The proposal seeks to remove the requirements altogether, or to remove at least one of the exhibits DA or DB so that only one declaration is required. | Reject |
| **CP197** | This proposal seeks to amend the Rules to relax the requirements for New Build and Refurbishing Interconnector CMUs, in relation to the non-GB part of the project, to provide the relevant Planning Consents alongside the declaration. | Reject |
| **CP198** | This proposal seeks to amend Rule 6.7.7 so that, for the purposes of an Interconnector CMU, the definition of 'Transmission Licensee' also includes equivalent parties in respect of the non-GB part of the Prospective Interconnector project. | Reject |
| **CP199** | This proposal seeks to change the Rules so that New Build Interconnectors are eligible for five year agreements, and existing Interconnector CMUs undergoing significant refurbishment work are eligible for three year agreements. | Reject |
| **CP200** | This proposal suggests amending the Rules to allow Applicants to opt-out of the CM process during the Tier 1 disputes window. Currently the Rules allow participants to opt-out only during the Prequalification Window. | Reject |
| **CP201** | This proposal seeks to amend Rule 7.7.3 so that the Delivery Body must provide the reason(s) for why a request to update the Register in accordance with Rule 7.7.1 has been refused. | Partially take forward |
| **CP202** | This proposal seeks to amend the Rules so that Generating Units/components can be reallocated freely, and so that any number of components at any number of sites can be combined within a CMU to meet an existing obligation. | Reject |
| **CP203** | This proposal seeks to amend the definition of Excluded Capacity to include Generating Units holding a black start contract. | Reject |
| **CP204** | This proposal seeks to amend Rules 13.4.1 and extend the duration of one of the required Satisfactory Performance Days to a length of eight continuous half-hourly settlement periods. | Reject |
| **CP205** | This proposal seeks to amend the Rules so that the Authority is required to conduct an audit, or review a sample, of initial prequalification decisions and Tier 1 decisions that are not raised to Tier 2. | Reject |
| **CP206** | This proposal seeks to amend the definition of Distribution Connection Agreement so that a party that is not named on the agreement, but has the right to use that grid connection, is not deemed ineligible due to their situation as an un-named party. | Reject |
| **CP207** | This proposal seeks to amend the Rules so that a carbon intensity limit of 450gCO2/kWh is established as part of the general eligibility requirements for all CMUs. This limit was chosen to reflect the Government's Emissions Performance Standard. | Reject |

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| **CP208** | This proposal seeks to amend the Rules to facilitate the participation of FFR in the Capacity Market, in particular FFR provision by DSR CMUs. It seeks a change to the baselining methodology under Schedule 2 for FFR providers. | Reject |
| **CP209** | This proposal seeks to amend Rules 13.4.1 and extend the duration of one of the required Satisfactory Performance Days to a length of six consecutive half-hourly settlement periods. It is suggested this requirement come into effect from the 2017/18 Delivery Year for agreements won following 1st December 2016. It is proposed the new testing requirements do not apply for the Transitional Arrangements. | Reject |
| **CP210** | This proposal seeks to amend Rules 13.4.1 and extend the duration of one of the required Satisfactory Performance Days to a length of four consecutive half-hourly settlement periods. It is suggested this requirement come into effect from the 2017/18 Delivery Year for agreements won following 1st December 2016. It is proposed the new testing requirements do not apply for the Transitional Arrangements. | Reject |
| **CP211** | This proposal seeks to amend Rules 13.4.1 and extend the duration of one of the required Satisfactory Performance Days to a length of six consecutive half-hourly settlement periods. It is suggested this requirement come into effect from the 2017/18 Delivery Year and applied retrospectively to all agreements. It is proposed the new testing requirements do not apply for the Transitional Arrangements. | Reject |
| **CP212** | This proposal seeks to amend Rules 13.4.1 and extend the duration of one of the required Satisfactory Performance Days to a length of four consecutive half-hourly settlement periods. It is suggested this requirement come into effect from the 2017/18 Delivery Year and applied retrospectively to all agreements. It is proposed the new testing requirements do not apply for the Transitional Arrangements. | Reject |
| **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. | Take forward |
| **CP214** | This proposal seeks to amend Schedule 2 of the Rules, which calculates the baseline for DSR CMUs, so that Demand Samples are adjusted to reflect Triad Management actions as well as balancing services. | Reject |
| **CP215** | This proposal seeks to amend the Rules to permit the aggregation of Prospective CMUs with one or more Units and legal owners to apply through a Dispatch Controller. | Take forward |
| **CP216** | This proposal seeks to amend the Rules to clarify the Settlement Periods to which Capacity Market Warnings apply, and to require the Delivery Body to notify participants of any change in circumstance for particular Settlement Periods. | Reject |
| **CP217** | This proposal seeks to amend the Rules to facilitate DSR component reallocation. This proposal builds on similar proposals accepted in previous rounds, but provides additional legal drafting. | Reject (Of12 proposed) |
| **CP218** | This proposal seeks to amend the Rules to remove the requirement for sites that include renewable generation to meter those assets through the Bespoke Metering Requirements. | Reject |
| **CP219** | This proposal seeks to amend the Rules to clarify how on-site generation can participate in the Capacity Market. | Reject |
| **CP220** | This proposal seeks to amend the Rules to remove provisions which place restrictions on changing the configuration of CMUs following prequalification, and which require a new DSR Test where there is a change in configuration. These proposals are | Reject (Of12 proposed) |

