Department of Energy & Climate Change

Electricity Market Reform:

Capacity Market supplementary design proposals and Transitional Arrangements and Proposed amendments to the Capacity Market Rules 2014 and explanation of some immediate amendments to the Capacity Market Rules 2014

Consultations

Government Response

January 2015

URN 15D/018

Any enquiries regarding this publication should be sent to us at secondarylegislationemr@decc.gsi.gov.uk.

Contents

1. Introduction

Consultation overview

1. The Government's Electricity Market Reform programme is promoting investment in secure and low carbon electricity generation, while improving affordability for consumers. Integral to this is the introduction of the Capacity Market.

2. The Capacity Market is designed to provide incentives for investment in the overall level of reliable capacity (supply and demand side) and ultimately secure supply of electricity. The Capacity Market has also been designed to support the development of more active demand side management in the electricity market. It encourages investment by giving capacity providers certainty over part of the future revenues they will receive. It operates alongside the electricity market and the existing services National Grid procures to ensure balancing of the system.

3. The Capacity Market works by determining how much capacity is needed to ensure future security of supply. Competitive auctions are held four years and one year ahead of the year that capacity is expected to be in place. Successful bidders are assured of a steady payment in that delivery year; however they face penalties if they fail to deliver energy when needed. In this way, we can have confidence that sufficient supply will be in place to meet demand.

4. Full details of how the Capacity Market operates are set out in the Electricity Capacity Regulations 2014[1] ("the Principal Regulations"), the Electricity Capacity (Supplier Payment etc.) Regulations 2014 and the Capacity Market Rules 2014[2] ("the Rules"). The principal Regulations and Rules were developed based on responses to *Electricity Market Reform: Consultation on proposals for implementation,* published in October 2013. The Government Response, which was published in June 2014 sets out the final policy reflected in the Principal Regulations and Rules[3].

5. This document provides the Government response to the two further consultations on the Capacity Market:

---

[1] The Electricity Capacity Regulations 2014: http://www.legislation.gov.uk/uksi/2014/2043/contents/made
[2] Capacity Market Rules 2014: https://www.gov.uk/government/publications/capacity-market-rules
[3] The Government's response to the October 2013 EMR consultation can be found at https://www.gov.uk/government/consultations/proposals-for-implementation-of-electricity-market-reform

- The Capacity Market Supplementary Design proposals and Transitional Arrangements[4], which was published on 25 September and closed on 5 November 2014; and
- The Consultation on proposed amendments to the Capacity Market Rules 2014 and explanation of some immediate amendments to the Capacity Market Rules 2014[5], which was published on 19 August and closed on 9 September 2014.

The Consultation on proposed amendments to the Capacity Market Rules 2014 and explanation of some immediate amendments to the Capacity Market Rules 2014

6. The default position of the Capacity Market design is to award one-year agreements to successful bidders. Longer agreements, of three years or fifteen years, are available for refurbishing or new build plant respectively, subject to investments exceeding defined expenditure thresholds and to meeting other specified criteria. The August 2014 consultation sought views on whether it was necessary to amend the Rules in order to clarify eligibility for fifteen-year capacity agreements. A total of 22 responses were received, with responding organisations including power generators, utilities companies and non-governmental organisations.

The Capacity Market Supplementary Design proposals and Transitional Arrangements

7. Separately, as part of fulfilling a Government commitment to complete the policy design of the Capacity Market, in September the Government published the supplementary design proposals for the Capacity Market, which included proposals on the participation of interconnectors, Metering Configuration, Price Duration Curves, Obligation Trading, technical changes and Transitional Arrangements.

8. During this consultation period Government continued to engage with industry stakeholders in workshops on interconnection, Demand Side Response and Metering Configuration.

9. In total 38 responses were received from a wide range of stakeholders, including energy suppliers, generators, Demand Side Response providers, interconnector developers, consumer bodies, UK and foreign energy associations and others.

10. We would like to thank all those who engaged with both consultations by attending stakeholder events or submitting a response. A full list of respondents to both consultations is included in Annex A.

Analysis of consultation responses

11. For every consultation question we have set out the question in this document along with a summary of responses received and details of the decisions taken. These summaries are

[4] Consultation on Capacity Market Supplementary Design Proposals and Transitional Arrangements: https://www.gov.uk/government/consultations/consultation-on-capacity-market-supplementary-design-proposals-and-transitional-arrangements

[5] Consultation and Amendments to Capacity Market Rules 2014: https://www.gov.uk/government/consultations/consultation-and-amendments-to-capacity-market-rules-2014

intended to provide a representative overview of the feedback received and to explain why final decisions were taken.

12. All responses received as part of both consultations have been considered in developing final policy positions in the areas covered, and we have sought, where relevant and appropriate, to ensure stakeholder concerns have been addressed in the final design.

13. The analysis in this document also takes into account feedback received during the consultation workshops, and similarly this feedback has been taken into account when coming to final policy decisions.

Next steps

14. The decisions taken in light of the two consultations are reflected in the Electricity Capacity (Amendment) Regulations 2015, which have been laid before Parliament in draft alongside the publication of this document, and are, subject to securing the approval of both Houses, expected to be made and come into force about the start of March 2015. Corresponding amendments to the Capacity Market Rules 2014 are expected to come into force around the same time. The Government will continue to work closely with delivery partners and capacity providers to implement these reforms in time for the second capacity auction for delivery of capacity in 2019/20.

15. The Government has taken the decision to include provisions relating to Obligation Trading in a later set of amending Regulations. The delay in implementing the capacity obligation amendments is considered an appropriate course of action as the earliest date capacity obligation trading can occur is October 2017 (i.e. one year ahead of the first Capacity Market Delivery Year in 2018/19).

16. As set out in Chapter 4, the Government has decided not to implement Price Duration Curves for the T-4 capacity auction for delivery year 2019/20. The Government will work with interested parties to explore options for developing a revised Price Duration Curve methodology.

1. Proposals for the participation of Interconnection in the Capacity Market – questions and responses

Consultation question		32 Responses
IC1	Do you agree with the proposed approach of an interconnector-led interim measure until an international solution is developed at EU level?	
See Proposals for the participation of Interconnection in the Capacity Market section: Bidding Party, Regulatory Context		

Summary of responses

The majority of respondents agreed that the proposed interconnector-led model is an acceptable interim solution; they argued it will send the right investment signals and will contribute to security of supply. A minority of respondents did not agree that interconnectors should be allowed to participate in the CM auction, by arguing that interconnectors are considered transmission infrastructure under the Third Package.

On the question of a common approach at EU level to cross-border participation in capacity mechanisms, the majority of respondents support a common approach and would welcome EU guidelines. Some respondents prefer generation capacity to be rewarded in capacity mechanisms rather than interconnectors but also recognised that this solution is not possible in the short term. Therefore they stressed that the proposed solution should be an interim solution pending development of a wider EU regime which would permit the direct participation of overseas generation in capacity markets.

Decisions taken since consultation

Interconnectors will be eligible to participate in the GB Capacity Market in auctions for the delivery year 2019/2020 onwards. The T-4 and T-1 auctions for this delivery year will take place in 2015 and 2018 respectively. As per the proposal set out in the recent Consultation document, and in light of the responses received to this consultation, the interconnector owners will be the bidding parties and will become the holder of a capacity agreement up to the level of their de-rated capacity. They will receive the clearing price in the auction and will hold the capacity obligation in line with requirements for other resources. This is an interim solution until a common EU approach for the participation of cross-border capacity in capacity remuneration mechanisms is introduced.

Consultation question		24 responses
IC2	Do you have views on a common approach at EU level to cross-border participation in national capacity remunerations mechanisms?	
See Proposals for the participation of Interconnection in the Capacity Market section: Bidding Party		

Summary of responses

The majority of respondents support a common approach at EU level to cross border participation in national capacity mechanisms and welcome EU guidelines. Some respondents prefer generation capacity to be rewarded in capacity mechanisms rather than interconnectors but also recognised that this solution is not possible at the moment. DECC was encouraged to continue to engage on this issue at EU level.

Decisions taken since consultation

No decision associated with this. However, the Government remains committed to working with our neighbours, the Commission and other EU member states to develop a common approach and to transition to it once it has been developed. As such, the current interconnector-led approach should be considered an interim measure.

