

Capacity Market Advisory Group Final Minutes

Meeting number **11**

Venue **Elexon Offices/MS Teams**

Date of meeting **15 August 2023 10:00-16:00**

Classification **Public**

Attendance and apologies

Attendees	Initials	Type
Brian Lake	BL	Member
Claire Addison	CA	Member
Kamila Nugumanova	KN	Alternate Member
Eleanor Haynes	EHay	Member
Richard Thwaites	RiT	Member
Abena Dalumo	AD	Representative (EMR Delivery Body)
Beth Hanna	BH	Representative (EMR Delivery Body)
Bir Virk	BV	Representative (LCCC/ESC)
Ceri Kenyon	CK	Representative (LCCC/ESC)
Ross Haigh	RH	Representative (LCCC/ESC)
Andrew Macdonell	AM	Representative (Ofgem)
Holly MacDonald	HM	Representative (Ofgem)
Kyran Hanks	KH	Guest (Waters Wye Associates)
Lisa Waters	LW	Guest (Waters Wye Associates)
Kathryn Gay	KG	Representative (EMRS)
Roan Chavez	RC	Representative (EMRS)
Elliott Harper	EH	CMAG Facilitator (Elexon)
Amy Stackhouse	AS	CMAG Secretariat (Elexon)
Chris Arnold	CA	CMAG Secretariat (Elexon)
Phillip Paul	PP	CMAG Secretariat (Elexon)
Apologies		
Claire Sedgwick	CS	Member
Paul Jones	PJ	Member
Raoul Thulin	RT	Member
Sarah Howarth	SH	Representative (DESNZ)

1. Welcome and Apologies

- 1.0 Elliott Harper (EH) welcomed Members and Representatives and noted apologies from Paul Jones (Richard Thwaites attending as Alternate), Raoul Thulin (Mark Duffield attending as Alternate), Claire Sedgwick (Kamila Nugumanova attending as Alternate), and Sarah Howarth (DESNZ Representative).

2. CM Representative Updates

LCCC/ESC

- 2.0 LCCC/ESC highlighted a current issue being raised by Capacity Providers, where Capacity Providers must contact their Supplier and request they instruct the appointed Data Aggregator to send the required metering data using data flow D0357 'Half Hourly Metered Data for EMR'. The LCCC/ESC representative noted they have received feedback from Capacity Providers that they are experiencing issues with their Supplier in setting up the required data flows for their MPANs; this has a knock-on impact on CM delivery assurance as the MPAN data is then unavailable for the Settlement Body to carry out the required Demand Side Response (DSR) tests.
- 2.1 LCCC/ESC informed CMAG that the deadline for DSR tests to be completed for the 2023/2024 Delivery Year (DY) is 31 August 2023, and noted that LCCC/ESC has offered advice and updated the EMRS website with additional guidance for Capacity Providers experiencing this issue.
- 2.2 LCCC/ESC queried whether there is a process under the Balancing and Settlement Code (BSC) that allows Capacity Providers to escalate where they are experiencing this issue. The CMAG Facilitator agreed to consider this offline.

Ofgem

- 2.3 Ofgem noted that they will postpone the next Statutory Consultation, initially due to take place in August 2023, to September 2023 to allow for further CM Rules Change Proposals to be considered.

EMR Delivery Body (EMR DB)

- 2.4 EMR DB noted there were no updates for this month.

Department for Energy Security and Net Zero (DESNZ)

- 2.5 There were no updates from DESNZ for this month.

3. CMAG Secretariat Update

- 3.0 The CMAG Secretariat noted the proposed meeting dates for 2023/24, and asked if CMAG had any known clashes. EMR DB noted the February 2024 meeting date would clash with the Auction day and may prove difficult for Members to attend. The CMAG Secretariat agreed to reschedule the meeting and issue placeholders for the 2023/24 meeting dates.
- 3.1 The CMAG Secretariat presented the results from the CMAG Member Experience Survey, noting that seven responses had been received in total. The CMAG Secretariat noted the results show that CMAG Members generally each have experience in at least two CMU Type categories (Generating, DSR or Interconnector). All Members marked at least one of the following areas as 'high confidence': Auction Guidelines; Eligibility Criteria; Capacity Auctions and Capacity Agreements, with the lowest confidence area as Metering Recovery Faults and Repayment of Capacity Payments. The CMAG Facilitator noted that the results show there is a broad experience within CMAG Membership, which gives industry comfort around the work the CMAG does. However, if an opportunity for new Members in the future, there are some areas where the CMAG may benefit from additional experience, particularly around metering.

