

# Capacity Market Advisory Group Draft Minutes

Meeting number **29**

Venue **Exelon Offices/MS Teams**

Date of meeting **18 February 2025**

Classification **Public**

## Attendees and apologies

### Attendees

Brain Lake	BL	CMAG Member
Eleanor Haynes	EH	CMAG Member
Kyran Hanks	KH	CMAG Member
Mark Duffield	MD	CMAG Member
Paul Jones	PJ	CMAG Member
Raoul Thulin	RaT	CMAG Member
Richard Thwaites	RT	CMAG Member
Owen Ship	OS	Guest
Shanelle Millage	SM	Guest
Bir Virk	BV	Representative (CM Settlement Body)
Ellen McGrath	EM	Representative (CM Settlement Body)
Matt Bowen	MB	Representative (DESNZ)
Beth Hanna	BH	Representative (EMR Delivery Body)
Ellie Wilkies	EW	Representative (EMR Delivery Body)
Hamza Khokhar	HK	Representative (EMRS)
Craig Parker	CP	Representative (EMRS)
Luke Wilson	LW	Representative (EMRS)
Andrew MacDonnell	AM	Representative (Ofgem)
Jack Britton	JB	Representative (Ofgem)
Chris Arnold	CA	CMAG Secretariat (Exelon)
Jenny McGowan	JM	CMAG Secretariat (Exelon)
Paul Farmer	PF	CMAG Secretariat (Exelon)
Phillip Paul	PP	CMAG Secretariat (Exelon)

### Apologies

Rob Selbie	RS	CMAG Member
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## Attendees and apologies

Stuart Wells

SW

Representative (EMR Delivery Body)

### 1. Welcome and Introductions

- 1.1 Chris Arnold (CA) welcomed Members and Representatives and noted apologies from Rob Selbie. CA noted the attendance of two observers: Shanelle Millage (SM) from Drax and Owen Ship (OS) from SSE. CA also noted Luke Wilson (LW) from EMRS, was standing in this month for Kat Gay. In CMAG proceedings, Craig Parker (CP) and Hamzah Khokhar (HK) were also present from EMRS Metering Team.

### 2. CM Representative Updates

#### CM Settlement Body

- 2.1 BV noted that, regarding operational updates, there has been a continuing positive trend in the Satisfactory Performance Days (SPD) process, with an increase in CMUs passing since January.
- 2.2 EM noted there were no policy updates from CMSB.

#### EMRS

- 2.3 LW noted that EMRS is continuously working to enhance their systems in order to streamline processes for customers. Currently, they are running a Mock Stress Event reporting process designed to test how participants would perform in meeting their obligations.
- 2.4 CP shared that their team is currently navigating the complexities of metering, particularly in relation to domestic Demand Side Response (DSR). They highlighted that there have been several challenges due to unfamiliar DSR CMU Component structures and setups that they are not typically used to. CP acknowledged that there may be some questions from colleagues regarding their work and expressed a willingness to answer or provide insight into any queries.
- 2.5 KH inquired whether the DSR process is affecting other workflows. CP responded that it has had some impact, particularly as more Applicants enter the market with limited understanding of the scheme. CP noted that many Capacity Providers are now relying on their EMRS team in an almost "account management" capacity, which has added pressure to EMRS processes and resources. CP emphasised that a key focus moving forward will be better educating stakeholders on their processes.
- 2.6 KH asked whether the volume of domestic DSR is increasing. CP confirmed that it is growing significantly, with new Applicants appearing almost weekly. These range from domestic DSR to small-scale generation across multiple sites, often involving thousands of Components. This increase in volume has led to a strain on systems, as they were designed for 'traditional' Capacity Providers, not for managing 200,000+ MPANs. Despite this, CP assured that the team is managing, but it is putting considerable pressure on their resources.
- 2.7 BV flagged that, regarding domestic DSR, CMSB is aware of the associated risks and reassured the team that they are actively working on mitigating them. CMSB noted that these risks were raised with CMAG last year and that separate discussions have been held with Ofgem and DESNZ.
- 2.8 CA asked if there are any figures available to provide an overview of the increase. BV responded that the volume has risen by 600% from last year to this year. Looking ahead, depending on the outcomes of the Auctions, they anticipate a slight slowdown in the increase, projecting around a 400% rise from this year to next year. The final figures will be clearer after the Auctions, but they confirmed that there is still a significant increase in Components. BV mentioned that they are happy to share these projections moving forward, as they would be helpful in illustrating the growth.
- 2.9 KH queried if all of these domestic customers are using Smart Meters and is that a requirement. CP explained that they are working with DSR Applicants using different types of technology to effect control over consumer demand. One complication arises with consumers applying through EV chargers that are attached to their homes and managed by the Applicant who effects control over those EV charges. Additionally, there are other applicants who may want to submit their entire property's demand for consideration via their Smart Meter. This