Consultation question		23 responses
IC3	Do you have any views on how this proposal interacts with the implementation of market coupling and the electricity target model?	
See Proposals for the participation of Interconnection in the Capacity Market section: Bidding Party		

Summary of responses

Many respondents expressed the view that the proposed model would not have a negative impact on market coupling or that it would have a minimal distortive effect. Some respondents argued that the proposed model favours Transmission System Operator (TSO) owned interconnectors and that there is potentially a conflict of interest. A minority of respondents expressed concerns over the compatibility of the proposed solution with market coupling and the provisions in the Third Package. They argued generally that flows on interconnectors should be dictated only by price differentials although few had specific, detailed descriptions of their concerns.

Decisions taken since consultation

No decision associated with this. The question was intended to gather views from stakeholders on the compatibility of the proposal with EU legislation. DECC has also conducted a review of the proposal to satisfy itself that it is compatible. In relation to market coupling, interconnectors will receive capacity payments according to their de-rated capacity obligation and will not be able to exert influence over the flows, which will be determined by the market coupling

algorithm. To mitigate any risk of introducing a policy that runs counter to market coupling, penalties are capped at the level of annual payments and interconnectors will not be subject to greater penalties if they are exporting. Furthermore, the agreement length for interconnectors will be one year, ensuring that the Government retains the ability to respond by making legislative changes if monitoring shows that participation in the CM causes interconnectors to behave in ways that create tension with the implementation of market coupling, or if the rules do not fit with EU legislation as it evolves over the coming years.

In terms of the Third Package, TSOs will remain under their obligations not to discriminate in providing access to interconnectors and it is Ofgem's role to enforce these obligations.

Consultation question		24 responses
IC4	Do you have any views on the proposal to integrate interconnectors into the existing auction design i.e. a single product auction to secure one capacity product?	
See Proposals for the participation of Interconnection in the Capacity Market section: Nature of the Obligation		

Summary of responses

The majority of stakeholders, including those who argue against the participation of interconnection in the Capacity Market, agreed that should interconnectors be allowed to participate in the auction it should be under the same rules as domestic generation and with a 'single product' auction, i.e the nature of the obligation should be based on the "delivered energy" model that applies to domestic generation and not the "declared availability" model. A few respondents argued that the existing Capacity Market model of "energy delivered" is not appropriate for interconnectors as they do not have control over the direction of flow of energy.

Decisions taken since consultation

The nature of the obligation of interconnectors will be based on the delivered energy model as per the existing Capacity Market Rules for domestic generation. The level of the obligation will be the de-rated capacity of the interconnector – the realistic long-run expectation of imports at times of system stress. As with other resources, the energy market provides the main incentives for delivery. The penalty regime is not designed to supplant this; rather it acts as a method to "true-up" the performance of resources in relation to their de-rated capacity. This will also be true for interconnectors in that there will be a requirement to reach the level of the capacity obligation when a Capacity Market warning is issued. This is in line with the Government's intention to have a 'single product' auction where only one product - delivered energy - is secured.

Consultation question		25 responses
IC5	What are your views on the length of capacity agreements for interconnectors?	

	Where possible, please provide evidence based answers.
See Proposals for the participation of Interconnection in the Capacity Market section: Length of Agreement	

Summary of responses

A small number of respondents argued that interconnectors should have access to longer agreements or the same length of agreement as GB generation as these are necessary for investment. However, the majority of respondents noted that if interconnectors are included in the Capacity Market, one year is most appropriate, due to the interim nature of this solution and the difficulties of de-rating interconnectors in the long-term. They also argued there should be flexibility to adjust the de-rating factor annually to accurately reflect any improvements in modelling or changes in interconnector behaviour following the full implementation of market coupling. There were no workable suggestions on how to approach the challenge of de-rating interconnectors for longer agreements. There was also a lack of quantitative or analytical evidence to support the arguments that were made for longer agreements.

Decisions taken since consultation

The agreement length for successful interconnectors in the Capacity Market auction will be one year. The default position for all resources in the Capacity Market is a one-year agreement; the longer agreements available for domestic generation were only introduced following an exhaustive policy development process and convincing evidence provided by the sector which informed the Government's own analysis that this approach was necessary. The consultation on agreement length for interconnectors did not provide substantial or robust evidence to inform Government analysis.

However, further to consideration of responses to the consultation, the Government undertook analysis to examine the extent of evidence to support an exception for longer agreements for interconnectors. The commercial analysis assessed a range of known potential interconnector projects under both Ofgem's Cap & Floor and merchant route. The analysis focused on estimating the project and equity internal rates of returns as well as likely capital structures including the minimum debt able to be raised under project finance facilities.

The results suggested that longer agreements for merchant interconnectors, or indeed for interconnectors coming forward under Ofgem's Cap & Floor regime, would not significantly increase the level of financing available to new interconnector projects. For merchant projects, even with a fifteen-year agreement, projects would need to be assured of a very high clearing price and a high de-rating factor to realise any additional financial benefits.

In short, on the evidence available it does not appear that longer capacity agreements would make a significant difference when it comes to helping new interconnector projects to secure project financing. For projects coming forward under Cap and Floor, capacity payments will be rolled into the overall calculation of revenues which are then subject to Cap and Floor regulation, meaning that capacity payments would need to be consistently higher than the floor

to have any additional impact. The Government will of course be happy to look again at this analysis if and where any further, robust evidence emerges in future.

A further concern is whether granting long term agreements would be compatible with the interim nature of the policy design. As outlined in response to question one, the current approach to interconnectors is envisaged as short-to-medium term, to be superseded once developments allow for a more consistent approach to capacity mechanisms at wider European level. A one year agreement length is also consistent with the need to adjust the de-rating of interconnectors in line with new evidence as it becomes available and potential future improvements to the de-rating methodology.

Consultation question		28 responses
IC6	What are your views on de-rating interconnectors? Specific views are invited on: A) principles i.e. technical reliability and the likelihood of flowing to GB at times of system stress B) Are you aware of any best practices, useful data sets or other evidence to contribute to assessing the de-rated capacity of interconnectors? C) Are there any particular challenges or risks to de-rating interconnectors that you wish to highlight?	
See Proposals for the participation of Interconnection in the Capacity Market section: Lead option: Interconnector-led interim measure, De-rating Interconnectors		

Summary of responses

The majority of respondents agreed with the proposals to de-rate interconnectors based on technical reliability and likelihood of importing at times of stress. Some highlighted that lack of historical data on interconnector behaviour and the uncertainty over the direction of future flows present a significant challenge. Some responses also reflected a preference to individually de-rate interconnectors. A small minority argued that interconnector de-rating should be conservative for this proposal to be effective. A number of respondents also expressed concern that National Grid, as Delivery Body, would have a conflict of interest if asked to determine de-rating factors for interconnectors.

Decisions taken since consultation

The Secretary of State will determine a de-rating factor individually for each interconnector, based on a range of inputs that, amongst others, will include National Grid's analysis of likely country flows at times of system stress and an assessment of the technical reliability. National Grid's commercial interconnectors business has a stake in two existing interconnectors, which creates conflicts of interests should National Grid de-rate interconnectors as it does for domestic generation and demand side response under the existing arrangements of the Capacity Market. Therefore this approach provides assurance against these potential conflicts

of interest. In the absence of robust historical averages for interconnectors and in light of recent developments in the EU, which will affect how interconnector flows respond to scarcity, de-rating them individually will provide a more accurate de-rating factor for each interconnector and take into account the different characteristics of technologies and connecting markets. In addition to this, the existing Panel of Technical Experts (PTE) will be involved to ensure there is robust and independent scrutiny of de-rating factors for interconnectors.

Final de-rating decisions will:

- Reflect likely future technical reliability;
- Reflect likely future direction of system flows at times of system stress
- Be calculated on an individual interconnector, rather than a generic sector, basis and
- Mitigate any potential conflict of interest and ensure that no undue influence has had an effect on the final determination of the de-rating factor.

The final de-rating methodology will be outlined in the Capacity Market Rules in March 2015. There are challenges in using either historical data or forecasted approaches, therefore there may be advantages in a methodology which combines both. Under this option, interconnectors would be guaranteed a minimum de-rating factor derived from historical evidence (e.g. prices), subject to there not being any publically reported concerns about their outlook for the year in question. The Secretary of State would make final decisions on both the historical and forecasted factors, but interconnectors should, in principle, be well placed to take their own early view of a likely historically-based de-rating factor. This minimum-guarantee approach would give interconnector developers a degree of certainty ahead of investment decisions, but would be likely to be appropriately conservative given developments, such as market coupling and Ofgem's cash out reform, which are expected to have a positive impact on the efficiency of interconnector flows in responding to system stress. Interconnector developers could potentially get a higher de-rating factor from the forecasted methodology, when these factors are published alongside auction parameters in June.