4. Developing CM Rules Change Proposal CP373 'Aggregation, Metering and DSR Component reallocation process transfer' LCCC/ESC and EMR Delivery Body

- 4.0 The CMAG Secretariat noted the draft CM Rules Change Proposal Form had been circulated to CMAG in advance for review and no comments had been received.
- 4.1 LCCC/ESC noted the draft legal text extract contains comments for CMAG to consider and feedback on.
- 4.2 A Member noted the legal text for CP373 deletes the requirement for Capacity Providers to submit metering information during prequalification and also the associated termination event clause in Chapter 6. The Member queried if the legal text will seek to reintroduce a clause where Capacity Providers will face a termination event

if they do not provide the metering information through the new process proposed. LCCC/ESC noted that the termination event is still included within the CM Rules under Rule 6.10.1 (ha) where a Capacity Provider has failed to complete a Metering Assessment.

- 4.3 LCCC/ESC noted that the Delivery Body currently receives electrical single line diagrams as part of the metering assessment but it is not clear if there is any benefit in this as it falls under the governance of the BSC and queried if this requirement should be removed from the CM Rules. The CMAG Secretariat agreed to confirm the use and purpose of single line diagrams within the CM Rules with the Elexon Metering Team and feed back to the Settlement Body and Delivery Body whether there are any consequences of removing this requirement from the CM Rules.
- 4.4 The CMAG Facilitator noted that as part of the CMAG change process, it would be beneficial for CMAG to consider questions on the issue and government policy to understand how a Change Proposal should be progressed and the scope of the solution.

Questions on Issue and Government Policy

Is this a valid issue and is the CM the right place to address the problem?

- 4.5 LCCC/ESC noted that CP373 seeks to address inefficiencies within the current metering process in the CM Rules, where the ultimate user of metering data is the Settlement Body, the existing metering processes could be simplified.

Is the solution to the Change Proposal counter to policy objectives of the CM?

- 4.6 LCCC/ESC noted that CP373 is largely an administrative change rather than a policy driven change, where it seeks to adapt processes without impacting policy intent.
- 4.7 LCCC/ESC stated there are no known impacts on security of supply, costs to consumers and Capacity Providers or unintended consequences.

Are there any consequential impacts on the Regulations?

- 4.8 The EMR DB noted that Regulation 69 details the dispute process for Capacity Providers for factual errors within the Capacity Market Register (CMR). There is no proposed change to the Regulations to create a similar process for the proposed Capacity Market Metering Register under CP373, however if this is something Capacity Providers identify as a need it can be drafted as part of the CM Rules draft legal text.

Does this change explicitly affect any functions granted to the Secretary of State?

- 4.9 LCCC/ESC noted that CP373 does not affect any functions granted to the Secretary of State.

Is there an impact on Subsidy Control?

- 4.10 The LCCC/ESC representative (BV) noted CP373 does not impact Subsidy Control.
- 4.11 The EMRS representative queried if CMAG would benefit from a workshop to walkthrough the legal text for CP373, noting that it is a substantive change and feedback before CMAG Meeting 12 would be helpful.
- 4.12 CMAG Members agreed a workshop would be helpful, and the CMAG Secretariat (AS) agreed to issue a placeholder to CMAG.
- 4.13 **NEW ACTION 0823/01 – The CMAG Secretariat to arrange a Workshop, led by EMR DB and LCCC/ESC to walkthrough the legal text for CP373.**

5. Developing CM Rules Change Proposals CP372 ‘Change to Rule 4.4.4’ – CMAG

- 5.0 The CMAG Secretariat provided a recap of CP372, and noted that following previous discussion, it is proposed that CMAG review the specific change proposal questions for the change and provide a view on each before the legal text is reviewed and re-drafted.
- 5.1 The CMAG Facilitator noted that CMAG need to define the boundaries within which the solution to CP372 should be drafted, remaining considerate of the scope of change as it is progressed.
- 5.2 The CMAG Facilitator noted that as part of the CMAG change process, it would be beneficial for CMAG to consider questions on the issue and government policy to understand how this Change Proposal should be progressed and the scope of the solution.

Questions on Issue and Government Policy

Is this a valid issue and is the CM the right place to address the problem?