could create a situation where one party is seeking to claim a portion of the property, while another is attempting to claim the whole property, leading to some complexities. CP reassured that despite these challenges, all applicants are still required to pass the DSR test, SPDs, and other relevant criteria.

### **EMR Delivery Body**

- 2.10 BH noted the entry confirmation for the T-1 Auction closes today, making it a busy day for everyone involved. Additionally, the EMR DB team is prioritising preparations for the upcoming Auctions.

### **Ofgem**

- 2.11 AM noted that the 9/1/25 statutory consultation window closes today, and any responses should be submitted by the end of the day. Following this, the team will begin working on addressing the responses and will likely present an update on their positions to CMAG before the decisions are published.
- 2.12 AM also mentioned that the 2024 Prequalification dispute process has concluded. KH inquired if Ofgem has published the disputes or when they plan to do so. AM confirmed that the disputes outcomes will be published in about a month.

### **Department for Energy Security and Net Zero (DESNZ)**

- 2.13 MB provided an update on the targets for the upcoming auctions. For T-1, the target has been increased to 7.5GW, up from the previous 6.5GW, with the auction scheduled for 4th-5th March 2025. For T-4, the target is 43.7GW, which is lower by 0.3GW than the previous target, with the auction set for 11th-12th March 2025.
- 2.14 MB thanked those who responded to the 16/12/24 consultation and call for evidence that closed yesterday. DESNZ will spend the next couple of months analysing the responses and aims to publish the results in the summer. It was noted that DESNZ may present their findings to CMAG prior to publication.
- 2.15 MB noted that the legislative processes for the CM Phase Two procedural Regulations are nearing completion. The changes have been debated in both parliamentary houses and should hopefully come into effect shortly.

### **3. CMAG Secretariat Update**

- 3.1 There were no Secretariat updates this month.

### **4. Industry Feedback**

- 4.1 There was no Industry feedback this month.

### **5. CMAG Surgery**

#### **Connection Capacity**

- 5.1 CA presented the Connection Capacity surgery item to CMAG, recapping what was discussed at CMAG 28 where discussion was based on the proposed amended draft legal text for Rule 3.5.1A.
- 5.2 CA clarified that if the members are satisfied with the proposed wording of Rule 3.5.1A, it will be included as part of the change proposal once the Connection Capacity review is complete. The discussions held will be captured and included in the report sent to Ofgem. CA emphasised that this wouldn't be the final version, as there will still be time to review and provide comments on the report at a later stage.
- 5.3 CA noted that for Prospective Generating CMUs, the CM Rules allow the use of a Good Faith Estimate of the maximum capacity that can physically be transmitted from the Generating Unit to the Distribution Network as the Connection Capacity on the Application. A CMAG member queried whether this represented a material issue. EMR DB responded that they have compared the Good Faith Estimate with the MEC in the Capacity Agreement. They observed only an aggregate 0.2MW difference between the MEC and the Good Faith Estimate, while Operational physical capacity typically varies from Connection Capacity by an aggregate about 5 to 10MW each year. Given this, EMR DB stated that, comparatively, this doesn't appear to be a significant issue.
- 5.4 CMAG agreed that this was not a material issue. RaT noted that even if there were a material difference, it may not necessarily be a problem, as existing Generating Units can submit a Connection Capacity that is lower than their MEC or TEC, allowing for flexibility in what they are willing to commit to. RaT further mentioned that while everyone agrees it's not an issue, it is unclear why it would be a problem if there were a material difference.