We recognise the potentially significant attractions of this "hybrid" approach and are conducting research to understand any risks relating to it. The Government will set out the detailed final position in mid-February (in advance of the formal Capacity Market Rules), to include confirmation of whether the hybrid approach will be adopted and, if so, the historical evidence that would be considered relevant along with any exceptions. In the meantime, DECC will be engaging with key stakeholders to ensure that they are kept abreast and have an opportunity to feed in any views.

Consultation question		26 responses
IC7	Do you have any views on penalty liability? Is it appropriate to apply the same regime as for domestic generation given that interconnectors may be exporting?	
See Proposals for the participation of Interconnection in the Capacity Market section: Lead option: Interconnector-led interim measure, Delivery of obligation in system stress events		

Summary of responses

The majority of respondents believe that interconnectors should be exposed to the same penalty charges as domestic generation and DSR. A small number of responses highlighted that interconnectors could also be exporting at times of system stress and consequently exacerbate security of supply issues, therefore their penalty exposure should reflect this. Some respondents argued however that it is unfair for interconnectors to face the penalties of the current design as they do not have dispatch control and that they should only be liable for technical availability. Finally, one respondent outlined the potential conflicts of interest that arise where Transmission System Operators are owners of interconnectors and the potential impact of this on energy delivery at times of common system stress between countries.

Decisions taken since consultation

The Government's policy is to treat interconnection on the same basis as domestic generation and that the same penalty regime should apply. The existing penalty regime caps penalties at the level of benefit received; therefore it does not create any particular different treatment for interconnectors in comparison to other resources. It should also be noted that this cap mitigates the potential of incentivising any interconnector behaviour that may run counter to the principles of market coupling. The primary method of dispatch for flows over the interconnectors should be based on the market coupling algorithm only. This has been an important consideration for Government in the development of this policy.

Consultation question		13 responses
IC8	Do you have any comments on Chapter 2 of the Consultation?	
See Proposals for the participation of Interconnection in the Capacity Market section		

Summary of responses

Respondents reiterated their support for cross border participation and on the challenges they see regarding the de-rating of interconnectors. Some respondents suggested there should be a hedging market in the foreign market with special penalty provisions split between the hedging generators and interconnector owner. Others suggested the Government should also look at how GB generation can participate in other capacity mechanisms that operate under availability models.

Decisions taken since consultation

The Government has considered these points in coming to final decisions and has set these out in other sections of this document. For example, in IC1 and IC4.

2. Metering Configuration Solutions- questions and responses

Consultation question		7 responses
MC1	Do you have any views on the proposed Technical Requirements for Bespoke Metering? A draft version has been published alongside the consultation document.	
See Technical Requirements for Bespoke Metering		

Summary of responses

The majority of respondents agreed that there should be parity in metering arrangements for all resources in the Capacity Market and that requirements should be aligned to the Balancing Settlement Code (BSC) metering codes of practice. Some respondents suggested referencing the BSC metering codes of practice rather than setting them out in a schedule to the Rules.

One respondent suggested that existing BSC metering dispensations should be taken into account when assessing the accuracy and compliance of sites. Another respondent commented that the accuracy levels of metering equipment should be calculated at the CMU level and not at the individual site level.

Decisions taken since consultation

Existing metering dispensations will be considered as part of the Metering Test and providers are requested to provide information on relevant dispensations. At a stakeholder event attendees suggested a document, a Metering Statement, which describes the metering arrangements of a CMU, including any component sites. The Government has agreed to this suggestion and the Metering Statement will contain information on how net Metered Volume will be provided for each CMU component, including metering equipment accuracy levels. This information would usually be required from a CMU during a metering assessment and/or through a metering test and the statement enables all this information to be collated in one document and provides the opportunity for CMUs to include additional metering information it believes to be relevant. The Metering Statement will also assist the Settlement Body when undertaking site audits.

The Technical Requirements set out accuracy levels for different types of metering circuits based on their MW thresholds. Accuracy levels help to ensure that the metering equipment is operating correctly, and provides confidence that the meter readings at each component site are correct. Therefore each site will be required to comply with the relevant accuracy levels set out in the Technical Requirements. To encourage participation from smaller providers,

accuracy levels for providers with metering energy transfers with a maximum demand of up to (and including) 1MW for settlement purposes have been included, which are less onerous for smaller providers.

Consultation question		5 responses
MC2	Do you agree that data storage facilities in the meter should retain data for a minimum of 50 days?	
See Proposals for Metering Configuration Solutions section: Requirements applying to all metering solutions		

Summary of responses

Some respondents felt that a requirement more onerous than the BSC metering codes of practice was not necessary and would increase costs.

Decisions taken since consultation

The metering requirements have been amended to ensure that the requirements do not exceed those set out in the BSC metering codes of practice. The provision will require providers to have storage capacity of 48 periods per day for a minimum of 10 days for Metering Type 1 and 2 and 20 days for Metering Type 3 and 4 for all metered volume.

Consultation question		6 responses
MC3	Do you agree with the proposals for change of metering equipment provisions set out in this chapter?	
See Proposals for Metering Configuration Solutions section		

Summary of responses

Respondents asked for further information on the timeline for implementing changes and one respondent asked for changes to be undertaken immediately, whilst another asked for a set timeframe for changes to be implemented.

Decisions taken since consultation

Changes to the metering equipment for providers using the Supplier Settlement and Balancing Services metering configurations will need to comply with the applicable version of the governing documents as set out in the change procedures of their governing documents. Providers using bespoke metering configurations will be able to choose whether to implement the new metering requirements or remain with the applicable version of the technical requirements at the time the CMU received its valid Metering Test Certificate. However, any major changes that impact on the accuracy and robustness of the metering configuration must comply with the latest metering requirements.

The timeline for implementing changes for providers using bespoke metering configurations will vary due to the nature of the change, however, as the Technical Requirements are set out in the Rules a consultation process will be required and therefore stakeholders will be made aware of proposed changes.

Consultation question		7 responses
MC4	Do you agree that Metering Test Certificates should remain valid for subsequent auctions?	
See Proposals for Metering Configuration Solutions section: Requirements applying to all metering solutions		

Summary of responses

The majority of respondents agreed that Metering Test Certificates should remain valid for subsequent auctions following confirmation that no changes have been made to the metering configurations of any generating unit or DSR component.

Decisions taken since consultation

As set out in the consultation document, Metering Tests Certificates will remain valid once passed, unless the metering arrangements of the provider's components are changed. In successive applications, CMUs must confirm that the metering configurations for each of their components have not been amended to ensure that a Metering Test is not required. CMUs that are subsequently found to have changed their metering set up without notifying the Settlement Body will have their Metering Test Certificate invalidated and must repay any capacity payments received during this period. For providers with multi-year agreements they may face termination of their capacity agreement for invalidating their Metering Test Certificate on three separate occasions.

Consultation question		7 responses
MC5	Do you have any views on whether the proposed data transfer methods for transitional arrangements is suitable as an interim approach?	
See Proposals for Metering Configuration Solutions section Requirements applying to all metering solutions		

Summary of responses

The majority of respondents agreed that it was a suitable approach as an interim measure only as data can be manipulated. One respondent felt comma separated value (CSV) files are complex and prone to errors, whilst another respondent requested that this approach should be continued in the enduring regime.

Decisions taken since consultation

As proposed in the consultation document, during the transitional arrangements CMUs will submit their own data directly via secure file transfer protocol to the Electricity Settlement Company (ESC) or can arrange for their data to be collected and submitted to the ESC by a third party data collector. Secure file transfer protocol is a secure and standard process for transferring files and whilst it is acknowledged that the process can be time consuming, a longer term solution will be developed for delivery in the enduring Capacity Market.

