



Department
of Energy &
Climate Change

Capacity Market Expert Group

5 March 2013



Agenda

- Governance
- Scheme penalties, appeals and information flows
- Interconnection
- Governance and enforcement
- Next meeting
- AOB



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Summary

It is recommended the EG:

- Agree the proposal that no new significant processes will be required to enforce CM's penalties
- Agree the new process for appeals against rights/entitlements & that existing processes are sufficient to resolve enforcement appeals
- Note that transparency is the most appropriate ethos for information flows with limited exceptions (commercial confidentiality, enforcement)



Scheme penalties - feedback

Feedback from previous meetings:

- Obligations should be clear, with hierarchy of actions to incentivise compliance
- Cases of material breach should be limited
- Distinction between fraudulent activities and provision of inaccurate information
- Clarity required on distinction between withholding payments and imposing fines
- Distinction between pre and post-qualification enforcement



Obligations and associated penalties

Meet pre-qualification criteria

- No penalty for failing criteria; non-participation in pre-qualification considered licence breach for licensed generators

New build obligations on parties successful at auction

- Capacity payments released upon achievement of EON; cancellation linked to Long Stop Date; consideration being given to termination fee

Deliver electricity/demand reduction during stress periods

- Financial penalties based on VoLL minus cash out calculation

Test failure

- Suspension of capacity payments until successfully retested, application of financial penalty



Obligations and penalties (contd.)

Provide accurate & timely information

- Timeliness – sliding scale of penalties, accuracy – existing validation processes, ‘relevant requirements’ enforcement for persistent breaches

Make payments within agreed timescales

- Suppliers - similar model to BSC, code and licence breach
- Capacity Providers – withholding of future capacity payments

Prevention of gaming

- Existing Ofgem enforcement processes – Competition Act 2002 and Enterprise Act 2002
- Reviewing applicability of REMIT provisions



Questions

- Does the Group agree that existing processes are appropriate for CM enforcement ?
- Are there any areas which may not be suitable for mapping across to existing processes?

