

Capacity Market Advisory Group Final Minutes

Meeting number **14**

Venue **Elexon Offices/MS Teams**

Date of meeting **23 November 2023 10:00-16:00**

Classification **Public**

Attendance and apologies

Attendee	Initials	Type
Brian Lake	BL	Member
Claire Addison	CA	Member
Eleanor Haynes	EHay	Member
Libby Glazebrook	LG	Member
Mark Duffield	MD	Member
Paul Jones	PJ	Member
Raoul Thulin	RaT	Member
Richard Thwaites	RiT	Member
Sarah Honan	SHon	Member
Ross Haigh	RH	Representative (CM Settlement Body)
Georgina Morris	GM	Representative (DESNZ)
Luke Nightingale	LN	Representative (DESNZ) (part-meeting)
Beth Hanna	BH	Representative (EMR Delivery Body)
Stuart Wells	SW	Representative (EMR Delivery Body)
Andrew Macdonell	AM	Representative (Ofgem)
Holly Macdonald	HM	Representative (Ofgem)
Lisa Waters	LW	Guest (Waters Wye Associates)
Roan Chavez	RC	Representative (EMRS) (part-meeting)
Attendee	Initials	Type
Lawrence Jones	LJ	CMAG Facilitator (Elexon)
Amy Stackhouse	AS	CMAG Secretariat (Elexon)
Chris Arnold	CAr	CMAG Secretariat (Elexon)
Phillip Paul	PP	CMAG Secretariat (Elexon)

1. Welcome and Apologies

- 1.0 The CMAG Facilitator welcomed Members and Representatives and noted no apologies had been received in advance.

2. CM Representative Updates

CM Settlement Body (CMSB)

- 2.0 CMSB noted they are hosting an event for Suppliers on 29 February 2024, to inform industry of supplier levies due to take effect next year. Further details, including information to sign up can be found on the [LCCC Website](#).

Ofgem

- 2.1 Ofgem noted they are looking at a broader piece of work on Secondary Trading, which would include review of Rule 4.4.4 and to consider these issues and Secondary Trading proposals as a whole.
- 2.2 DESNZ noted they are working closely with Ofgem on this and welcome CMAG input into this work.
- 2.3 LW queried if Ofgem has data available from EMR DB regarding the number of secondary trades requested and reasons these have been rejected. Ofgem noted they welcome all views and data on this, and they expect many future opportunities for relevant stakeholders to input feedback and data.
- 2.4 A Member noted that Secondary Trading and Rule 4.4.4 were highlighted as key priority areas by CMAG, so change in this area should move at pace, with a clear vision from Ofgem and DESNZ on what the expected outcomes are.
- 2.5 DESNZ noted this is a significant piece of work and Members should note that it will therefore take time to work through the issues raised and provide a clear vision on changes. DESNZ further noted that changes to the Regulations as a result of this work will add complexity to the process and may take additional time.
- 2.6 A Member noted that quicker wins, such as amending Chapter 9, should be addressed where possible, alongside the wider review of Secondary Trading.
- 2.7 A Member queried if a review of Secondary Trading would also include the Regulations, or focus solely on the CM Rules. DESNZ noted that CMAGs Terms of Reference includes that the scope of its work is limited to the CM Rules, but DESNZ is working with Ofgem to flag any potential areas of change that may include the Regulations.

EMR Delivery Body (EMR DB)

- 2.8 EMR DB noted they are working with Participants on the Credit Cover deadline and Tier 1 Disputes deadline.
- 2.9 LW queried when testing for the new EMR DB Portal v2.0 will be available as Participants will have significant administrative work to complete as part of the rollout and need to be able to plan effectively for this. EMR DB noted they share periodic updates on Portal development through their newsletter and website.
- 2.10 **New Action 1123/01 - EMR DB to provide an update on timelines for EMR Portal v2.0 testing and migration.**

Department for Energy Security and Net Zero (DESNZ)

- 2.11 DESNZ noted they are working internally on subsidy control framework and will soon begin reviewing responses to their CM 2023 Phase 2 and 10 year review consultation.
- 2.12 DESNZ noted there is a REMA commitment to publish a consultation in early 2024.
- 2.13 A Member noted Ofgem has published its final report on Locational Marginal Pricing (LMP), and NGESO has identified due to the complexity of the change if LMP were implemented, it would be in the late 2030s. The Member queried if additional clarity can be given on this as the lack of clarity creates a lot of investment uncertainty for parties. DESNZ noted the feedback and informed CMAG that an update on REMA could be given at a future CMAG meeting once the consultation has been published.
- 2.14 A Member noted that it would be helpful to understand if with the implementation of EMR Portal v2.0, if a cap on DSR Component Reallocation is justifiable. DESNZ noted that there are several policy points noted within the Consultation for a cap on reallocation, including requirement for DSR testing, and it is not purely a result of system constraint. DESNZ further noted there will always be a requirement for compromise between flexibility for DSR and meeting assurance and delivery requirements.