Consultation question		7 responses
MC6	Is it necessary to develop more robust data submission arrangements in the longer term?	
See Proposals for Metering Configuration Solutions section		

Summary of responses

The majority of respondents agreed that a more robust system should be implemented for the enduring regime and some suggested aligning the data transfer system to mirror the BSC. One respondent asked for changes to be delayed until after the Transitional Arrangements auction to ensure the experience gained could be used to help inform the design of a new system and to avoid any increase in costs to providers.

Decisions taken since consultation

In accordance with the proposals set out in the consultation document the Government intends to develop an automated data transfer system for the enduring Capacity Market, which CMUs will be required to implement prior to delivery in 2018/19. The method will ensure that data submitted is robust, accurate and help mitigate against possible data manipulation, which aligns to the principles of the BSC data system.

Consultation question		8 responses
MC7	Do you agree with the proposed sanctions for CMUs that have incorrectly or falsely submitted data or information?	
See Proposals for Metering Configuration Solutions section		

Summary of responses

The majority of respondents agreed with the proposed sanctions and requested that providers are given an opportunity to correct data prior to sanctions being imposed. Some respondents requested further information on how many failures would result in termination.

Decisions taken since consultation

The proposed sanctions will be incurred if the CMU fails to inform the Settlement Body of a known error in metered data and/or a metering fault, or through the submission of incorrect metering information. These sanctions do not apply to a CMU becoming aware of an issue and proactively informing the Settlement Body and setting out how the issue will be resolved and by when.

The repayments will be calculated from the date when the metering became non-compliant (invalidation date) to either the date that the issue came to the attention of the Settlement Body and it issued a metering recovery payment notice or to the date when any faults are resolved and the provider notifies the Settlement Body by issuing a completion notice. In some circumstances, for example where the information provided in the metering statement or line diagram was false, the repayment period would be from the first day of the relevant delivery year to the date when the Settlement Body became aware of the issue and issued a metering recovery payment notice.

Following the consultation process, CMUs with multi-year agreements that invalidate their Metering Test Certificate on three separate occasions may have their agreements terminated.

Consultation question		5 responses
MC8	Do you have any views on the two options set out for CMUs that are a subset of a BMU?	
See Proposals for Metering Configuration Solutions section		

Summary of responses

Some respondents felt that the principle of separate metering to identify the output of a CMU that is a subset of a Balancing Mechanism Unit (BMU) was correct, but that further information was required to ensure that there was parity between all resources in the Capacity Market. One respondent asked whether the splitting of the sites could impact on the BMU's participation in the main electricity market and whether settlement activities would be impacted. Another respondent inquired as to whether this could lead the way for providers to enter one site as different resources in the Capacity Market.

Decisions taken since consultation

The Government acknowledges that the participation of CMUs that are partial BMUs is a complex issue. The provisions set out in the consultation document will ensure parity in metering between resources in the Capacity Market as providers are required to comply with the BSC metering codes of practice and, where applicable, the Technical Requirements for Bespoke Metering Configurations, which are aligned to industry standards. CMUs will in addition have to comply with the wider eligibility and prequalification requirements as set out in the Rules and Principal Regulations, which will further ensure parity between resources.

In response to the other queries raised, the splitting up of BMUs will not impact the BSC settlement process as the aggregated BMU will continue to be used for non-EMR settlement activities and, as set out in Rule 3.4.3 (b), providers are allowed to enter different resources on one site as separate CMUs on the condition that the site's metering can separately identify the output of each resource.

3. Capacity Obligation Trading and Settlement- questions and responses

Consultation question		11 responses
OT1	Do you have any questions on the proposed amendments to the regulations in relation to reconciliation of payments or interest?	
See Proposals for Obligation Trading and Settlement section: Revisions to Regulations in relation to Obligation Trading, payment and reconciliation		

Summary of responses

The majority of stakeholders that addressed this question welcomed the proposals on amendments to enable reconciliation of payments and in relation to interest. Some highlighted that further engagement is needed with industry to develop obligation trading; that an opportunity to review changes to the Regulations is needed; and/or that it is important to utilise existing processes and timetables to keep obligation trading simple.

Decisions taken since consultation

As per the recent consultation document, in order to give statutory backing to the provisions for Obligation Trading - as currently set out in Chapter 9 of the Capacity Market Rules 2014, the settlement calculations set out in Schedule 1 of the Electricity Capacity Regulations 2014 will be amended. In addition, the Regulations will also be amended to ensure that payments to and from capacity providers are reconciled and any interest accrued on payments is distributed accordingly.

The Government has previously engaged with Energy UK to gather industry input on Obligation Trading and has reviewed and analysed all responses to this section of the consultation. The Government intends to proceed with amendments on the lines proposed. However it is also is keen to ensure that the detailed legal drafting is properly tested with industry, and notes that implementation of provisions of this sort is less urgent than some other proposals consulted on (e.g. interconnected capacity and metering configuration solutions) as the earliest date capacity obligation trading can occur is October 2017 (i.e. one-year ahead of the first Capacity Market Delivery Year in 2018/19). These provisions do not therefore form part of the legal amendments now being laid in Parliament to allow for further stakeholder engagement.

Consultation question		11 responses
OT2	Do you agree with the proposal to adjust, and the manner of adjusting, a capacity committed CMU's monthly capacity payments based on the obligations held?	
See Proposals for Obligation Trading and Settlement section:		

Summary of responses

All stakeholders that addressed this question agreed that it is sensible to adjust the monthly payments of a CMU based on obligations held by that CMU over the course of a delivery year. One respondent noted that this approach results in obligation being traded having a different value in different months, depending on the month in which a trade is made, despite the overall capacity fee being a fixed annual payment.

Decisions taken since consultation

As per the proposal consulted upon, Schedule 1, paragraph 3 of the Principal Regulations will be amended to enable a capacity provider's scheduled monthly payments to be adjusted to reflect whether they had traded out of their obligations, taken on additional obligations, the amount of the transfer and the duration of the transfer period.

As set out under question OT1, this change will be delayed to allow for additional stakeholder engagement and more urgent and essential changes to the Principal Regulations to be made.

Consultation question		9 responses
OT3	Do you agree with the proposal to adjust, and the manner of adjusting, a capacity committed CMU's penalty rate and overdelivery rate based on the obligations held?	
See Proposals for Obligation Trading and Settlement section:		

Summary of responses

Respondents agreed that it is sensible to adjust the penalty and over-delivery rates based on obligations held by a capacity committed CMU over a delivery year.

Decisions taken since consultation

As per the proposal consulted upon, Schedule 1, paragraph 5 of the Principal Regulations will be amended so that the penalty rate applied to a CMU's delivery failure will be the lower of the aforementioned weighted average of the penalty rates for those vintages of obligations held by the CMU at that time. As a result the CMU's penalty rate may fluctuate over time to reflect any changes to the CMU's mix of obligations. The rate would however remain constant within individual settlement periods.

Similar adjustments will be made to the calculation of a CMU's overdelivery rate, based on the mix of obligations held by the CMU. The rate will be the lower of the weighted average or the total penalty revenue divided by the total overdelivery volume for the relevant delivery year. As with the penalty rate, the weighted average may fluctuate over time, but not within individual settlement periods. The overdelivery rate actually applied for specific settlement periods will not, however, be determined until the end of the delivery year (where the total penalty revenue and amount of overdelivery will be known).

As set out under question OT1, these changes will be delayed to allow for additional stakeholder engagement and more urgent and essential changes to the Regulations to be made.

Consultation question		12 responses
OT4	Do you agree with the proposal to adjust, and the manner of the adjusting, a capacity committed CMU's monthly penalty cap based on the obligations held?	
See Proposals for Obligation Trading and Settlement section:		

Summary of responses

The majority of stakeholders agreed that the monthly penalty cap should be adjusted to reflect obligations held but also highlighted that more detail is needed and called on DECC to work with industry to develop this. One respondent noted that, should this proposal be implemented, the penalty cap of the transferor should be reduced using the same methodology. Three respondents disagreed with this proposal with one highlighting the complexity this introduces to quantifying the monthly penalty cap for trades of a duration of less than a month. This creates a barrier to trade. Another response argues that the penalty cap should be directly related to size of capacity payments. CMUs receiving an obligation in trade should be related the same way as CMUs receiving an obligation in the auction.