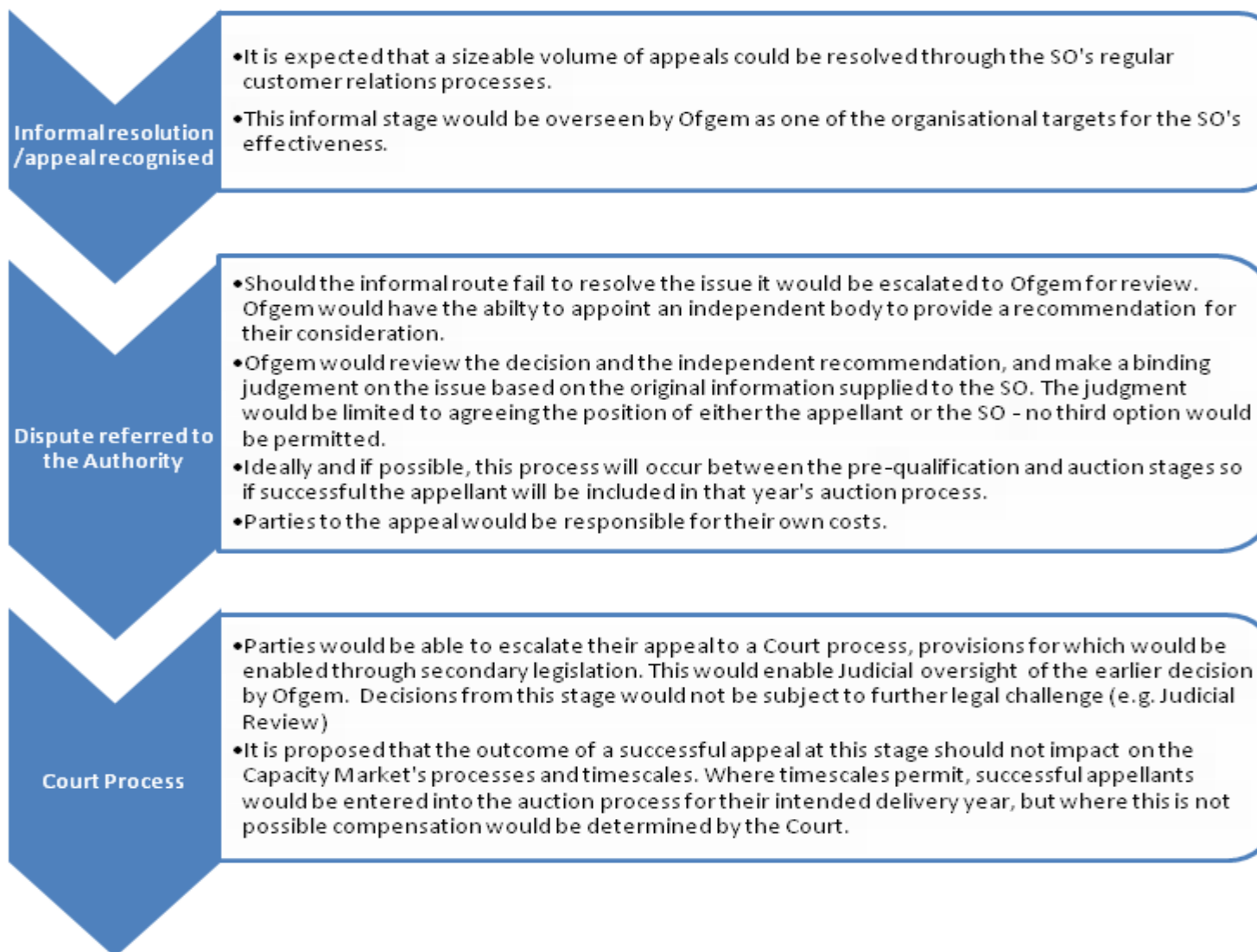


Dispute resolution

Feedback from previous meetings:

- Further detail needed on consequence of successful appeals
- Does bringing an appeal suspend enforcement action/penalty payments?
- Transition versus steady state
- Links with wider EMR processes

Appeals against rights/entitlement decisions (e.g. pre-qualification)





Appeals against matters of enforcement

- Propose existing vires and processes are suitable for such appeals – for example subsection 27(E) Electricity Act 1989 (ref. Ofgem's enforcement of 'relevant requirements')
 - provides for an appeal to the Courts
- Propose that lodging an appeal, once acknowledged, would suspend the relevant enforcement action/penalty



Questions

- Does the Group agree in principle with the two proposed approaches?
- Are there other areas which should be covered within the first (rights/entitlements) process?
- Does the Group agree with the principle that compensation could be awarded for successful pre-qualification appeals which cannot be resolved in advance of an auction?



Information flows

- Principle of transparency, tempered by restrictions in certain circumstances (e.g. commercial confidentiality)

Existing arrangements

- SO published data, Balancing Mechanism Reporting System, Transmission Outage, Generation Availability (TOGA)

What information is needed?

- Pre auction – e.g. capacity forecasts, plant condition,
- Pre-qualification – e.g. historic generation levels, TEC status, business case
- Post auction – e.g. trading, penalty/payment flows

Who should collect the data?

- Primarily SO, but settlement agent will have role



Information flows (contd.)

How should data be collected and stored?

- Generally collector should store data (minimise risk data loss)
- Reviewing synergy with existing mechanisms (e.g. BSC settlement)

Who should have access?

- Range of potential bodies subject to need – Government, Ofgem
- For example, suppliers/industry, settlement agent, Panel Technical Experts and appeals body
- Form and need to be considered

Should data be published?

- Transparency principle. Link to existing processes
- Form – aggregate or disaggregated?
- Reviewing need to formalise arrangements
- Link to wider EMR requirements



Questions

- Does the Group agree with the transparency principle?
- Does the Group have specific concerns in relation to the proposed approach?