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| | made in anticipation of amendments to allow DSR Component Reallocation. | |
| **CP221** | This proposal would amend the Rules so that, where a DSR CMU has failed to demonstrate satisfactory performance up to the volume of the Capacity Obligation but has demonstrated at least 90% of the required volume, a CMU may choose to reduce its Capacity Payments proportionally rather than continue to attempt to demonstrate satisfactory performance. It is proposed that where this option to reduce Capacity Payments is taken, the relevant CMU is subject to an additional penalty equal to TF1 multiplied by the under-delivery volume. | Reject |
| **CP222** | This proposal would amend Schedule 4 of the Rules to include definitions for the terms of Declared Availability and Contracted Output for the FCDM service and to amend the existing definitions of those terms for the STOR service to account for sites where the CMU and STOR elements (components) are not equal. | Partially take forward |
| **CP223** | This proposal seeks to amend the Rules to simplify the metering arrangements by reducing the dependence of small generators and DSR participants on Suppliers and Meter Operator Agents. | Partially take forward |
| **CP224** | This proposal would amend the Rules so that the calculation of the de-rating factor for those CMUs in the Generating Technology Class of Storage accounts not only for technical availability but also durability. | Reject |
| **CP225** | This proposal seeks to amend the Rules to facilitate the participation of Generating Units located on Customer sites, in particular higher load factor units that are regularly in merit. | Reject |
| **CP226** | This proposal would amend Rule 3.7.3 so that New Build Distribution CMUs are no longer able to defer their Distribution Connection Agreement or Private Network agreement with the relevant DNO until after Prequalification. | Reject |
| **CP227** | This proposal would amend the Rules to remove the requirement for Mandatory CMUs opting-out of the Capacity Market to submit an Opt-out notification which states whether the CMU will be closed-down, temporarily non-operational, or operational during the relevant Delivery Year. Further amendments are proposed to remove the provisions which are consequential to the statements made in the opt-out notification. | Reject |
| **CP228** | This proposal would amend 13.4.1 so that, where a CMU that has failed to demonstrate satisfactory performance during the Delivery Year, for example due to a Unit breaking-down, a CMU will have its Capacity Obligation and Payments reduced to reflect the third highest net output demonstrated in the relevant Delivery Year. The proposed amendment is suggested to ensure that the remaining Units within a CMU are still incentivised to meet CM Obligation during the Delivery Year. | Reject |
| **CP229** | This proposal would prevent a Generating CMU from participating in a T-1 Auction for a Delivery Year for which it has at any time previously held an agreement (multi-year) as a Refurbishing CMU, but has since had that agreement reduced in length so that it no longer holds an agreement for that Delivery Year. | Reject |
| **CP230** | This proposal seeks to amend the Rules to clarify that, where a party is appealing a decision via the Tier 1 process, the cut-off for posting credit cover should fall 15 working days after being informed of the relevant determination being made. | Reject |
| **CP231** | This proposal seeks to amend the Joint DSR Test drafting so that, similarly to the standard DSR Test, where a CMU Portfolio demonstrates a proportion of their nominated DSR de-rated | Take forward |

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| | capacity the Proven DSR Capacity is reduced to match the proven volume, rather than requiring a new Joint DSR Test to prove 100% of nominated capacity as is currently required. | |
| **CP232** | This proposal seeks to amend the Rules so that the Authority is required to conduct an audit, or review a sample, of initial prequalification decisions and Tier 1 decisions that are not raised to Tier 2. | Reject |
| **CP233** | This proposal seeks to amend the Rules so that it is clear how auxiliary load should be proportioned for sites that share the load amongst a number of generating units and where the auxiliary load is not separately metered. | Propose to take forward in future year |
| **CP234** | This proposal seeks to amend the Rules to allow DSR CMUs that are Balancing Mechanism Units to use their existing BSC compliant metering, rather than being forced to use Bespoke Metering. | Take forward |
| **CP235** | This proposal seeks to amend the Rules to require all participants, other than Unproven DSR CMUs, to provide 'Boundary Point MPANs' and/or 'Boundary Point MSIDs', where applicable, to the Delivery Body during prequalification in order for line loss factors to be applied to metered volumes. | Propose to take forward in future year |
| **CP236** | This proposal seeks to amend the Rules to ensure Prospective CMUs cannot delay their Metering Test having met their Minimum Completion Milestone or Substantial Completion Milestone and receive Capacity Payments whilst potentially operating with non-compliant metering. The proposed amendments also clarify the timetable for Metering Assessments and Metering Test Certificate submissions for Prospective CMUs. | Partially take forward |
| **CP237** | This proposal seeks to amend the Rules so that the value of 'AACO' used in the LFCO calculation considers how the value of Auction-acquired Capacity Obligations may have changed in the period between the relevant auction and delivery year. For example, when a New Build CMU meets its Substantial Completion Milestone but can deliver only a proportion of its initial de-rated capacity. The proposal suggests introducing a new term to describe the adjusted AACO value to be used in the LFCO formula. | Take forward |
| **CP238** | This proposal aims to replace the current 'Storage' Generating Technology Class with two new Generating Technology Classes: one for pumped (hydro) storage resources, and a second for batteries and other non-pumped storage. It proposes amending Schedule 3 of the Rules. | Reject |
| **CP239** | This proposal would amend the Rules relating to Unproven DSR so that Unproven DSR CMUs cannot comprise Generating Units unless they already exist and have been notified as part of the prequalification process. It would introduce new progress reporting requirements to monitor delivery. | Reject |
| **CP240** | This proposal seeks to restrict the potential for Generating Units to be part of CMU which is categorised as an 'Unproven DSR CMU', extending the approach taken for the Second Transitional Arrangements auction. | Reject |
| **Of12** | We previously decided to take forward proposals CP124, 129 and 130 in principle, however, we delayed the implementation of the changes as we had not consulted on the required legal drafting. This proposal from Ofgem presents the relevant drafting to implement the principle of flexibility for DSR component allocation an reallocation. We have considered CP217 and CP220 in drafting this proposal. | Propose to take forward in future year |