2.15 EMR DB noted as part of CP373, the DSR Component Reallocation process is largely moving to CMSB responsibility.

3. CMAG Secretariat Update

3.0 The CMAG Facilitator noted [the six-month report](#) has been published and is available on the CMAG website.

3.1 The CMAG Facilitator further noted that they have been in discussions with Citizens Advice about their role at CMAG. Citizens Advice do not believe they are able to add much value to CMAG discussions, given the technical nature of the meeting. It has therefore been agreed that the Citizens Advice representative seat will be retired. Instead, CMAG Secretariat will send a summary of the CPs (Change Proposals) submitted to the Statutory Consultations, drawing out key consumer impacts.

3.2 LW queried if it is possible to find a large CM Consumer to attend in their place, and provide input from a customer point of view. The CMAG Facilitator noted they would discuss this with Ofgem.

4. DESNZ Consultation Update

4.0 DESNZ noted they published their '[Capacity Market 2023: Phase 2 proposals and 10-year review](#)' Consultation on Monday 16 October 2023, closing 8 December 2023. This Consultation seeks views on the Capacity Market and is in two parts:

- Part A: Consultation on proposals to improve security of supply and align with net zero; and
- Part B: Review of the Capacity Market.

4.1 DESNZ noted Part A includes a section on Extended Performance Tests and battery degradation, projects with long build times and a Call for Evidence on domestic Demand Side Response (DSR). Most of these proposals are considered administrative, with further detail available in the consultation.

4.2 DESNZ noted Part B is a Call for Evidence to help inform its 10-year review of the CM, due to be published Summer 2024.

4.3 DESNZ noted they are looking at specific participation barriers for DSR. There is a broader question of categorising DSR and feeding this through to de-rating factors. Currently, de-rated factors use STOR data, but this has now moved to day-ahead data and DESNZ has seen a change in the de-rated factor based on this, which has resulted in increased clearing prices and the range of portfolios in DSR varies hugely now. DESNZ is seeking to understand if the current methodology used for DSR more broadly represents good value for money for consumers as well as being aligned to the low-carbon agenda.

4.4 A Member queried if there was any update on parties who are seeking to exit the CM to enter the DPA. DESNZ noted this is closely linked to REMA and are therefore working with the REMA team on managed exits.

4.5 DESNZ highlighted that there are technologies that currently cannot participate in the CM as their build times are long and do not align with current Auction timelines. Pumped hydro for example has a six year construction timeline. This is considered within the Consultation, through new 6 year and 9 year Agreement lengths.

5. CP364 'Allow Secondary Trading before T-1' – EDF Energy

5.0 The CMAG Secretariat provided an overview of the issue and solution, and noted that two subgroup meetings had been held to review the weighted PTCO component of the solution. Following the subgroup meeting, the EMR DB sent the CMAG Secretariat some further scenarios to consider.

5.1 Further CMAG Secretariat review has highlighted a possible inconsistency between the CM Rules and the Regulations. The premise of CP364 was to change the bidding capacity in the Rules to deduct any PTCO a Capacity Provider has already taken on since T-4 but ahead of T-1. However, this raises a possible inconsistency with the Regulations that note the AACO is equal to De-rated capacity so changing bidding capacity could impact this.

5.2 The CMAG Secretariat presented the possible inconsistency and Elexon Legal Team view of this, and queried what Members views are.

5.3 A Member noted that they were unsure if there was an inconsistency but as it is unclear, it would be better to proceed with a solution that does not have any known impact on the Regulations.