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Objectives

- To identify and appropriately reward non-GB Capacity that can support GB Security of Supply furthering competition in the provision of capacity
- Any policy intervention needs to be mindful of:
 - Interconnector flows are determined by pricing differentials
 - There is therefore no means to directly attribute the contribution of a non-GB generator
 - Without intervention there may be an increased risk that physical interconnector flows will not reflect the capacity value of such flows
 - We wish to guard against “double-subsidies” – i.e. parties selling their capacity multiple times into e.g. other Capacity Markets, or renewable support mechanisms



The proposed solution

Short Term – Element A

- Develop a compound energy/capacity price for the GB side of the interconnector
 - Included in Market Coupling Algorithm
- Target Model is being implemented – so would need to do anyway?
- Values Capacity outside of GB

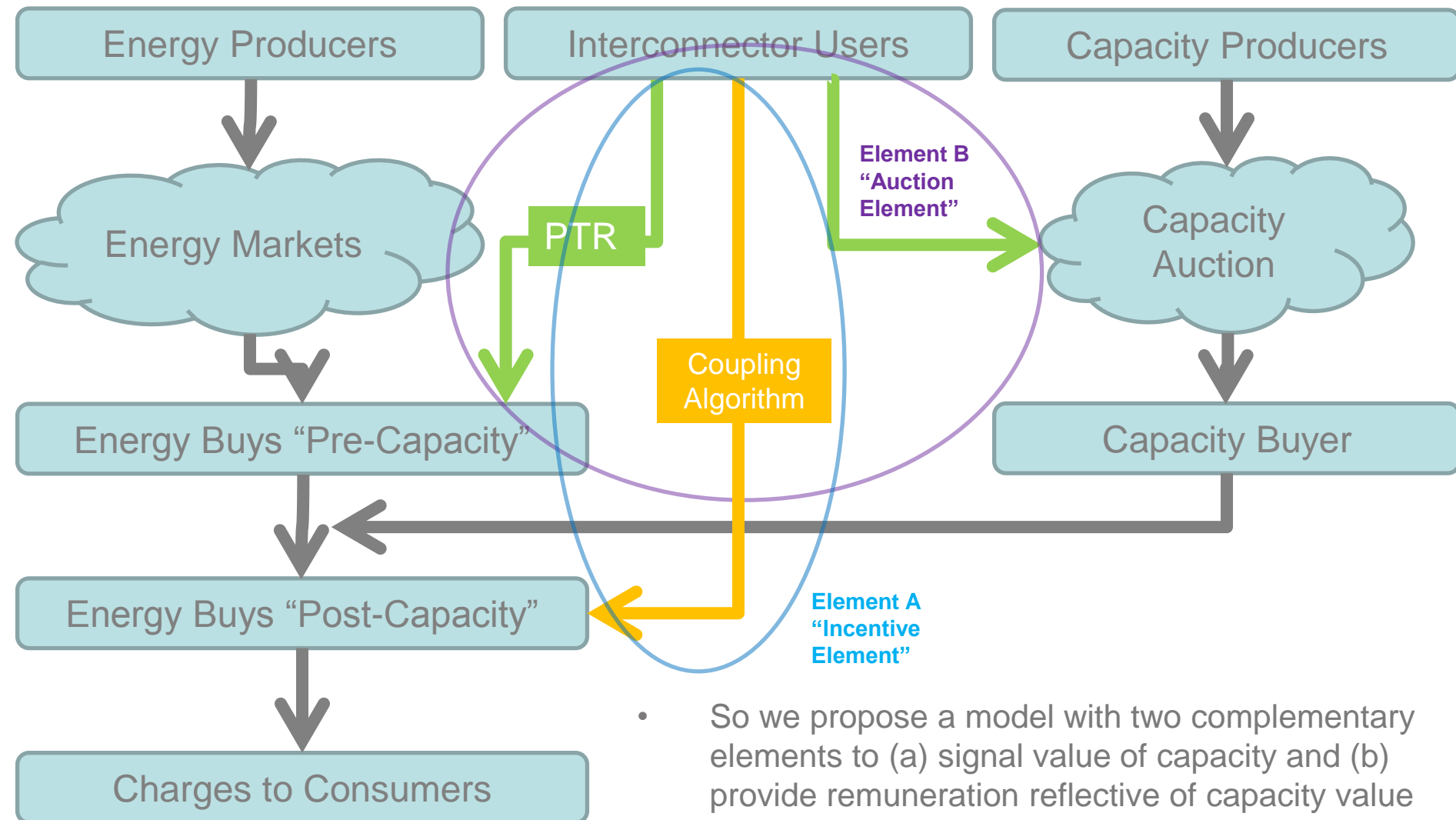
Long Term – Element B

- Non-GB Plant can bid at the auction
 - Supported by PTR
 - Governing Law of England & Wales
 - De-rated Capacity
- Delivers energy
 - Requires data agreement between Host TSO and GB SO