- 5.5 PP responded that the issue might lie on the capacity procurement side, as what is entered at Application for Prequalification affects what goes into the Auction. If there is a significant difference between the Good Faith Estimate at Application and the actual MEC outlined in the subsequent Distribution Connection Agreement, it could become a concern about under-procuring capacity at Auction. If the capacity does not align with the estimate, it may not be a bad faith Application submission, but rather due to the expectation that the Good Faith Estimate would be met. If the capacity is significantly lower, the Capacity Agreement could face Termination for not meeting Minimum Completion Requirements (MCR). However, the Capacity Market allows units to meet 90% Substantial Completion Milestone (SCM) or >50% MCR of the Auction Acquired Capacity Obligation without Termination, so a shortfall against Good Faith Estimate of 5% or even 45% would not result in Termination. The real concern is that the Auction is based on the expectation that the Good Faith Estimate will be delivered, and it is important to consider how this will affect the effectiveness of the Auction in delivering capacity, especially compared to what is delivered through deferred Distribution Connection Agreements or what Capacity Market Units (CMU) deliver through MCR or SCM.
- 5.6 PP concluded that while this may not be a material issue, this is why the matter was raised initially. The main concern is the potential discrepancy in capacity. If the auction assumes a higher capacity will be delivered but lower capacity is provided, the issue lies in whether Generating Units are allowed to enter with a lower capacity and how they will need to adjust at a later stage to meet the required standards.
- 5.7 CA described a potential issue with Rule 3.4.5. This Rule requires an application to specify a set of key information related to the capacity of a CMU which includes the following requirement:

*'Each Application must specify...*

*in the case where Rule 3.5.5 applies, each CMU to which the relevant Grid Connection Agreement or Distribution Connection Agreement (as applicable) applies.'*

CA explained that as the clause only applies in cases where Rule 3.5.5 (STEC formula) applies, in cases where Grid Connections Agreements or Distribution Connection Agreements were shared across Generating Units that formed part of a Generating CMU but another method of determining the Connection Capacity of the Generating Unit (e.g. Average Output) was used, there would not be a requirement for an Applicant to inform EMR DB of the shared agreement.

- 5.8 CA asked CMAG whether they believed the Shared Connection Agreements issue was valid. BH responded that it is a valid issue and they have seen cases where details have not been provided.. This prompted discussions with DESNZ, who acknowledged that while they attempted to address it in the drafting of Rule 3.5.1A, it didn't fully align with the intended policy.
- 5.9 CA then queried whether any issues had been observed in practice. BH confirmed that issues had indeed been observed during Prequalification, which is when the issue was initially identified and proposed for resolution.
- 5.10 CMAG agreed to the suggested amendment of Rule 3.5.1A legal text to remove the text 'in the case where Rule 3.5.5 applies'.

### **Exhibit Review**

- 5.11 JM presented questions on the draft Exhibits DA, DB and DC to CMAG for comments.
- 5.12 CMAG after reviewing Exhibit C and D from CMAG 28, agreed to the drafted versions which will now be taken as final.
- 5.13 JM noted that there seems to be a lack of clarity regarding the purpose and necessity for Exhibit DB. Exhibit DB is intended to be supported by a signed acknowledgment from other Joint Owners confirming their agreement for the CMU to participate in the Capacity Market, as outlined in paragraph (a)(iii) of the Exhibit DB. To assist with this, EMR DB provide Applicants with a Joint Owners Acknowledgement Form. However, in the past two Prequalification rounds, there has not been a single Exhibit DB submitted. Instead, Applicants appear to be using Exhibit DA, as it does not require additional supporting documentation.
- 5.14 JM asked given this, does CMAG agree that we should propose removal of Exhibit DB. BH noted they are unsure why Exhibit DB exists, it appears to be more of an assurance item for the Applicant party rather than a