- 5.4 The Proposer noted the intention of CP364 was to improve liquidity in the Secondary Trading market. As it is unclear whether there is an inconsistency in the Regulations a solution that is unlikely to impact the Regulations should be taken forward but this should be clarified. The Proposer further noted there is complexity in allowing a weighted PTCO and for components to change which is weighing down the proposal, depending on expected timelines, this may be better considered under the wider Secondary Trading review with a simpler solution taken forward for CP364 in the meantime.
- 5.5 The CMAG Secretariat noted an option would be to allow Secondary Trades after T-4, but not enter T-1 Auction, this would potentially be a Rules change only and could be considered a quick win. A second option would be to allow Participants to trade after T-4, and for any 'spare' capacity to enter into the T-1 Auction but this possibly requires a change to the definition of Bidding Capacity and could potentially create an inconsistency in the Regulations.
- 5.6 Ofgem noted that any change to the Regulations would be out of scope of CMAG, but could be included within the CM Rules Change Proposal report for consideration in future work on Secondary Trading.
- 5.7 A Member noted it would be beneficial to clarify if there is an inconsistency in the Regulations with Ofgem, for CMAG it would be best placed to take the lower risk option and proceed with a change that only impacts the CM Rules.
- 5.8 The CMAG Secretariat noted they would review EMR-DB scenarios and either convene a further subgroup to consider the scenarios, or bring the proposal back to the CMAG for further consideration.

6. Developing CM Rules Change Proposal CP371 'Protection from Very Late Network Connections' – Waters Wye Associates

- 6.0 The CMAG Secretariat provided a recap of the issue and solution for CP371 and noted at its last meeting, CMAG reviewed the four mitigation options and agreed to include them as part of the solution for CP371. Following feedback, Option 1, 2 and 4 have been updated, and a new Option 5 has been drafted.
- 6.1 The CMAG Secretariat noted Option 1 and 2 had been updated, following a request from EMR DB, so that requests for extension should be made 5 Working Days before the deadline. This is to avoid any confusion relating to terminations.
- 6.2 EMR DB noted they inform all Capacity Providers with MCR outstanding that they are approaching their LSD. The Proposer queried why Capacity Providers need to provide a 5WD notice, as many may be managing multiple Agreements and adding an additional deadline added complexity. EMR DB noted that there must be a deadline set on when EMR DB can expect requests. The liability for requesting an extension and notifying EMR DB sits with the Capacity Provider and they should be aware of any deadlines to do so. It also provides EMR DB with sufficient time to address any administrative errors within the request. The Proposer believed this could all still be done by working to the deadline rather than creating a secondary deadline.
- 6.3 A Member noted the Rules are very mechanistic in their method, which is a product of the circumstances in 2014 when they were drafted; the migration to the FSO-model may be an opportunity to review this and make the Rules more flexible and clear in the policy intent they are implementing.
- 6.4 A Member noted the wording within Option 1 and 2 should be updated to reflect requests for extension should be submitted no later than 5WD, to encourage earlier submission.
- 6.5 The CMAG Secretariat noted Option 2 has been updated to include prerequisites from Rule 6.7.7 and Rule 6.7.9, to make clear that extension requests are only in circumstances where it is due solely to the failure of connection by the DNO/TO.
- 6.6 DESNZ noted the mitigation options seeks to extend certain deadlines within the Rules to avoid a termination event where there is a delay to the connection, and queried if the intention is for Capacity Providers to be able to delay deadlines indefinitely. The CMAG Secretariat noted that as you cannot change the Agreement lengths due to Regulation 30(2)(b). The mitigation options allow a Capacity Provider to extend their deadlines but effectively have a shorter period to receive payments. This is an incentive for Capacity Providers to seek to go online as soon as they reasonably can.
- 6.7 A Member noted that if a TO seeks to delay a connection agreement, ESO will modify the construction agreement with the Capacity Provider with a new date and this is beyond the Capacity Providers control,. The wording from Rule 6.7.9 places the onus back on the Capacity Provider.