- 5.3 The EMR DB representative (BH) queried which Capacity Providers this is an issue for and how can CMAG bring CP372 back into scope, by understanding the specific issue and without broadening the solution. The Ofgem representative (AM) noted that there is a risk of undermining the policy intent if the solution to CP372 is too broad.
- 5.4 A Member noted the issue impacts a variety of technology types, including battery storage, diesel and reciprocating engines; there is an outstanding policy questions as to how DESNZ is considering moving forwards with decarbonisation in the CM to understand how CP372 can align to this.
- 5.5 EMR DB noted that they are aware Capacity Providers input a high-level description of their site during prequalification so that they are able to change their configuration to an extent, for example a battery storage provider may not provide information on specific configuration.
- 5.6 The EMRS representative queried how many Capacity Providers would be impacted by this change, and make subsequent changes to the configuration of their CMUs. The CMAG Secretariat (PP) noted there are a significant number of battery storage providers and reciprocating engine plants that would benefit from being able to make changes to their configuration where they have obtained a 15 year Agreement.
- 5.7 A Member noted as battery storage providers must meet their metering obligations, including extended performance testing, throughout the duration of their Agreement, a change to Rule 4.4.4 would be a significant improvement in how they can continue to maintain their sites.
- 5.8 A Member highlighted that further clarity on Rule 4.4.4 and the interpretation would be beneficial, as some Capacity Providers interpret it as a barrier whilst others do not.
- 5.9 A Member noted there are Capacity Providers who are currently looking at ways they can decarbonise, so this is an issue that should be addressed promptly.

Is the solution to the Change Proposal counter to policy objectives of the CM?

- 5.10 A Member noted the intention behind CP372 is to ultimately improve security of supply, by helping Capacity Providers to avoid termination where they can change underperforming components instead.
- 5.11 Another Member noted that this change could allow assets to decarbonise without needing to go 'offline' for a year to do so, which is a benefit to consumers and promotes security of supply.
- 5.12 The CMAG Secretariat noted that the CMAG may need to revisit the solution to CP372 once there is further clarity on how DESNZ will take forward its thinking on decarbonisation in the CM, to ensure CMAG work aligns with policy. A Member noted that CMAG should not ignore quick wins for changes whilst awaiting wider policy reviews, if it can look to provide clarity or a smaller scope change in the meantime it should consider progressing with this.

Are there any consequential impacts on the Regulations?

- 5.13 CMAG Members did not identify any consequential impacts on the Regulations.

Does this change explicitly affect any functions granted to the Secretary of State?

- 5.14 CMAG Members did not identify any impacts on the functions granted to the Secretary of State.

Is there an impact on Subsidy Control?

- 5.15 CMAG Members did not identify any impact to Subsidy Control.
- 5.16 The CMAG Secretariat noted that although the scope of CP372 should be tightened, the solution must remain technology agnostic and not be seen as advantageous to one technology over another.
- 5.17 The CMAG Facilitator requested that Members review the specific questions for CP372 offline, and provide comments to the CMAG Secretariat to be considered at the next meeting.
- 5.18 **NEW ACTION 0823/02 – CMAG Members to review and provide comment on the Specific Change Proposal Questions for CP372.**

6. Developing CM Rules Change Proposal CP362 'CM Agreement Transfers' Waters Wye Associates

- 6.0 The CMAG Secretariat noted that it had previously been agreed to approve the legal text ex-committee, but following further review of the legal text there are 3 options for CMAG to consider; this has been circulated to CMAG on 3 August 2023 for consideration.
- 6.1 KH noted the intention of CP362 is to allow a Capacity Provider to ultimately deliver their obligation through secondary trading if needed.
- 6.2 LCCC/ESC noted that clear guidance from DESNZ on the approach to drafting a solution must be given, to ensure it aligns with their future for policy intent in this area.
- 6.3 KH highlighted that if capacity obligations cannot be delivered, this is to the consumers' detriment, it is in the interest of consumers to ensure security of supply.
- 6.4 LCCC/ESC representative noted that an additional 3GW of capacity is secured during Auctions to account for non-delivery.
- 6.5 A Member noted that it is important to recognise there will be Capacity Providers with a genuine need to transfer capacity obligations before SCM; but there should be a balance between allowing this and insuring the policy intent to prevent speculative bidding remains.
- 6.6 A Member stated the solution for CP362 will largely depend on Ofgem and DESNZ view on how much of a problem speculative bidding is considered to be in the Capacity Market.
- 6.7 LW queried if the EMR DB had data on the number of sites that have been terminated before reaching MCR or SCM. EMR DB noted this had not been requested. The CMAG Secretariat noted that it is understood to be a relatively low number of sites from previous work in this area.
- 6.8 Ofgem noted that it is helpful to hear the feedback regarding speculative bidding and that it may not be considered as big of a concern as initially thought; the challenge for CMAG is that this is the policy landscape it must work within so any fundamental changes to the Rules could risk straying into the policy space and outside of CMAG scope. Ofgem further noted CMAG should continue to consider what the potential compromises may be when looking at solutions and changes in the CM, to ensure that changes do not impact the policy intent position set out in the CM Rules.
- 6.9 A Member noted that it is valuable to look at other Rules and provisions that could be changed to mitigate problems without altering the policy intent; the ability to secondary trade does not always guarantee there will be a liquid secondary trading market to participate in so may not always be the solution to delivering your capacity obligation.
- 6.10 The CMAG Secretariat presented the three Options (Option A, B and C), as circulated to Members in advance of the meeting for review.
- 6.11 The CMAG Facilitator asked CMAG Members to confirm their preferred Option for the solution to CP362.
- 6.12 A Member had highlighted in advance that they believe a consequential change will be required to Rule 6.7.1 for any Option selected. The CMAG Secretariat (PP) agreed to confirm if this is required.
- 6.13 **NEW ACTION 0823/03 – The CMAG Secretariat to confirm if a consequential change to Rule 6.7.1 is required for the solution to CP362 'CM Agreement Transfers'.**
- 6.14 A Majority of CMAG Members confirmed Option C as the preferred solution to CP362, noting that it addresses the issue of CP362 and is closest to the original solution without heavily impacting on government policy.
- 6.15 LW noted that CP362 seeks to allow companies to effectively manage their risk of termination, some Capacity Providers will carry out a location change or sell to another Company to mitigate risk of termination so it is not clear why secondary trading specifically is prohibited.
- 6.16 A Member noted that although Option C is their preferred Option, that it must be highlighted there is not a very liquid secondary trading market currently so it is not guaranteed this will address the issue.
- 6.17 **NEW ACTION 0823/04 - The CMAG Secretariat to circulate the draft CM Rules Change Proposal Report for CP362 to CMAG for review.**