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| **Of13** | This proposal would amend the term "B" within the formula set-out under Rule 8.6.2. The purpose of this term is to ensure that actions taken by a storage facility to reduce consumption during stress event periods (within which it would normally be consuming) are rewarded as a source of capacity. We believe the term could be better calculated to realise this aim. Our proposal would change the baseline to be calculated using consumption historical data for the relevant (stress event) settlement period, from the last six weeks. This six week period mirrors other baselining requirements already in the Rules. | Propose to take forward in future year |
| **Of14** | This proposal builds on CP162 which we propose to take forward. This proposal would make a series of amendments to the Rules in order to allow frequency response providers, of whatever technology class, to participate in the Capacity Market in accordance with legislation and the objectives guiding the CM Rules change process. Overall, the proposal will involve changes to Chapters 3, 8, 13 and Schedules 2, 3, and 4. | Partially take forward |
| **Of15** | This proposal seeks to address the issue around some parties overstating the maximum output that they can generate in a stress event. The proposal involves changes to Rule 3.5 and to implement financial penalties some changes to existing Regulation. | Propose to take forward in future year |

# Annex C: Of12

## Summary

In our consultation, we outlined our proposal to allow DSR components to be altered during a Delivery Year (Of12). This section describes the responses we received to this proposal, and our final policy decision. We are taking forward the principle of DSR component reallocation, but following stakeholder feedback we no longer think that additional tests are required within the same Delivery Year. In our consultation, we noted that the changes would not take effect until 2018 Delivery Year. We will consult on the legal drafting of this change next year.

## Background

We raised this proposal as a way of coordinating a number of proposals received in this area over the past three consultation periods (CP46, CP95, CP129, CP130, CP217 and CP220). DSR component reallocation will ensure that DSR CMUs or portfolios have the capability to maintain reliability throughout the Delivery Year.

The specific amendments we outlined in our consultation were:

- DSR components can be added to CMUs during a Delivery Year.
- No more than twenty new components can be added by a provider within one Delivery Year, and these must be notified as part of a maximum of five notifications to NGET.
- DSR components which are removed from a CMU can be reinstated in a subsequent Delivery Year, subject to the standard testing procedures.
- Metering and DSR Tests can occur during the delivery year once the configuration of the DSR CMU has changed.
- Metering tests are required only for the newly added component, not the CMU as a whole.
- DSR Tests are required for the new CMU, following either removal or addition of components.
- These tests are to be conducted within a certain time of the notification and the CM Register is updated in a reasonable time following reallocation.

## Responses to our consultation

There was considerable support in principle amongst stakeholders for our Of12 proposal, although several stakeholders highlighted issues with the proposed testing arrangements.

### 1. Principle of DSR component reallocation

Of the eight responses to our consultation, five supported of the proposal's intent to facilitate DSR component reallocation. One respondent was opposed to the change unless similar flexibility was extended to Generating CMUs.

***Our view***: We continue to believe that a DSR component reallocation mechanism is beneficial to consumers, as it will ensure that DSR CMUs or portfolios have the capability in the Rules to maintain reliability throughout the Delivery Year.

As noted in our decision to reject CP179 and CP202, it is in the nature of DSR services that they are comprised of a portfolio of individual customers. Flexibility to switch DSR components to respond to these changes is therefore necessary to maintain reliability.

We do not believe a full justification has been provided as to why such flexibility is also required for Generating CMUs.

## 2. Testing arrangements

Several stakeholders commented on the substantial costs associated with performing DSR Tests on CMUs, after the addition or removal of individual components. These costs were not only financial, but also related to the inconvenience placed upon their customers. This includes aggregator customers who had not changed their component, but who would have nonetheless been obliged to respond for a test every time a component change was notified within the wider CMU.

Stakeholders also suggested that the consequences of not meeting a test were too penal. One stakeholder referred to a 'cliff edge' of termination in event of failure to demonstrate 100% of the Capacity Obligation. The costs of testing and risks associated with failure led several stakeholders to suggest that the intent of Of12 would be undermined by the testing arrangements proposed, as incentives to reallocate components would be weak.

One stakeholder also raised concerns about how the reallocation process may interact with DSR baselining arrangements. In particular, Schedule 2 requires up to 6 weeks of data to establish the CMU's baseline demand.

***Our view:*** We agree with stakeholders that the costs of the proposed testing requirements could mean that DSR Capacity Providers would have weak incentives to reallocate their components. The aim of Of12 was to provide additional flexibility to DSR Capacity Providers to maintain the reliability of their CMUs during a Delivery Year. If the costs of adding new components were too great, then this goal would not have been realised.