- 6.8 The Member suggested updating the wording in Option 2 from Rule 6.7.9 to “But not where the relevant Capacity Provider has requested an extension to the date by which an active connection point must be provided”.
- 6.9 The Proposer noted that Ofgem and EMR DB may need to review the current connections queue to understand how many CM projects are awaiting connections, to inform what the impact is if this change is not implemented and how many possible terminations may happen.
- 6.10 DESNZ highlighted that it has recently published its [Electricity Networks Connections Action Plan](#) that may be of interest to CMAG.
- 6.11 The CMAG Secretariat presented Option 4, which seeks to allow a CMU to increase its capacity up to its original AACO. The CMAG Secretariat noted there are three variations of this Option:
- 4a which seeks to allow any CMU can increase capacity up to original AACO, at any time;
 - 4b which seeks to allow any CMU can increase capacity but only within 6 months after LSD; and
 - 4c which seeks to allow any CMU to increase capacity, but only within 6 months after LSD and only where Rule 6.7.7 has been used to extend the LSD.
- 6.12 The Proposer noted Option 4 must make clear that it is where it's subject to delay and offered a staged connection, the delivery of the Agreement would be moved so that it is a staged delivery.
- 6.13 The CMAG Secretariat noted that in order to receive payments, a Capacity Provider will want to advise the EMR DB as soon as they have reached their MCR so that it is effective; where it is subject to a staged connection, Option 4 seeks to provide greater flexibility for Capacity Providers that have met MCR but increasing their capacity is beyond their connection.
- 6.14 A Member noted their preference is Option 4c, so long as it references it is subject to staged connection. The CMAG Secretariat confirmed that Option 4c would allow for staged connections, but only where the increased connection would be delivered within the 6 months after the extended LSD. We do not propose to include any reference to Staged Connections within the Rule
- 6.15 The Proposer noted they agree that assurance would be required to ensure that the Capacity Provider does not increase their capacity at any time. The CMAG Secretariat noted that the Capacity Provider would only be able to increase their capacity up to their original AACO, not beyond this.
- 6.16 The CMAG Secretariat noted following CMAG feedback, a new Option 5 had been drafted which seeks to introduce a new termination event for Capacity Providers subject to very long connection delays who may wish to terminate their Agreement earlier than waiting for Termination as result of failing to meet FCM or LSD.
- 6.17 DESNZ noted that Option 5 touches upon policy. Policy intent in the CM Rules does not allow for voluntary terminations and this option would be misaligned to this so cannot proceed. DESNZ further noted it could be included within the CM Rules Change Proposal report as part of CMAG discussion but should not be considered a solution.
- 6.18 The CMAG Secretariat presented the recommendations for CP371. CMAG Members:
- 6.18.0 Majority agreed the Alternative solution (Option 1, 2 and 4c) better facilitate Ofgem's Principal Objective;
- 6.18.1 Majority agreed the Alternative solution (Option 1, 2 and 4c) better facilitates the CM Rules Change Objectives;
- (a) Promoting investment in capacity to ensure security of electricity supply
 - (b) Facilitating the efficient operation and administration of the Capacity Market
- 6.18.2 Unanimously agreed the draft legal text for the Alternative solution (Option 1, 2 and 4c); and
- 6.18.3 Unanimously agreed that the CP371 Alternative solution (Option 1, 2 and 4c) should be implemented.
- 6.19 **New Action 1123/02 - The CMAG Secretariat to update the CP371 legal text for Option 1, 2 and 4, and circulate the draft CM Rules Change Proposal Report for CP371 to CMAG for review.**

7. CP372 'Change to Rule 4.4.4' – CMAG

- 7.0 The CMAG Secretariat noted at Meeting 12, it was agreed to issue an industry survey to gain wider views on the Specific Change Proposal questions for CP372. A total of 8 responses were received to the survey.

- 7.1 A Member noted that many of the changes to Rule 4.4.4 could run the risk of seeing the CM move from a physical-asset based market to a financial one which is out of scope of CMAG and not line line with policy intent, but there is validity in seeking to understand any potential areas of change for configuration of assets.
- 7.2 A Member noted any change to Rule 4.4.4 must have a clear level of assurance to ensure Capacity Providers do not prequalify as one technology and then change to another technology after prequalification for better results. Deleting the Rule entirely would not achieve this: for example, a CCGT later installing batteries with no requirement to complete an Extended Performance Test.
- 7.3 Ofgem noted that a review of Rule 4.4.4 could be incorporated as part of the broader review of Secondary Trading and the central issue of risk management within the CM.
- 7.4 LW noted it would be beneficial for Capacity Providers to have clarity on what is considered a change to configuration as there are differing interpretations of Rule 4.4.4 depending on Technology Class, and clear guidance on this would be useful when considering what changes are required.
- 7.5 Members agreed the best way to proceed with a change to Rule 4.4.4 is to consider it as part of the wider Secondary Trading review with Ofgem and DESNZ.
- 7.6 The CMAG Secretariat noted they would produce the CM Rules Change Proposal report for CP372, and include all CMAG discussions and the survey results, for Ofgem to take into consideration for future work.
- 7.7 **New Action 1123/03 - The CMAG Secretariat to draft the CM Rules Change Proposal report for CP372 and circulate to CMAG for review.**