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

- 7.0 The CMAG Secretariat provided a recap of the issue and solution for CP371 and noted following confirmation from Ofgem that the original proposed solution was not aligned to government policy intent, a number of mitigation menu options have been drafted for CMAG to consider.
- 7.1 LW noted they did not agree with the Ofgem decision on urgency, and noted that although the issue does not impact prequalification it will continue to impact Capacity Provider decisions on whether they can 'go-live' during an Auction and continue to increase the cost of the CM. Ofgem noted the feedback and confirmed that they did not believe it was appropriate to expedite the timelines for progressing CP371 and they believe it requires the due time for discussion and consideration by CMAG.
- 7.2 The CMAG Secretariat noted that Option 1 considers allowing a Capacity Provider to submit an application for an extension to the Long Stop Date (LSD) that aligns with the revised planned connection date, as evidenced in the Independent Technical Expert (ITE) report. The CMAG Secretariat highlighted that Option 1 seeks to remove the administrative burden Capacity Providers face in currently applying for an extension to the LSD day by day.
- 7.3 LW noted the issue CP371 seeks to address is that Capacity Providers experiencing a significant delay to their connection date will no longer receive their original Capacity Agreement length or payments; Ofgem has not previously allowed for liquidated damages to be approved through DCUSA and CUSC applications so there is no sufficient compensation for impacted Capacity Providers.
- 7.4 A Member noted that Option 1 provides a useful mitigation for Capacity Providers and would result in a significant reduction in cost and admin for Capacity Providers in applying for extensions to the LSD.
- 7.5 The CMAG Secretariat presented Option 2, which seeks to postpone the Financial Commitment Milestone (FCM) date where there is a connection delay, until the day before the first Delivery Year. The CMAG Secretariat noted Option 2 can be applied either to New Build CMUs only, or to all Prospective CMUs including those Refurbishing; where a Capacity Provider is aware of connection delay issues early on it may wish to delay its FCM date so that it does not need to commit investment and funds early on.
- 7.6 The CMAG Secretariat highlighted that the menu options seeks to provide a number of mitigations to help Capacity Providers facing connection delays, where we have already had clear steer from Ofgem that voluntary termination and amending DYs for which a Capacity Agreement is paid, are both against policy intent, as seen in the Regulations.
- 7.7 A Member noted they would be inclined to remove the restriction that you cannot delay FCM beyond the start of the first DY, all milestones should remain in the same order but shifted along in accordance with a connection delay.
- 7.8 A Member highlighted that by not delaying FCM, a Capacity Provider would be required to increase their credit cover.
- 7.9 LW queried why Option 2 requires an ITE report. The CMAG Secretariat noted is the idea of including an ITE report is to identify that a connection delay is the sole reason for delay, so that an extension to FCM under this option is not given for any other reasons.
- 7.10 The CMAG Secretariat queried if a Directors letter would be an appropriate alternative.
- 7.11 LW stated that Capacity Providers should be able to send the DNO letter confirming a connection delay directly to the EMR DB as sufficient justification for an extension.
- 7.12 EMR DB noted there are ongoing internal discussions regarding ITE Reports and tightening standards to ensure a consistent level of detail and quality is provided.
- 7.13 A Member noted that the assessment under Rule 6.7.7 has a different scope and therefore applying the same level of assurance (ITE Reports) to Rule 6.7.1 may not be appropriate.
- 7.14 The Member further noted that the EMR DB may be able to review and action a directors letter advising of a connection delay through the Portal, as connection dates are submitted as part of the planning consent information in the Portal.