We considered alternative approaches, including testing at an individual component level. However, such arrangements would have practical difficulties; DSR Tests would only be meaningful if they could ensure that the new components were at least sufficient to replace the capacity of any removed components. Further, we believe that providers are incentivised to *increase* reliability under a DSR component reallocation mechanism, as opposed to reducing reliability. We therefore decided that additional tests within the same Delivery Year are not required following DSR component reallocation.

It is important that safeguards are in place to ensure that capacity is reliable for future Delivery Years and that there are not opportunities to circumvent DSR Test requirements. We are therefore incorporating a stakeholder proposal that if a DSR CMU adds or removes components during a Delivery Year, the CMU will need to obtain a new DSR Test Certificate if they are to participate in subsequent Delivery Years. This provides a balance between ensuring the reliability of DSR CMUs and incentivising aggregators to maintain this reliability. The CMU will remain 'proven' for the Delivery Year in which the component reallocation takes place.

We note the interactions between our proposed reallocation process and the DSR baseline methodology outlined in Schedule 2. We will consider this issue further when developing our detailed drafting.

## 3. Reallocation process

Stakeholders were broadly supportive of the reallocation process proposed, including the limits around reallocation, the ability for removed DSR CMU Components to participate again in the CM in future years, and the metering test arrangements.

***Our view:*** We continue to believe that the principles we outlined on the reallocation process itself provide a good balance between enabling the flexibility required by DSR providers, and limiting costs and burdens on NGET.

We are therefore continuing to take forward these elements of our proposal:

- No more than twenty new components can be added by a provider within one Delivery Year, and these must be notified as part of a maximum of five notifications to NGET;
- DSR components which are removed from a CMU can be reinstated in a subsequent Delivery Year;
- Metering tests are required only for the newly added component, not for the relevant CMU or Portfolio as a whole.
- Metering Tests can occur during the delivery year once the configuration of the DSR CMU has changed;
- New metering tests are conducted within a certain time from notification so that a CMU is not in an unreliable state for an extended period during the delivery year;
- The CM Register is updated in reasonable time following reallocation.

## 4. Implementation and next steps

Both NGET and ESC indicated in their responses that the process would not be implemented in systems until 2018. Further, NGET suggested that the proposal should not be actioned within this year's consultation, but is instead refined over the coming months by Ofgem, NGET and industry.

***Our view:*** In this Annex, we have outlined our updated policy position on DSR component reallocation. As noted in our consultation, this proposal cannot be implemented until 2018 due to system development constraints. We will engage with NGET and industry and consult on legal drafting ahead of planned implementation for the 2018 Delivery Year.

## Annex D: The Calculation of Capacity Delivered for Generating Units that are Storage Facilities (Of13)

This section describes the responses we received to Annex D in our consultation, which outlined our proposed amendments to Rule 8.6.2, which calculates the capacity delivered by a Generating Unit which is a Storage Facility. Our amendments would help to prevent these CMUs from being over-rewarded by the current arrangements. This section also sets out our final position, which is to take forward changes in this area with some amendments to address stakeholder views.

Due to systems changes required by ESC this proposal cannot be implemented this year We intend to work with NGET and ESC to develop a methodology that can be implemented for the 2018/19 Delivery Year, and we will consult on the drafting as part of next year's Rule change process.

### Background

We raised this proposal to address an issue that we identified with the formula for calculating the capacity delivered by storage facilities. The amendments were proposed following our own analysis which suggested that the existing formula potentially allows a storage facility to be over-rewarded, as it provides an incentive for storage facilities to manipulate the baseline consumption component of the storage output formula. To address this, we set out amendments to the term "B" within the formula set out under Rule 8.6.2[12]. The amendments would align the formula for generating units which are storage facilities with the baselining method used for DSR units.

The purpose of the formula in Rule 8.6.2 is to determine the capacity delivered by a Generating Unit which is a storage facility. The term "B" represents a baseline level of consumption, while the term "C" represents current consumption. The term "B – C" is therefore the amount of reduced consumption that the storage facility provides. This is added to the generation from the storage unit ("A") to derive the total contribution of that unit to reducing system stress.

Currently the baseline is derived from the level of consumption in the Settlement Periods directly before the period in which capacity delivered is being measured. We believe this creates a perverse incentive, and may allow a Storage Facility to be over-rewarded, as it could consume more electricity just before the stress event in order to increase the measurement of its capacity delivered.

We consulted on a change to the baseline to include six weeks of historical consumption data. This would reduce the opportunity for baseline manipulation under the current formula and better align the methodology with that used for DSR.

### Responses to our consultation

We received nine responses to Of13 and our specific question on this proposal (CQ4) which asked whether stakeholders thought our changes were an appropriate solution to the issue identified. Four of the responses supported our amendments and agreed that they were an appropriate solution to the issue identified. Three of the nine responses suggested allowing greater flexibility in calculating the six weeks of historical consumption data, for example to account for seasonal changes. One response argued that the term "B" should be removed altogether from the formula in Rule 8.6.2 as storage facilities should be treated entirely as generation.

[12] Capacity Delivered = A + B - C

**Our view**

We continue to believe that the best approach is to better align the methodology with DSR providers, as the term "B - C" is a measure of the DSR potential of storage facilities. We do not agree that the term should be removed altogether as storage is able to reduce consumption as well as generate and we need to take both of these into account in order to measure the true impact of a storage unit on security of supply.