8. CP374 'Splitting CMUs' and CP375 'Merging CMUs' – Waters Wye Associates

- 8.0 The Proposer noted these proposals have been raised following feedback from CMAG Surgery at Meeting 12.
- 8.1 The Proposer further noted that there are Parties who have participated in splitting their CMUs already, and CP374 seeks to formalise this process by allowing the Party to inform the EMR DB of the multiple CMUs and metering arrangements for each, as well as how the Agreement should be split. This will allow Parties to split projects across multiple CMUs where they are unable to finance them. It will also allow those who have staged connection issues to manage this more effectively.
- 8.2 The Proposer noted they are suggesting a change to Rule 4.4.4 to allow for a Party to effectively clone their CMU and then change the connection capacity of each as done at prequalification currently.
- 8.3 DESNZ queried if this could be achieved through Secondary Trading. The Proposer noted to participate in a Secondary Trade, the CMU would need to have prequalified and then trade its Agreement, and this proposal seeks to allow change pre-SCM.
- 8.4 A Member noted a potential issue where the solution could be gamed and used to terminate part of an Agreement the party cannot meet and avoid a larger termination fee. This could possibly be avoided through additional assurances included in the solution.
- 8.5 The Proposer agreed that this is a potential risk, but they are aware of CMUs currently doing this, as if they are unable to split their CMU they will not be able to deliver any of their Agreement at all.
- 8.6 A Member noted it may be better to incentivise those entering the CM to put forward for what they can realistically deliver from the outset. The Proposer noted parties do not often over-commit themselves but can be hit by unforeseen circumstances out of their control and these change proposals seek to allow for risk management techniques for these parties.
- 8.7 The Proposer highlighted they are not aware of any CMUs in practice that are gaming the Rules and do not agree this should be considered a high-risk in the CM unless it is clearly evidenced.
- 8.8 DESNZ noted CP374 and CP375 could create lucrative opportunities for Capacity Providers to game the CM, which results in a risk to security of supply and undermines delivery assurance measures. For this reason these Change Proposals do not appear aligned to current policy intent as they seek to move the CM from a physical-asset based mechanism to a financial one which is a considerable policy change and out of scope of CMAG.
- 8.9 The CMAG Facilitator agreed to work offline with DESNZ, Ofgem and the Proposer to consider the best route forward for these changes.
- 8.10 **New Action 1123/04 - DESNZ and Ofgem to confirm if CP374 'Splitting CMUs' and CP375 'Merging CMUs' are aligned with CM policy intent.**

9. CMAG Surgery

- 9.0 The CMAG Secretariat noted previous feedback from CMAG Members to review scenarios where a Prospective CMU may wish to increase its operational capacity under Rule 6.7.6 when the CMU initially met SCM or MCR at less than their original AACO, following a delay in planning consent, monitoring construction progress or supply chain delays. The CMAG Secretariat noted they had drafted these potential issue areas for CMAG Members to consider if they should be progressed as CM Rules Change Proposals.
- 9.1 The CMAG Secretariat presented the issue on supply chain delays, and noted one of the key reasons reported for delays in infrastructure projects in the last few years has been supply chain shortages as a result of materials shortages and/or competition for limited production capacity. Such supply chain issues are believed to have impacted Prospective CMs.
- 9.2 A Member noted that supply chain delays are not always out of the control of the Capacity Provider, and all entering the CM must assume risk of certain activities and plan effectively, including their supply chains.
- 9.3 LW noted they have seen a number of termination events close to delivery as a result of supply chain delays, and raised an issue that Capacity Providers are unable to appeal twice. However, the extension provided as part of an appeal is not always long enough to address the issue. DESNZ noted the feedback.
- 9.4 Members noted they did not believe the areas should proceed as a CM Rules Change Proposal. The CMAG Secretariat noted they would liaise with EMR DB on the issues to be considered in any future changes.

10. Industry Feedback

- 10.0 LW noted communications from EMR DB relating to CMUs only state the CMU ID. This can be difficult for those who manage multiple CMUs to determine the company and related Capacity Participant and that it would be more useful to also have the company information within the email so this is easily identified. EMR DB noted this feedback.

11. CMAG Forward Work Plan

- 11.0 The CMAG Secretariat presented the CMAG Forward Work Plan, and noted six new CM Rules Change Proposals have been included, a new commentary column has been added and a new status 'pre-raise consideration' has been included to identify where initial discussions on a topic began before being formally raised as a proposal.
- 11.1 The CMAG Secretariat provided an overview of the current agenda for CMAG Meeting 15 on 13 December 2023, and asked Members to consider what items they wish to discuss at the December 2023 Meeting.

12. Action Log

- 12.0 The CMAG reviewed the Action Log. All 'Complete' actions will be marked as closed. Discussion on actions 'In Progress' can be found in the CMAG Action Log v14.1 – 30.11.23, published on the [website](#).

13. AOB

- 13.0 There was no further business and the meeting was closed. The next CMAG meeting date is Wednesday 13 December 2023.