necessity as they have to go away and get someone to sign it. It just seems like more administrative work for them. PJ noted that Exhibit DB seems to serve as a document that could potentially allow for the standing acknowledgment from other Owners, meaning it wouldn't be necessary to obtain a signed form from the other Owner every year. Essentially, it could function as a standing document where the other Owner grants permission for the Applicant to operate on their behalf, providing more operational flexibility. However, PJ pointed out that this doesn't seem to be an issue, as Applicants are already using Exhibit DA instead.

- 5.15 PP responded by expressing concern that if an Applicant had a stack of previously signed Joint Owner declarations that were being reused, it may not truly meet the policy intent. The concern is whether the Joint Owner is genuinely agreeing to the Exhibit DB declaration by the Applicant, especially if they signed it for a previous Prequalification round. There is no clear requirement regarding the nature of the attachment, so it could potentially include caveats or exclusions. PP noted that Exhibit DB seems to overlook this issue, which could undermine its purpose. In contrast, what is achieved under Exhibit DA is that the Joint Owners are actually signing the declaration alongside the Applicant.
- 5.16 MD noted that they were unsure of the original purpose behind the introduction of Exhibit DB. While it may be possible to review the 2015 consultations for more insight, it is likely that the two different formats were created for a reason. From MD's experience, all the cases they are aware of have followed the Exhibit DA route, which includes signatures from both Joint Owners. As a single Capacity Provider, MD indicated they have no objection to removing Exhibit DB, as it wouldn't cause any issues for them. However, they acknowledged that they are not the only interconnector party, and if any new parties or joint ownership situations arise, they may have different perspectives.
- 5.17 MD also questioned whether any other parties would use Exhibit DB going forward, especially in cases of joint ownership. They expressed uncertainty about how specific these requirements might be for new parties, suggesting that removing Exhibit DB might not be a problem in principle but could be subject to consultation if it became a formal Rule Change Proposal. MD speculated that Exhibit DB was likely introduced because it was only the Applicant signing, whereas Exhibit DA requires signatures from both the Applicant and the Joint Owner.
- 5.18 MD noted that the introduction of Despatch Controllers (as referenced in Exhibit D) may have influenced the creation of Exhibit DB. Despatch Controllers, who operate assets on behalf of the legal owner, are distinct from Joint Owners, who typically share ownership equally. This situation could explain why Exhibit DB was designed differently from Exhibit DA, given that Joint Owners may not always be the legal owners, and the other owner might be an overseas entity.
- 5.19 MD acknowledged that there hasn't been much discussion about these specific exhibits in the consultations they reviewed, they suggested that Exhibit DB might have been created for very specific circumstances that no longer apply, or that could be handled differently under the existing rules for Joint Owners.
- 5.20 **ACTION:** MB noted that they had reached out via email to individuals who were involved in the scheme's setup back in 2014 but had not yet received a response regarding the rationale behind the introduction of Exhibit DB. MB suggested that, unless anyone strongly disagreed, it might be best to pause the decision on removing Exhibit DB for a month. This would allow time for anyone at DESNZ to locate any relevant information or open sources explaining its introduction. If no additional information is found by this time next month, MB proposed moving forward with the proposed removal of Exhibit DB.
- 5.21 **ACTION:** In regard to questions 2 and 3, on the addition of declarations to Exhibit DA and DB, CMAG agreed to park this until they can be cross referenced by Elexon legal and passed through to Ofgem and DESNZ for review as well.
- 5.22 CMAG agreed to revisit these questions at CMAG 30, allowing DESNZ the opportunity to review and consider them further.