We recognise that there could be a seasonal pattern in storage consumption. In order to address this, and bring the baseline more closely in line with the methodology for DSR, we are making further changes to our proposed drafting of Rule 8.6.2. In addition to the six weeks of historical consumption data used to make the baseline, it will also include the last 10 days (both working and non-working) and the last six settlement periods. This will continue to reduce the possibility of baseline manipulation while better taking into account seasonal changes in consumption.

We also intend to include a requirement on ESC to monitor for any manipulation of the baseline, in line with the requirement it already holds for DSR CMUs.

**Next steps**

We are taking forward changes in this area, however due to the time required for ESC to make changes to their systems the amendments to the Rules cannot take place this year. We intend to work with NGET and ESC to develop a methodology that can be implemented for the 2018/19 Delivery Year, and we will consult on the drafting as part of next year's Rule change process.

# Annex E: The Participation of Enhanced Frequency Response and Dynamic Frequency Response providers (Of14)

This Annex sets out the stakeholder responses we received to the questions in Annex E of our consultation (Of14), which related to the participation of frequency response providers in the Capacity Market. It sets out our decision to make amendments that will add EFR as a relevant balancing service. It also explains that we have decided not to take forward changes which add a baseline methodology for dynamic FFR providers.

**Our proposed changes**

We set out our own proposal (Of14) in order to consolidate several proposals (including CP162, CP184, CP208, CP222) we received relating to the participation of frequency response providers in the Capacity Market. In our consultation we proposed changes to include a new balancing service, EFR, as a Relevant Balancing Service under Schedule 4. This means that providers of this service will have their capacity obligation adjusted to take into account their obligation to provide EFR. In practice this allows participation in the CM for units with EFR contracts.

We also sought to facilitate the participation of dynamic frequency response by introducing a new baseline methodology for the calculation of output. Under the current Rules, providers of Dynamic DSR Firm Frequency Response face practical barriers to participating in the CM. The existing baseline, which is based on a number of previous settlement periods, is incompatible with the type of DSR service provided, where output changes on a second by second basis, dependent on frequency.

The specific changes we proposed were:

- The addition of Enhanced Frequency Response as a Relevant Balancing Service;
- Definitions of 'Declared Availability' and 'Contracted Output' for Enhanced Frequency Response and for Frequency Control by Demand Management services, which was previously missing, under Schedule 4;
- Introduction of a new baselining methodology for DSR providers of dynamic frequency response services, which would allow the calculation of output, for the purposes of calculating their capacity, for testing and for calculating output during Stress Events;
- Introduction of a cap on the volume of capacity that can be prequalified by frequency response providers, set at the value of the positive (low frequency) element of the component's 'declared availability', as stated in the relevant balancing service contract;
- Amendments to the output calculation for frequency response providers who have exited their contract or failed to provide frequency response, which would ensure only low frequency response is rewarded;
- New prequalification information requirements and ongoing reporting requirements for frequency response providers.

**Stakeholder Views**

We received responses from 11 parties to Of14, and six responses to the related Consultation Question 6. There was broad support amongst stakeholders for the inclusion of EFR as a Relevant Balancing Service. However many stakeholders were concerned about our proposed approach to baselining and testing dynamic frequency response providers.

1. **Adding Enhanced Frequency Response as a Relevant Balancing Service**

   We proposed to add Enhanced Frequency Response to Schedule 4 as a Relevant Balancing Service. This change was widely supported by stakeholders.

***Our view:*** We are taking this proposal forward for two reasons. Firstly to ensure consistency with other Frequency Response services. EFR is a new service developed by NGET and therefore was not included in the Schedule of relevant balancing services when the Rules were developed. It should be accounted for so that Capacity Providers with EFR contracts have their load following obligation calculated correctly.

Secondly, provision of EFR and capacity are two different products and capacity providers can legitimately hold agreements for both services. This means that capacity providers do not have to choose between participating in the EFR and Capacity Markets and as a result, there should be increase competition in both the EFR and the Capacity Market, to the benefit of consumers.

**2. Future-proofing the Rules**

We asked a specific question (CQ3) on whether further amendments could reduce the likelihood of future Rules changes being required if other new balancing products were introduced or existing services were altered. Some stakeholders suggested the definitions could be made broader to accommodate new services without Rules amendments. Others believed that it was appropriate to consider each service on its own merits and no standard methodology could be developed. It was also pointed out that new balancing services are rare and that it is not possible to second guess the Rules changes that might be required to incorporate them.

***Our view:*** We do not think it is currently possible to future-proof the list of relevant balancing services. We agree with stakeholders who considered that it would be very difficult to make changes before the details of a balancing service have been finalised. Further, National Grid is currently consulting on its 'System Needs and Product Strategy' and any attempt to future-proof the Rules in this area would require us to prejudge the outcome of this consultation.

**3. Measuring the output of CMUs providing dynamic balancing services using a baseline**

We consulted on a methodology to measure the output of CMUs providing dynamic balancing services. This output would be used in DSR Tests, for Satisfactory Performance Days and for System Stress Events. Our proposal was to set a baseline based on sample periods where the CMU is operating in its deadband frequency range. The CMU's output would then be calculated by comparing its demand to this baseline level.

Stakeholders did not support the proposed baselining methodology, with many stating that it was too complex and that the requirements would be costly for providers. We have also been advised by ESC that this methodology would be costly to implement, and require significant changes to systems. Another respondent suggested that industry needs more time to understand the proposal.