Decisions taken since consultation

Schedule 1, paragraph 6 of the Principal Regulations will be amended so that a CMU's monthly penalty cap will be twice their capacity payments for that month (to reflect the actual durations of increases or decreases in their obligation levels within a month), save for months in which a system stress event is experienced at any time in the period for which the obligations are held. In such cases the CMU's monthly penalty cap will be twice the *scheduled* full monthly capacity payments for *any* discrete obligations held at the incidents of system stress within the month, irrespective of how long the obligations are actually held for in the month.

Any adjustments to a CMU's monthly penalty cap will be self-contained in the month in which they are incurred and have no impact on the monthly penalty caps of subsequent or preceding months.

As set out under question OT1, these changes do not form part of the legal amendments currently before Parliament.

Consultation question		12 responses
OT5	Do you agree with the proposal to adjust, and the manner of the adjusting, a capacity committed CMU's annual penalty cap based on the obligations held?	
See Proposals for Obligation Trading and Settlement section:		

Summary of responses

Four responses agreed with the proposal to adjust the annual penalty cap based on obligations held by a capacity committed CMU over a delivery year, but also noted that this needs further clarification and called upon DECC to work with industry to develop this. Six responses disagreed with this proposal arguing that this can result in greater exposure to risk than any other CMU's exposure in the Capacity Market and therefore disincentivises participation in obligation trading which could have a negative effect on the liquidity of the obligation trading market.

Decisions taken since consultation

A CMU's annual penalty cap will be adjusted to reflect the mix of obligations held throughout the year. The annual cap will increase, or decrease, from the month of the obligation transfer forwards, with no impact on retrospective penalty exposure. This is required to ensure that delivery incentives for CMUs participating in obligation trading are not diluted, as they would be if the monthly penalty caps were adjusted to account for transferred obligations but the annual penalty caps were not.

As set out under question OT1, this change has will be delayed to allow for additional stakeholder engagement and more urgent and essential changes to the Principal Regulations to be made. This stakeholder engagement will include consideration of whether the annual penalty cap should increase in direct proportion to monthly cap adjustments, thereby taking the potential annual penalty cap to in excess of 100 per cent of the annual capacity payments.

4. Price Duration Curves- questions and responses

Consultation question		13 responses/ 9 responses
PDC1	Do you agree with our overall methodology of deriving Price Duration Equivalence? Are there alternative methodologies that you would suggest?	
PDC2	Do you agree that the future estimates of clearing prices should be based on annual updates to DECC's electricity market modelling? Do you think that there are other possible sources of future estimates of clearing prices that we need to consider?	
PDC3	Do you think we should take further account of the volume and price risk surrounding the FCP_i? If so, how should be model for this risk?	
See Proposals for Price Duration Curves section: Proposed methodology		

Summary of responses

A number of respondents agreed with the principle of the Price Duration Curves (PDCs) and the ability that this would give the Government to compare the costs to consumers of short and long term capacity agreements but raised a number of concerns. The majority of the respondents, including those who support PDCs in principle, disagreed with the methodology or highlighted that the introduction of PDCs is premature and could undermine liquidity and competition in the auction. Other concerns included that the methodology is dependent on the prices modeled; that there is no evidence of market prices; there is lack of external validity, for example by the Panel of Technical Experts; that the methodology does not take into account capacity shocks or the long-term capacity and price stability provided by new capacity. Respondents also argued that the introduction of PDCs will deter new investment from independent providers.

The majority of respondents also disagreed that future estimates of clearing prices should be based on annual updates to DECC's electricity market modelling and argued that other key variants (for example Cost of New Entry, benefits of long-term agreements) should be taken into account. They suggested that PDCs are suspended until there is a better understanding of the auction process.

Although respondents strongly supported further work to develop an alternative methodology for PDCs that would mitigate these concerns, they did not propose workable alternative approaches but expressed interest in working with DECC to develop a plausible methodology.

Decisions taken since consultation

In light of the responses provided the Government intends to continue to review the proposals on PDCs and allow time to develop an alternative methodology. Please see Decisions taken to question PDC4.

Consultation question		15 responses
PDC4	Do you think that it would be in the interest of security of supply, a liquid auction, simplicity or otherwise to continue to dis-apply price duration curves and if so for how long?	
See Proposals for Price Duration Curves section		

Summary of responses

Responses to this question were consistent with responses to the previous questions. Most respondents agreed that the Government should continue to dis-apply PDCs. Again, some responses expressed sympathy for the principles of PDCs but did not support the methodology as proposed. One respondent supported that PDCs should be applied as soon as possible and expressed a concern that the first auction will be run without PDCs and with fifteen-year agreements, which might not be of best value for consumers.

Decisions taken since consultation

The Government has considered responses to this question and the questions above and intends to continue dis-applying PDCs for the next capacity auction, i.e. the second T-4 Capacity Market auction (for delivery year 2019/20) will be a non-Variable Price-Duration auction. This means that the Government will continue for the time being to bear the price risk and the volume risk by offering long-term agreements and intends to work closely with industry to develop the PDC methodology further.

This allows the Capacity Market to stabilise before making significant changes and provides an opportunity to apply lessons learned from the first two auctions. It will however, require industry to provide more detailed and quantitative evidence to support the development of an alternative methodology.

Some consultees noted that an alternative solution to the proposed introduction of PDCs would be to review the provision of long-term agreements in the Capacity Market once the Capacity Market has stabilised. This would allow the Government to observe and apply lessons learned from the first two T-4 auctions on the importance and necessity of long-term agreements.

5. Other technical changes- questions and responses

Consultation question		12 responses
TC1	Do you agree with the proposal to amend the definition of prequalification decisions to enable appeals by secondary trading entrants?	
See Other Technical Changes section: Prequalification Decision		

Summary of responses
All responses provided to this question agreed with the proposal to amend the definition of prequalification decisions to enable appeals by secondary trading entrants.

Decisions taken since consultation
The current definition of "Prequalification decisions" contained in Regulation 2 of the Principal Regulations will be updated to allow obligation trading entrants to challenge a Delivery Body reviewable decision in respect of a prequalification decision to which they are subject. As per other Obligation Trading changes, this change will be delayed to allow for more urgent and essential changes to be made.

Consultation question		10 responses
TC2	Do you agree with the proposal and circumstances for capacity providers to repay capacity payments received between the notification of a termination event and the actual termination of their capacity agreement?	
See Other Technical Changes section: Prequalification Decision		

Summary of responses
The majority of respondents agreed with the proposals that providers subject to a termination event should repay any capacity payments received between the date of the termination event. Two respondents disagreed, with one arguing that a termination event might be triggered in error.

Decisions taken since consultation

The Rules will be updated to reflect the policy intent that where a capacity agreement is terminated following the occurrence of a termination event referenced in paragraphs (a) (insolvency) or (d) (failure to satisfy the General Eligibility Criteria) of Rule 6.10.1 or following a direction made under Rule 6.10.2(a)(ii) (for actual or suspected involvement in Prohibited Activities), a capacity provider will be required to repay any capacity payments received in respect of the period between the date on which the Delivery Body serves a termination notice under Rule 6.10.2(a) and the date on which their capacity agreement terminates (under Rule 6.10.2(e)).

This repayment will be in addition to any termination fee liability and will be triggered by an invoice from the ESC. Where a capacity agreement is terminated following the occurrence of a termination event under Rule 6.10.1(g) (TEC surrender), a capacity provider will be required to repay any capacity payments received in respect of the period between the verified date of the TEC surrender, rather than the date of the notification of the termination event, and the point of termination under Rule 6.10.2(e). In such periods, capacity providers will not be obligated to deliver in any periods of system stress.

The repayment proposal is not relevant to other termination events which are subject to a termination fee (e.g. Rule 6.10.1(b) financial commitment milestone, Rule 6.10.1(c) – minimum completion requirement, Rule 6.10.1(e) – connection offer, Rule 6.10.1(f) – TEC confirmation and Rule 6.10.1(h) – metering assessment) as they can only occur in advance of the provider starting to receive capacity payments.

Consultation question		10 responses
TC3	Do you agree with the proposal to extend the TEC and planning consent derogations to the second full capacity auction?	
See Other Technical Changes section: Transmission Entry Capacity (TEC) derogation and planning permission derogation		

Summary of responses

The vast majority of stakeholders who addressed this question agreed with the proposal to extend the current TEC and planning consent derogations to the second full capacity auction. One stakeholder disagreed arguing that the policy intent has been known for some time and therefore generators would have enough time to react to rules applicable to the second auction. Finally one respondent, while agreeing with the proposal given the current policy design, argued that this has potential to distort the auction as it requires some to have TEC while others don't.