- 7.15 EMR DB noted they check the connection agreement for Capacity Providers at prequalification, so if an updated connection agreement is later submitted this could possibly be re-checked by the EMR DB so long as it is the sole reason for a delay.
- 7.16 A Member queried why there is a different logic to extending the Long Stop Date and proposed extension to Financial Completion Milestone, where the former requires an ITE Report to confirm but the latter does not.
- 7.17 The CMAG Secretariat noted if CMAG agree the same approach should be given to both, the proposed Option 2 could be updated.
- 7.18 The CMAG Secretariat noted the policy intent of Rule 6.7.7 is to provide a level of assurance, and the same level of assurance should be proposed in any amendment to Rule 6.7.1.
- 7.19 A Member noted that ITE Reports take away subjective decision making from EMR DB and provide clear information to DB so their decision is not subjective.
- 7.20 A Member noted that industry is continually seeing that ITE Reports are not providing the level of assurance required, ITEs have written what is requested by the Capacity Provider without even visiting site in previous circumstances; this is part of a bigger problem that should be considered.
- 7.21 The CMAG Facilitator noted that the CMAG may seek to look further into the perceived issues with ITE reports in the future, and consider how the ITE Report framework can be strengthened, given that it has been raised as part of this discussion. The EMR DB representative noted it would be beneficial to include Ofgem within this discussion early in the process as there is value within ITE Reports.
- 7.22 A Member noted the current drafting for Option 1 is not consistent with Option 2; this must be reviewed to ensure there are no unintended consequences of the timeline of milestones to be completed are in the wrong order as a result of allowing extension to one and not others. The Member further noted that extensions to milestones should be allowed with the same burden of proof required, unless otherwise justified.
- 7.23 **NEW ACTION 0823/05 – The CMAG Secretariat to redraft the CP371 Option 2 solution to align with the assurance process for extending the Long Stop Date.**
- 7.24 The CMAG Secretariat noted Option 3 is the solution to CP362, as this could also provide a suitable mitigation for connection delays.
- 7.25 The CMAG Secretariat noted Option 4 seeks to allow for the period in which Capacity can be increased to extend in line with a connection delay, until six months after the LSD. This will allow the increase of AACO back to 100% in line with an extension to the LSD as a result of connection delays.
- 7.26 A Member noted this was a sensible and helpful mitigation for Capacity Providers.

8. Industry Feedback

- 8.0 A Member noted following the DESNZ CM 2023 Consultation and subsequent publication of updated CM Rules, there appeared to be an issue with the change to Connection Capacity; this could have been identified in advance if CMAG were able to view a redlined version on CM Rules changes before they are made live to industry.
- 8.1 Another Member queried whether DESNZ could provide an update on the changes it is considering in Phase 2 of its published outcome of the CM 2023 Consultation.
- 8.2 LW raised an issue with the current Delivery Body Portal, where a Special Purpose Vehicle has been sold however the seller is continuing to receive updates and emails that should be redirected to the buyer, and queried if this will be resolved in Portal v2.0. The EMR DB representative (BH) noted the feedback.
- 8.3 LW further raised that in her view it can be difficult to navigate to and find the most applicable and relevant guidance provided by the Delivery Body. The EMR DB representative (BH) noted they are currently working on a website refresh for the EMR DB website and will investigate improvements to how guidance is displayed.

9. Government Policy Impacts Session

- 9.0 The CMAG Facilitator noted there are no items for discussion.

10. CMAG Forward Work Plan

- 10.0 The CMAG Secretariat (CAr) presented the CMAG Forward Work Plan, there were no comments from CMAG.

11. Action Log

- 11.0 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 v11.1 – 22.08.23, published on the [website](#).
- 11.1 The CMAG Secretariat (AS) confirmed all the new actions noted at CMAG Meeting 11. There were no further comments from CMAG.

12. AOB

- 12.0 There was no further business and the meeting was closed. The next CMAG meeting date is Thursday 21 September 2023.