While stakeholders expressed dissatisfaction with our proposed solution no comprehensive, alternative solutions were put forward.

***Our view:*** In light of stakeholder comments and our further analysis, we have decided not to implement the proposed baselining methodology.

We recognise that practical barriers remain in the Rules for providers of dynamic balancing services. However, the methodology we proposed in our consultation does not adequately solve these issues. These arrangements would introduce further complexity to the Rules at significant cost, while stakeholder feedback suggests that the potential benefits would be limited.

We also agree with the stakeholder suggestion that it would be beneficial for industry to spend more time considering the proposal. We remain supportive of a change in principle to remove barriers to dynamic frequency response providers, if a suitable solution can be found for baselining. We therefore welcome further detailed proposals in this area.

## 4. Testing requirements

We consulted on a revised testing regime to allow providers of dynamic DSR balancing services to complete a DSR test.

Several stakeholders expressed dissatisfaction with the proposed testing requirements for providers of balancing services, suggesting that they were complex, difficult to understand, costly, and unnecessary. Some parties argued that testing should not be required for participation in the Capacity Market, as providers will have been required to pass testing to receive balancing service contracts.

***Our view:*** In light of stakeholder comments and our further analysis, we do not believe that the proposed testing methodology would adequately demonstrate the capability of a provider of dynamic balancing services. This is because we no longer believe that the baselining methodology, which determines the output of the CMU for the purposes of the test, is appropriate. We will therefore not be implementing this element of our proposal.

We continue to believe that separate testing would still be required for participation in the Capacity Market. We have not seen sufficient evidence that existing testing for balancing services adequately proves a provider's ability to deliver under the Capacity Market. In addition, as noted in our consultation, we believe that it is preferable to take a consistent approach to determining output across different phases of the Capacity Market process (i.e. from testing through to stress events).

Therefore, while we will not be making the changes proposed in our consultation, we continue to believe that any proposed solution must include adequate testing and a suitable baselining methodology for calculating output.

## 5. Provision of Balancing Services contracts at Prequalification

We proposed to introduce a requirement for dynamic DSR balancing services providers to submit their balancing services contracts at Prequalification. This contract was to be used to verify that the CMU would be providing a relevant balancing service during the Delivery Year and to establish the parameters for the CMU, for example the capacity of the CMU would be capped at the maximum Low Frequency Response parameter specified in the contract.

Stakeholders raised several concerns with this change. Multiple stakeholders noted it would often not be possible for Capacity Providers to provide the details of such contracts at the time of Prequalification, as they may not yet have been entered into. It was also suggested that this requirement is unnecessary as the

System Operator must already provide this information to ESC. Stakeholders also raised the potential for competition concerns in a situation where a customer had arrangements with two aggregators

***Our view:*** We have decided not to take forward this requirement. We accept that in many circumstances it is not feasible to provide balancing services contracts at Prequalification. In addition, Schedule 4 enables ESC to obtain the necessary information from the System Operator under the current Rules. We therefore consider that introducing additional requirements as proposed in our consultation would introduce an unnecessary burden on participants.

In our consultation, we also proposed to cap Capacity Agreements at the value of the positive (low frequency) element of the component's 'declared availability', as stated in the relevant balancing service contract. For the reasons above, we believe that the requirements we proposed are not practicable or desirable. As this information be necessary for our proposed cap, we are also not taking forward this element of Of14.

**6. Amendments to the storage output formula**

In conjunction with Of13, we proposed to change the treatment of the 'B' term in the output formula for storage facilities when these CMUs provide relevant balancing services. Under Rule 8.6.2, the output formula of storage CMUs uses the term B to take account of reduction of consumption by the CMU in addition to metered generation. We proposed to set 'B' to zero when the CMU is providing balancing services. This means output would not take account of 'normal consumption' because consumption will be based on when balancing services are being provided. Stakeholders supported our proposed amendments in this respect.

***Our view:*** In light of our decision to delay implementation of Of13, we will consider this amendment when implementing changes to Rule 8.6.2 next year.

**Next steps**

We have decided to implement our proposal to include Enhanced Frequency Response as a Relevant Balancing Service. We have also decided that our proposal on the treatment of the 'B' term in the storage CMU output formula will be considered as part of our changes to Rule 8.6.2 next year, in line with our decision on Of13.

Following stakeholder feedback and further analysis, we have decided not to implement our proposed baselining methodology, and related changes intended to better facilitate participation of dynamic frequency response providers in the Capacity Market. We remain supportive of a change in principle to remove barriers to dynamic frequency response providers, if a suitable solution can be found for baselining. We encourage stakeholders to work up a suitable method for determining the output of these CMUs.

## Annex F: The Calculation of Capacity for Transmission Connected Generators (Of15)

This section describes the responses we received to the questions in Annex F of our consultation, which covered our preferred approach to determining the capacity of transmission-connected generators. It also sets out our final policy position to continue with our proposed changes. We intend to consult on the detailed drafting and the levels of various parameters next year, with a view to implementing the changes before the 2018 Prequalification round.

**Background**
As part of our 2015 and 2016 consultation rounds, we considered proposals to make changes to the way in which transmission-connected generators calculate their capacity for the purposes of the Capacity Market. In our 2016 decision, we said that the most appropriate way of determining capacity is to allow a free choice of capacity during prequalification and to test participants up to this level. The March consultation outlined our final policy proposal, including our preferred approach to testing and financial incentives to support these arrangements.