Decisions taken since consultation

The current provision in the Rules that an applicant for an existing generating CMU may declare that, although it has not secured Transmission Entry Capacity (TEC) for the relevant delivery year, it will have secured the required TEC at least 18 months ahead of the relevant delivery year, will be extended to apply to the second full capacity auction too. This derogation will not apply beyond the second T-4 auction, as the deadline for confirming TEC requirements in

respect of 2016/17 onwards has not yet been reached and prospective applicants still have the opportunity to comply with the requirement to hold TEC at prequalification under Rule 3.6.3(a).

Similarly in relation to planning consent, a derogation exists (Rule 3.7.1 (a)) for applicants to declare that they will have obtained relevant planning consent at least 17 working days ahead of the first auction, rather than by the deadline to submit their prequalification applications. This derogation will be extended to apply to the second full capacity auction. This derogation will not be extended beyond the second full capacity auction as, after this time, the requirement to evidence planning consent will have been in the public domain for a longer period than needed to allow for planning timelines and prospective applicants should have accommodated the Capacity Market's timelines in their planning cycle.

Consultation question		10 responses
TC4	Do you agree with the proposal to amend the Substantial Completion Milestone criteria for refurbishing CMUs?	
See Other Technical Changes section: Achieving the Substantial Completion Milestone		

Summary of responses

All responses to this question clearly stated that they agree with the proposals to recalibrate the substantial position milestone to 90% of a refurbishing CMU's obligation. One participant requested that the CEC option (in relation to Rule 3.5.2) is removed altogether.

Decisions taken since consultation

As per the proposals in the consultation document and in light of the responses, the Substantial Completion Milestone will be recalibrated to at least 90 per cent of a CMU's capacity obligation. This will provide a practical means for Refurbishing CMUs to achieve the milestone whilst aligning the treatment of Refurbishing CMUs with New Build CMUs, which are considered to have met their equivalent milestone where they are capable of delivering at least 90 per cent of their capacity obligation (Rule 6.7.2). To be considered to have met the Substantial Completion Milestone, the current drafting requires a Refurbishing CMU to be operational and capable of delivering at a level which, when multiplied by its de-rating factor, equals or exceeds 100 per cent of its capacity obligation (Rule 6.7.3). This change addresses comments by stakeholders that the current requirement is in conflict with Grid Code/Connection Use of System Charges (CUSC) requirements.

Consultation question		9 responses
TC5	Do you agree with the proposal to not extend Long Stop Dates where a transmission licensee or DNO has been released from their obligation to provide an active connection by a specified date?	
See Other Technical Changes section: Delay in achieving the Substantial Completion Milestone		

Summary of responses
Respondents to this question agreed with the proposal not to extend Long Stop Dates where a transmission licensee or Distribution Network Operator (DNO) has been released from their obligation to provide an active connection by a specified date.

Decisions taken since consultation

In cases where a transmission licensee or DNO has been released from their obligation to provide an active connection by a specified date, the extension to the Long Stop Dates will be disapplied.

Consultation question		30 responses
TC6	Do you agree with the proposal to amend the General Eligibility Criteria to account for DSR capacity?	
See Other Technical Changes section: General eligibility criteria		

Summary of responses
All responses agreed with the proposal to expand the General Eligibility Criteria in Regulation 15 of the Principal Regulations to reference the requirement for DSR capacity (equivalent of connection capacity for DSR CMUs) to be at least 2MW.

Decisions taken since consultation
Regulation 15 will be expanded to reference the requirement for a DSR CMU to have a DSR capacity of at least 2MW to align the drafting with the policy intent.

Consultation question		8 responses
TC7	Do you agree with the proposal to amend the definition of registered trading unit to exclude sole trading units?	
See Other Technical Changes section: Definition of registered trading unit		

Summary of responses
All responses to this question agreed with the proposal to strengthen the definition of a ‘registered trading unit’ to specifically exclude ‘sole trading unit’.

Decisions taken since consultation
The definition of ‘registered trading unit’ in Regulation 4 (8) of the Principal Regulations will be modified to exclude ‘sole trading units’ as per the original policy intent. This class of units are not allocated a Trading Unit ID in Elexon’s systems, they are not reported as Trading Units in

settlement reports and they are not registered by anyone- as required under the current definition of registered trading units.

Consultation question		8 responses
TC8	Do you agree with the proposal to introduce a minimum forfeiture period for capacity committed CMUs failing to demonstrate satisfactory performance requirements over the winter period?	
See Other Technical Changes section: Definition of registered trading unit		

Summary of responses

Respondents agreed with the proposal for forfeiting at least one month's capacity payment when failing to demonstrate satisfactory performance, with one adding that it should apply from 2015 auction onwards. One respondent said that DSR could be prevented from taking a test sooner due to the availability of the Delivery Body to provide the target DSR volume.

Decisions taken since consultation

Regulation 50 of the Principal Regulations and Rule 13.4.1 (b) will be amended to reflect the policy intent that capacity committed CMUs unable to demonstrate their capacity ('Satisfactory Performance Days') over the winter period will forfeit their capacity payments from the beginning of May, and a minimum of one month's capacity payments, until such point as that they demonstrate their capacity on three occasions and irrespective of when they demonstrate their satisfactory performance. This is to provide suitable incentives for providers to demonstrate their capacity over the winter period.

Consultation question		7 responses
TC9	Do you agree that recipients of the EDR pilot should be excluded from participating in the Capacity Market at the same time?	
See Other Technical Changes section: Definition of registered trading unit		

Summary of responses

The majority of respondents agreed that recipients of funding granted under the EDR pilot should not be entitled to participate in the Transitional Arrangements. However, some respondents went further to say that, as EDR cannot respond to a system stress event, it should not be eligible for the Capacity Market at all. Two respondents said that EDR should be able to participate if the different Capacity Market resources are kept separate.

Decisions taken since consultation

Government will exclude a CMU which is subject to a participant agreement which has been awarded under the EDR pilot scheme from participating in the first Transitional Auction to reduce the risk of providers receiving government funding for the same resource.

A decision as to whether EDR should participate in the Capacity Market on an enduring basis will be made following a review of the pilot.

Consultation question		7 responses
TC10	Do you agree that generating units that have an output below 2MW should be able to aggregate with units owned by different parties?	
See Other Technical Changes section:		

Summary of responses

The majority of respondents agreed that sub 50MW generators with different owners could be aggregated, however, confidentiality provisions must be included and clear legal responsibility must be set out.

Decisions taken since consultation

The Government has decided that it will amend Regulation 4 of the Principal Regulations to enable smaller generators to aggregate capacity with other small generators with different owners, where the total connection capacity is less than 50 MW. This will allow sub 2MW generating units to aggregate in order to participate in the Capacity Market, and will align the Regulations with the original policy intent. This change will require consequential changes to the existing Capacity Market Rules relating to the role of the applicant within these aggregated CMUs and also enable the sale or transfer of a constituent generating unit.

6. Transitional Arrangements- questions and responses

Consultation question		7 responses
TA1	Do you have any general comments on our proposals for the Transitional Arrangements?	
See *Transitional Arrangements section*		

Summary of responses

Most respondents welcomed the opportunity to submit additional information to the Delivery Body as part of the first prequalification appeal stage. A respondent requested further information on the interaction with Demand Side Balancing Reserve and another suggested setting the price cap at a high level to encourage participation. Some respondents also commented on the wider design of the Capacity Market for DSR suggesting that DSR should be eligible for long-term agreements and also CMUs that have a capacity agreement from a four year ahead auction should be able to participate in the Transitional Arrangements.

Decisions taken since consultation

Capacity Market applicants will be allowed to submit additional information as part of the first prequalification appeal stage for both years of the Transitional Arrangements.

The existing Rules set out 'Relevant Balancing Services' and Demand Side Balancing Reserve is not included as a relevant balancing service. Demand Side Balancing Reserve is a contingency reserve and its possible extension into the Transitional Arrangements delivery year has not been confirmed.

The auction parameters for Transitional Arrangements, including the price cap will be set following a review of the December 2014 four year ahead auction, and published alongside the auction parameters for the four year ahead auction in 2015.