The Proposed Solution



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Expert Group Views

- Does the expert group believe that the proposed model offers a suitable approach?
- Are there aspects of either element of the model that are of particular benefit?
- Are there aspects of either element of the model that are of particular concern?
- Are either or both elements needed?

The material in this paper is work in progress and is not a statement of
government policy or policy intent

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Capacity Market Implementation

- Capacity Market Design: “Blueprint”: May
 - Early drafts of “Blueprint” published as a “Strawman” to the Expert Group(s) and wider
- **Institutional Design Mode of Implementation**
 - The activities the “Blueprint” contemplates must be assigned to Delivery Partners
 - Key Deliverable: Documentation (October)



- Fit with Pre-Existing Roles & Norms e.g.
 - Department must own Policy and remain accountable for its success
 - National Grid is Independent TSO – seek to avoid and/or manage Conflicts-of-Interest
 - Ofgem are Independent specialised sector regulator
 - Ofgem regulates National Grid
- Programme Evolution - Investor Certainty/Regulatory Risk
 - CM will need to evolve & adapt
 - Contractual certainty & Change of Law provisions
 - De-Politicisation
- Legal Constraints
 - Primary contemplates certain activities being carried out by the SoS
 - 3rd Package and the nature/independence of National Regulatory Authorities
- Governance
 - By what process will changes to the CM scheme be effected: who is decision maker and who has rights of consultation?
 - What objects will change seek to achieve?
- Practical Issues
 - Devolution difficult/impossible to revoke
 - Performance Standards for devolved activities (if any)
 - Accountability for performance
- Guidelines & Approach
 - For 1st pass seek maximum devolution
 - SoS retains role which require political decisions e.g. the reliability standard is public good
 - Activities which are regulatory in nature to be allocated to Ofgem
 - Activities which are greatest fit with existing Role players skills and experience
 - Create symbiosis or synergies where possible
 - Understand Interfaces



Capacity Market Rule Book Provisional

- Macro Issues
 - Establishment of the Demand Curve
 - DSR Transition Arrangements (Staging etc)
 - Auction Format (i.e. Reverse with Descending Clock)
 - De-Rating Algorithm
- Rules for Participation of Capacity Resources
 - Pre-qualification: process & criteria
- Auction Rules
 - Mechanics (De-Rating & Offer Submission, #Rounds etc)
 - Market Power Mitigation (Price Marker/Taker Business Plans etc)
- Delivery and Performance
 - Penalties, Incentives, Stress Events
 - Secondary Trading?
- Modalities of Settlement
 - Data flows, payment schedule, prudential requirements
- Boiler Plate/General Conditions
 - Dispute Resolutions, Appeals, Governing Law.....



Documentation

- Blueprint + Documentation:
 - Set out the Rules for the Capacity Market
 - Create Legal Relations
 - Public Consultation October
 - Impact on other Industry Documents (e.g. Codes)
 - Secondary
 - Licence
 - Documents Made Under Licence
 - Relevant Requirements
 - Capacity Instruments
 - Auction Guidelines
- What way should the Capacity Market Rules be set out between these documents?
- What should DECC, Industry and Ofgem's Roles be in preparing these documents?



Questions

- Are the Guidelines for Role Allocation Appropriate?
- Is the Role Allocation in the Accompanying Table Appropriate?
- What way should the Capacity Market Rules set out between these documents?
- What should DECC, Industry and Ofgem's Roles be in preparing these documents?



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Next meeting

Tuesday 26 March, 10.00 – 16.30,
LG07, 55 Whitehall



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