**Our proposed approach to determining capacity**
In our consultation we outlined our proposal to allow transmission connected generators to choose their own capacity when prequalifying (their "nominated capacity"). The nominated capacity should not reflect more than the maximum that a unit can deliver and would be de-rated to form the bidding capacity of the unit[13]. Capacity providers would then be required to demonstrate they are able to reach their fully nominated capacity by submitting the average of their three highest metered outputs during the 12 month period between April and March ahead of Prequalification for the T-1 auction (a "capacity test").

If the test result was lower than the nominated capacity, the Capacity Provider's Capacity Obligation would be reduced to match the tested output, de-rated, and therefore their capacity payments reduced accordingly. If the test result was above the nominated capacity, no change would be made to the Capacity Obligation. This would prevent capacity providers from having an incentive to understate their capacity.

We proposed that a test result equal to, or above, 97% of the nominated capacity would not result in any financial penalty for the Capacity Provider. However, a test result below 97% of the nominated capacity would result in a penalty equal to the difference from the test result to the 97% threshold (measured in kW) multiplied by 'TF5' (£35/kW)[14].

**Responses to our consultation**
Overall, stakeholders were supportive of our proposed changes to allow transmission-connected generators a free choice over their capacity. Generally, respondents also supported our approach to testing and the need for financial incentives to incentivise participants to correctly state their capacity[15]. Responses to specific questions and issues are summarised below.

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[13] Bidding capacity is the amount of capacity entered into the auction and which a unit will secure an agreement for if it is successful. De-rating ensures that the capacity secured through the Capacity Auction takes into account the availability of plant, which is specific to each generation technology.
[14] Our March 2017 consultation outlines an example what this would mean for a hypothetical power plant with a capacity of 200MW available at https://www.ofgem.gov.uk/system/files/docs/2017/03/statutory_consultation_on_amendments_to_the_capacity_market_rules_2014_final_23032017_0.pdf
[15] 'Statutory consultation on changes to the Capacity Market Rules 2014' available at https:/www.ofgem.gov.uk/publications-and-updates/statutory-consultation-amendments-capacity-market-rules-2014

**CQ8: Do you agree with our conclusions with regard to our preferred testing format?**

**1. Format of the capacity test**

Stakeholders generally supported the proposed format of the capacity test. Historic performance was considered to give a good representation of a unit's true capability, and taking an average of three separate meter readings was seen as a suitable approach.

One respondent questioned how capacity would be determined for plants that wish to participate in the T-1 auction, and how they would be tested. Another indicated a need to consider technology when designing the testing regime.

Several stakeholders believed that testing up to a generator's nominated capacity was not appropriate. Some noted that to demonstrate capability up to their nominated capacity, generators might require additional TEC ahead of the Delivery Year to comply with existing industry codes and this could be costly and impractical. One response favoured free choice for capacity subject to a cap of TEC or CEC.

One response asked whether CM capacity providers that test above their nominated connection capacity would be able to qualify this capacity for secondary trading.

***Our view on the test format:*** *We will continue with the proposed testing format based on metered output. It is our view that testing up to the nominated capacity is required to confirm the full capability of a CMU and protect consumers from the possibility of generators overstating their capacity.*

*The tests will also apply to existing transmission-connected generators entering in the T-1 auctions. This means that they will not be able to nominate a capacity that they have not proven through historical output.*

*We believe that the current TEC requirements in the Rules are sufficient. Some plant may wish to increase their TEC so that they can nominate a higher capacity, but this is a commercial decision. As a plant will be required to test up to its nominated capacity, it will therefore be incentivised to ensure that it has sufficient arrangements in place (including TEC) to pass this test.*

*We are not proposing that CM providers will be able to qualify an increased level of capacity for secondary trading. This mirrors the existing arrangements, and we have concerns that a widening of Secondary Trading arrangements through this proposal may have unintended consequences such as an increased risk of auction withholding.*

**2. Timing of the capacity test**

There was disagreement on when the capacity test should take place. Some participants suggested that the 12-month period before Prequalification for the T-1 auction was too early to ensure units are still able to reach their maximum capacity in the Delivery Year. Testing a CMU ahead of the Delivery Year without receiving CM income was also highlighted as an issue by one response. One respondent considered that it might be preferable to test within the Delivery Year by expanding the requirement of the existing Satisfactory Performance Days (SPDs) from de-rated capacity to nominated capacity. Alternatively, some stakeholders suggested that earlier testing should be allowed, so that the capacity test can be passed before Prequalification for the T-4 auction. Providing test data and a director's declaration at Prequalification was another alternative put forward.

One participant noted that testing ahead of the Delivery Year could be problematic for a mothballed plant. To address this issue one respondent suggested allowing a delayed test with a higher penalty rate.

***Our views on the timing of the capacity test:*** *We recognise that our proposal implies that testing could take place several years before the Delivery Year. However, we do not think testing after the T-1 auction is sensible, as it means there will be no opportunity to secure any missing capacity. The timing must strike a balance between ensuring the unit can still reach its maximum capacity in the Delivery Year, and giving sufficient certainty to participants. We intend to consult on all parameters, including the timing of the test, next year. We agree that mothballed plant may not be able to meet our proposed testing requirements and we will consider further whether specific testing requirements need to be implemented for these plant, and consult on this next year.*

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

### 3. Introduction of financial incentives

Respondents were generally supportive of incentivising CM participants to correctly state their connection capacity. Several responses thought that financial incentives could help to reduce instances of capacity overstatement, and security of supply risks. Participants were also supportive of a threshold before penalties took effect.