The aim of the Transitional Arrangements is to help develop and grow the DSR sector so that it is able to participate in the first year-ahead auction in 2017 (and subsequent auctions thereafter). This will give consumers reassurance that sufficient DSR capacity will be available to compete in the year-ahead auction if needed, thereby helping ensure security of supply. Allowing CMUs that have already secured capacity agreements to compete in Transitional

Arrangements would fail to meet this aim. The Transitional Arrangements have less restrictive terms in comparison to the enduring regime and to better support new resources coming forward and to prevent existing DSR with capacity agreements from crowding out emerging resources, the Government is excluding the participation of applicants that have already secured an agreement from a four year ahead auction.

The Government has previously consulted and set out the policy on agreement lengths for DSR, and this was not the subject of this consultation.

Consultation question		9 responses
TA2	Do you have any comments on the indicative timetable and that the Transitional Arrangements auctions will run in parallel with the T-4 auction in 2015?	
See *Transitional Arrangements section*		

Summary of responses

Most respondents feel that running both auctions in parallel would place an additional burden on the Delivery Body and it would also mean that providers would need to complete two applications. However, some respondents agreed that it would be better to run both auctions according to the same set of Rules and Regulations.

Decisions taken since consultation

The Government acknowledges the challenges of running both the Transitional Arrangements auction and the four year ahead auction at the same time. To ensure consistency between the version of Regulations and Rules used for the Capacity Market and the Transitional Arrangements auctions in 2015, both auctions will run in parallel and the Government will work with the Delivery Body to ensure sufficient resources are in place for both auctions.

7. Consultation on proposed amendments to the Capacity Market Rules 2014 and explanation of some immediate amendments to the Capacity Market Rules 2014

Consultation question		22 responses
CM1	Do you consider that the policy objective of restricting fifteen-year agreements to new generation capacity can best be achieved by clarifying that only New Build CMUs can access fifteen-year agreements (while retaining the current definitions of New Build CMU and Refurbishing CMU) (Option 1) or that as proposed more complex eligibility criteria are required (Option 2)?	
See section: Proposals to clarify eligibility for fifteen-year capacity agreements		

Summary of responses

The majority (thirteen) of respondents were in favour of Option 2 (i.e. defining what constitutes a new plant for the purposes of eligibility for fifteen-year agreements) – with four in favour of Option 1 (utilising the current New Build / Refurbishing definitions). While Option 1 was acknowledged as the more simple amendment, it was generally not favoured, as development of an existing site or use of an existing connection would not necessarily be eligible for fifteen-year agreements. Option 2 was favoured, as it more clearly allows use of existing assets and infrastructure – but respondents had differing views as to the detail – for example, some consider that the re-use of existing plant should be permitted; some considered that all core generating equipment should be new; while others support allowing a combination of new and existing equipment. Several respondents consider that while they would generally support Option 2, it requires further development. Other respondents disagreed with long-term agreements or in two cases considered both Options 1 and 2 to be inappropriate or unworkable.

Decisions taken since consultation

The Government has decided that Option 2 should be taken forward as the preferred option as it provides greater flexibility for appropriate utilisation of existing assets and infrastructure and which should help ensure the most economic new build plant is brought forward. However, there is a wide range of views as to the extent to which rebuilt or used equipment may be allowable and the responses highlight the difficulties of determining a definition which affords the most flexible and economical solution whilst maintaining the concept of it being new build plant. The Government therefore intends to develop Option 2 as set out in more detail in the response below to Question CM2 (i.e. to include a requirement that a generating unit utilising

rebuilt or re-used equipment must meet “as new plant standards” for the purposes of eligibility for capacity agreements of fifteen years). The Government intends to engage further with key stakeholders (for example through Energy UK but also others) with a view to reaching a final conclusion around Option 2 during February 2015 before implementing specific changes to the Rules.

Consultation question		21 responses
CM2	Do you agree with the proposal that, to be eligible for fifteen-year agreement, a CMU must meet the efficiency standard for new plant contained in the BREF?	
See section: Option 2		

Summary of responses

Ten respondents agree or partly agree with using the BREF[6] – although some consider further definition is required. Some consider clear emissions standards should also apply – while others have concerns about potentially mixing emissions and efficiency criteria

Eleven responses disagree with using the BREF – considering it inappropriate, that it adds an unnecessary complexity; and would be difficult to implement.

A common theme, both from respondents who agreed with the concept of using the BREF and those who disagreed, is a concern as to how this may be practically defined and applied. Some were concerned as to the application of the BREF efficiency and/or emissions standards which they saw as introducing efficiency or emissions standard into the Capacity Market which is intended to be technology neutral.

Some respondents noted that there would be uncertainty as to how the BREF efficiency standard would apply to plants with frequent start and short run operating characteristics. Some were also concerned as to the application of the BREF to plant below 50MW thermal input and with regard to the introduction of an updated BREF in 2015 (leading to uncertainty as to which standard would apply in the next auction).

Decisions taken since consultation

The consultation proposal was solely in relation to the efficiency standards for new plant set out in the BREF and did not propose that the full BREF requirements be adopted for the purposes of establishing eligibility for fifteen-year agreements. It is not intended to introduce specific efficiency or emissions requirements into the Capacity Market; rather, it is simply a proxy for determining whether the performance of a plant which utilises rebuilt core generating equipment

[6] Reference Document on Best Available Techniques for Large Combustion Plants published by the European Commission: http://eippcb.jrc.ec.europa.eu/reference/lcp.html

is equivalent to that of a fully new plant and may therefore be considered eligible for a longer term capacity agreement.

The consultation document had been clear that the BREF does not apply to plant below 50MW thermal input, but this leads to the issue of whether an equivalent test should be applied to smaller plant to ensure that rebuilt equipment in smaller CMU's are subject to the same standards as larger CMU's. It had also been clear that the applicable document would be the BREF document in force at the time of pre-qualification. The timing of an updated BREF publication seems unlikely to dovetail with the pre-qualification window for the second auction, meaning that the applicable test for the second auction would be based on the much earlier 2006 standards.

The Government considers that, if rebuilt core generating equipment is to be utilised, it is necessary to introduce a proxy to determine whether rebuilt plant performance is equivalent to new plant standards. . The original policy intent is to ensure that only new assets are eligible for fifteen-year agreements. Recognising, however, that there are good reasons to allow existing equipment to be incorporated where this is rebuilt, it is important to ensure that any new plant incorporating rebuilt core generating equipment meets the standards applicable to a fully new plant if they are to secure a fifteen-year agreement. It does, however, acknowledge that further clarity is required as to how the BREF efficiency standard is interpreted on a plant specific basis. A part of the further stakeholder discussion proposed under the response to Question CM1 will be to determine if the BREF efficiency standard can be appropriately clarified to provide a clear test for plant being equivalent to as new standards.

The Government is considering an alternative to reference "as new plant standards" in relation to an environmental permit. An idea being further explored is to require a plant (where the core generating equipment does not comprise of all new equipment) seeking "new build" status for the purposes of eligibility for fifteen year agreements to satisfy the Environment Agency that the proposed partly rebuilt generating unit meets the performance levels which would be required for an equivalent fully new development. A new environmental permit would generally be required in any case for new projects and hence seems appropriate to introduce this as a requirement, for the purposes of eligibility for capacity fifteen-year capacity agreement, in respect of those plants where the core generating equipment does not comprise of all new equipment. This would not replace any Environment Agency process or requirement to meet specific emissions levels, but would simply serve as a proxy for determining eligibility for fifteen year agreements. As an environmental permit will not apply in the same way to plant below 50MW thermal input, the Government will further consider how a similar proxy test may be applied to smaller plant.

A number of respondents proposed that any rebuilt or used plant should have a life expectancy of at least the expiry of the term of any capacity agreement. This is clearly appropriate and we intend to incorporate this as a further part of the eligibility criteria.

Consultation question		21 responses
CM3	Do you agree with the proposal that the CMU's core generating equipment must be new and /or can be a combination of new and existing plant items provided that any	

	existing core generating equipment must be rebuilt to as new standards?
See section: Option 2	

Summary of responses

The majority (fourteen) agree that the core generating equipment should be new or a combination of new and existing (of those fourteen, three respondents consider the core equipment should be fully new). Some have concerns as to how “as new standards” can be defined and implemented. Concern was also expressed that the definitions of core plant are geared to thermal plant and must recognise other plant such as hydro. Some commented that the "rebuilt to as new" requirement will prevent re-use of existing equipment when it does not require rebuilding, and the "as new" comparison should therefore be applied across the unit as a whole.