Several stakeholders were concerned that the risk of penalties could lead generators to understate their capacity. They also noted that testing risk could affect the auction merit order as participants are likely to judge this type of risk differently. However one respondent thought the existence of the threshold before any penalty applied may lead to the opposite effect, as participants could overstate their capacity if they only have to reach 97% of that level.

***Our view on the introduction of financial incentives***

*We believe a penalty is appropriate because there is a cost to consumers if participants incorrectly state their capacity. This ensures that providers face the consequences of their actions and that there is not a principal-agent problem.*

*We believe the incentives to understate or overstate capacity are largely based on the level of the penalty: there is a risk of understating capacity if that penalty is too large and there is also a risk of overstating capacity if the penalty is too low.*

*We continue to believe a threshold of some level is appropriate so that providers are not punished for small deviations in their capacity which are outside of their control. While this could still allow some overstatement of a CMU's nominated capacity, the obligation would be reduced to the test result if it was below the nominated capacity and the capacity could be procured in the T-1 auction. Therefore, there is a mitigation against security of supply risks.*

### 4. Level of the penalty

Our proposed financial penalty rate of Termination Fee 5 (TF5), at £35/kW, also received support from some respondents, though others questioned the proportionality of this level and thought a lower penalty could achieve the same incentive. One respondent suggested that a reduction in the CM obligation was a sufficient financial penalty in itself.

One stakeholder thought the penalty should have a floor, and overall CM revenue should not become negative as this would inconsistent with the existing Capacity Market penalty

caps which do not allow loss of more than the total value of all capacity payments for that Delivery Year.

One respondent suggested that introducing a two-tier penalty framework would be more effective in discouraging participants to overstate connection capacity at Prequalification.

***Our view on the level of the penalty:***
*We remain of the view that £35/kw is the most appropriate level of penalty as it aligns with termination events. If the capacity of a CMU is reduced by half, it is equivalent to the termination of half of that CMU. If the penalty rate was set at a lower level, it could encourage generators to prefer failed tests to other termination events, and if it was set at a higher level units may prefer to be terminated than face capacity tests. However, we will consult on the level of all parameters next year, as we believe it is not possible to determine them individually.*

*We believe a cap on the total financial incentive could lead to similar incentive distortions as above. Capping the penalties at CM income could allow participants to avoid the full termination fee by failing a connection capacity test instead.*

*We believe it is better to only have one penalty rate. This maintains simplicity and with more than one penalty rate there is a risk that the boundary points will create distorted incentives for participants.*

**5. Level of proposed threshold**

While stakeholders supported the principle of a threshold before financial penalties would take effect, there was disagreement over the level. Some parties were concerned that the proposed 97% threshold was too high. One response suggested that the threshold should be no lower than the Substantial Completion Milestone (SCM) level for New Build (90%). Another participant noted that any threshold could allow a participant to overstate their capacity without suffering any consequences. One response implied that using a threshold would make the CM Rules inconsistent across different CMUs.

***Our view on the threshold level:*** *As described in our consultation, we proposed a 97% threshold to allow flexibility for generators to meet their testing requirement, without imposing penalties for small deviations in test results from the stated connection capacity, for example due to deviations in ambient temperature. We believe this provides a sensible balance between ensuring accurate nominated capacity and penalty risk for participants. The SCM level of 90% would be too low in our opinion, as existing generators should have more certainty over their maximum capacity than an untested new build generator. We will consult on all parameters in the next consultation round.*

**6. Who will the policy apply to?**

Some respondents thought that the proposed testing and financial incentives should also apply to both transmission-connected and distribution-connected generators. Some stakeholders also questioned whether the same Rules should also apply to New Build generators. There were concerns about creating a level playing field across applicants.

One respondent thought the proposed penalty disproportionately targets existing capacity where the risk of under-delivery is the lowest. Several responses noted that this should not apply to existing CM Obligations.

It was also suggested that our proposed financial incentive approach to connection capacity could also apply in other instances. This response referenced the existing arrangements for DSR testing and credit cover, suggesting that these can be overly punitive.

***Our response on who will the policy apply to:*** *Our proposed changes will only apply to future obligations as participants in previous auctions have based their auction bids on the current Rules. The changes will only apply to existing transmission connected generators. We do not believe that this will create an unlevel playing field, as there are already different Rules for determining the capacity of distribution connected generation, and New Build generators. We have no evidence to suggest that the current New Build and Refurbishing CMUs testing arrangements[16] are insufficient, and we are not proposing changes to these Rules.*

**Next steps**

As we noted in our consultation, we are not making any changes to the Rules in this round. We have set out our final policy approach above. We intend to consult on the legal drafting and the levels of parameters in the next consultation round, with a view to implementing these in time for the 2018 prequalification, subject to potential systems changes.

We will continue engagement with all stakeholders over the next year to ensure the drafting reflects our policy intent.

It is likely that some Regulatory changes will be required to ensure that our proposed policy can be implemented and we are discussing these with BEIS.

[16] See Rule 6.7.2 (a), and Rule 6.7.4 (b).