Two respondents disagree – considering that the plant should be new or the main CMU should be new even if some infrastructure is re-used. A further three respondents disagree considering that the re-use of plant (e.g. importation of nearly new equipment) should be allowed as the most cost effective solution. Some propose that either i) an existing site with new equipment; or ii) a new site (and new connection) utilising used equipment, should both be considered as new build and be eligible for fifteen years (subject to capex threshold).

Decisions taken since consultation

The Government has decided that the flexibility of being able to utilise or rebuild certain existing assets should be retained and would bring benefit to consumers in enabling generators to determine the most economical solution. CMUs incorporating such equipment should, therefore, still be able to qualify as new build plant for the purposes of eligibility for fifteen-year capacity agreements. Therefore, the Government intends to amend the Rules to allow the core generating equipment (as defined in the consultation document) of a generating unit to be a combination of new and existing equipment for the purposes of determining eligibility for long-term agreements. However, unless all core generating equipment is new, any generating unit (or each generating unit in a CMU) utilising existing or rebuilt equipment must also be able to demonstrate that, when commissioned, it would meet “as new standards” (as outlined in the response above to Question CM2).

The Government has also decided that this may include the utilisation of used generating equipment, provided that such equipment is to be located on a new site which is the subject of relevant planning permissions and is the subject of a new connection agreement or connection offer to the transmission system or to a distribution network. Any such generating unit must also be able to demonstrate that, when commissioned, it would meet “as new plant standards”, in order to be eligible for capacity agreements of up to fifteen years and have a life expectancy of least the expiry of the term of any capacity agreement.

For the avoidance of doubt, these provisions would operate in parallel to the minimum expenditure thresholds and therefore any CMU must also meet the fifteen-year minimum £/kW threshold in order to be eligible for capacity agreements of up to fifteen years.

Consultation question		21 responses
CM4	Do you agree with the proposal that where an existing site is utilised, the capacity must be new additional capacity and not an upgrade to existing capacity in order to qualify as a New Build CMU?	
See section: Option 2		

Summary of responses

Thirteen respondents were generally in favour of a new plant having to be additional capacity. However while five respondents agreed with the proposal, the others considered that this needs more thought as to how it can be applied. Some noted that it must be additional capacity and not an upgrade to existing capacity, while others considered that "additional" should include replacement capacity (i.e. that, provided the existing unit is to be replaced, it is not necessary to demonstrate that the existing capacity would otherwise close). However, differentiating between an upgrade to existing capacity and replacement capacity was also highlighted as a difficulty.

Nine respondents disagreed with a requirement for new plant to be additional capacity. Of these, six consider that a repowering or replacement of plant should be allowed to qualify as New Build, while three consider the additional capacity requirement to be difficult to define and open to abuse. Hence, the respondents who disagreed voiced similar concerns and issues as several of the respondents who, while they indicated being in favour of the proposal, considered that replacement capacity should be eligible or that the proposal needed further development.

Decisions taken since consultation

The Government has decided, in the light of the consultation responses, that where an existing site is to be re-used or existing capacity to be replaced, the requirement to demonstrate that the existing capacity would otherwise close if the replacement capacity does not proceed, is of limited value and is likely to be difficult for the Independent Technical Expert (ITE) to certify ahead of any actual closure.

The Government therefore proposes that replacement of existing capacity (for example, the repowering of an existing asset) can be eligible for a fifteen-year capacity agreement, provided such replacement meets all other eligibility criteria. This will also include the use of an existing connection where the capacity figure for the new plant remains the same as that for the existing capacity.

Hence, if the applicant fails to secure a capacity agreement for the new replacement plant, there would be no obligation to close the existing capacity. However, that existing capacity would not be able to pre-qualify for the same auction as an alternative to the replacement capacity. Where the applicant has secured a capacity agreement for the new replacement plant, the existing capacity would not be able to pre-qualify for any auction where, for the relevant delivery

year, a capacity agreement has been awarded to the replacement capacity (i.e. if the capacity provider fails to proceed with the new plant, the existing plant will not be eligible to participate in an auction where for that delivery year, the capacity agreement for the new plant has not been terminated.

Consultation question		21 responses
CM5	Do you believe a test based on requiring only a certain percentage of core generating equipment to be new or allowing a combination of new and existing core generating equipment provided that any existing items are rebuilt to as new standards would be preferable? If so please explain why and set out how the implementation issues identified in paragraph 48 could be overcome.	
See section: Option 2		

Summary of responses

Only one respondent clearly favoured the percentage test. Nine respondents expressed a preference for the "Combination" test of new and existing plant while three stated they did not agree with the percentage test. Other responses (nine) were diverse with some stating all plant should be new; some stating that an all rebuilt plant should be permitted; and one saying it should be either all new or all rebuilt.

Decisions taken since consultation

The Government has decided that introducing a test based against a defined percentage of core generating equipment being new would, in practice, be difficult to implement and to monitor and would be unlikely to add any greater certainty or clarity. Hence it is not proposed to introduce such a percentage test for the purposes of determining whether the CMU is eligible for fifteen-year capacity agreements.

Consultation question		20 responses
CM6	Do you agree with the proposed certification by the Independent Technical Expert of the CMU meeting the fifteen-year eligibility criteria?	
See section: Option 2		

Summary of responses

Most respondents agreed with certification by the ITE, although some emphasised the need for objective tests. Three considered that the ITE should be appointed centrally by the Government to avoid abuse. A further three raised an issue that the ITE should sign off compliance with the new build test at pre-qualification or at the Financial Commitment Milestone so that a new investment is not subject to uncertainty as to its eligibility for a long-term agreement.

Two respondents disagreed with the ITE taking this role – one because they consider the definitions for new plant to be unclear and hence the test to be applied to be unclear – and one because they do not agree with the new build test.

Decisions taken since consultation

The Government has decided that certification by the ITE presents a workable and practical solution which should be retained. While noting the limited call for a centrally appointed ITE, the Government considers there is insufficient evidence that certification by the ITE appointed by the respective developer companies will result in inconsistent interpretation, particularly as the development of the eligibility criteria for longer agreements is intended, as outlined in the responses to Questions CM1 to CM4, to be as objective as possible. The Government therefore proposes to extend the duties of the ITE as appointed under the existing process to include certification of compliance with the new build criteria.

However, Government does acknowledge that sign off by the ITE towards the end of the construction and commissioning window could give rise to greater uncertainty at the time of investment decision as to whether the CMU is eligible for fifteen-year agreements. The Government therefore intends that the ITE should certify compliance with any new build test in relation to the plant as planned no later than the date of achievement of the Financial Commitment Milestone, with a further safeguard that the ITE must also later certify that the plant as built has not changed in any material way.

Annex A – List of consultation respondents

Consultation on Capacity Market Supplementary Design and Transitional Arrangements

Agder Energi
Centrica
Citizens Advice
Combined Heat & Power Association
Danish Energy Association
DONG Energy
Drax
E.ON
EDF Energy
EirGrid
ElecLink Limited
Electricity Association of Ireland
Element Power
Energinet.dk
Energy Norway
Energy UK
ESB International
Eurelectric
UKDRA (Flexitricity Limited)
GDF Suez
InterGen
MPF Holdings
Mutual Energy Ltd
National Grid
NGIH
NorthConnect
Renewable Energy Systems
RTE
RWE
SSE
Stag Energy
Statnett
Transmission Investment
Vattenfall UK
Vereniging Energie Nederland
VPI Immingham

Consultation on proposed amendments to the Capacity Market Rules 2014 and explanation of some immediate amendments to the Capacity Market Rules 2014

Carlton Power Ltd
Centrica Energy
E3G - Third Generation Environmentalism
EDF Energy
EON
ESB International
FGI Consulting Ltd
Green Frog Power Ltd
MMgenR8 Ltd
National Grid
Power Balancing Services Ltd
Peak Gen Power Ltd
RWE Supply & Trading GmbH

Sandbag
Scottish Power
SSE
Stag Energy
The Cantebury Club
UK Power Reserve Ltd
WWF-UK
GDF Suez
ENSUS UK Ltd
DRAX Power Ltd
Greenpeace

Department of Energy & Climate Change
3 Whitehall Place
London SW1A 2AW
www.gov.uk/decc
URN 15D/018