### **Total Project Spend**

- 5.23 PF presented the Total Project Spend to CMAG and summarised what was discussed at CMAG 28.
- 5.24 PP reminded the group that, as agreed at the previous meeting, TPS should vary, as it is always an estimate or the latest forecast of Qualifying Capital Expenditure. PP noted the TPS briefing document was issued on Friday which included several questions and proposed legal text regarding how these can be addressed also noting that TPS can vary. It additionally raised some related queries concerning The Capacity Market (Amendment) (No.3) Rules 2024, which have been forwarded to DESNZ. DESNZ are currently reviewing Drafting Questions

one to six (DQ1-6) and will provide feedback separately. PP noted the Secretariat are looking for input on what could be brought forward as Surgery Items for possible changes.

- 5.25 PP highlighted that the definition of TPS needs to be reviewed and presented the proposed draft legal text, to include 'the latest estimate of' and 'Capacity Provider'. There were no questions and CMAG agreed to those proposed amendments. Consideration of restructuring the definition of TPS to make all Prospective CMUs and Unproven DSR CMUs subject to the same qualifying time periods and all Refurbishing CMUs subject to the same constraints, was deferred until DESNZ have responded to DQ1-6.
- 5.26 PP highlighted that the definition of Financial Commitment Milestone needs to be clarified and presented the proposed draft legal text. KH queried the slide discussing the definition of Total Project Spend (TPS), specifically regarding the statement that the latest estimate of Capital Expenditure is considered TPS. PP clarified that TPS is essentially a subset of Capital Expenditure, with Capital Expenditure covering all spending related to the core production of electricity. The definition of Total Project Spend includes time constraints in the top half of its definition, such as the 77 months prior to the start of the first Delivery Year. Capital Expenditure incurred before this 77-month period does not qualify within TPS, and this is addressed in the later TPS questions (Q2, Q3, and Q4 on slides 35-37). KH clarified that one of the definitions (TPS) is time-bound, while the other (Capital Expenditure) is not. PP confirmed this and explained that the proposal is to make it clear that it is TPS used in Rule 6.6, suggesting that this should be explicitly stated in the definition. There were no further comments and CMAG agreed to the proposed drafted legal text amendments.
- 5.27 PP highlighted that the definition of De-Rated Capacity (DRC) needs clarification and presented the proposed draft legal text. RaT raised the point that if there is more than one Generating Technology Class (GTC), the Connection Capacity of the CMU should not be multiplied by the de-rating factor. Instead, the individual Generating Unit Connection Capacity should be used. PP acknowledged this and clarified that while he had aimed to keep the terminology consistent, RaT's suggestion is valid. To ensure greater clarity, the language may need to be adjusted to refer specifically to Generating Unit Connection Capacity in **(a)**. PP noted that he would check the wording regarding the Anticipated DRC and would consider making similar adjustments if necessary.
- 5.28 PP discussed the definitions of <x> Year Minimum £/kW Threshold. RaT noted that at the Application stage, when no Capacity Agreement has been awarded, a declaration must be made stating that the threshold has been met. However, this threshold technically only exists once the Capacity Agreement is awarded. While Prequalifying, the threshold is known, but at the Application stage, it's not clear how to reference it.
- 5.29 PP responded, clarifying that the Threshold used in the Application is the same one used in the Maximum Obligation Period definition. While it is initially used as the Threshold during the Application assessment, it is also used in Rule 8.3.6 when assessing the Total Project Spend (TPS) incurred with a Capacity Agreement. PP suggested that the purpose of clarifying the Threshold is to emphasise that it is not just used at the Application stage but also for any Capacity Agreement awarded.
- 5.30 PJ then raised a concern about the definition, asking which Threshold should be used. If the Threshold changes subsequently, it was important to ensure that the original Threshold, applicable at the time of Application, is still considered. PJ questioned whether the red text on the slide should remain, suggesting that it may not be necessary, as it simply restates the applicable Threshold. CMAG agreed with this view and decided not to include the red text.
- 5.31 PP agreed, noting that it's not necessary to include the red text, as the Threshold used during the Auction process is specified in the Regulations. This Threshold is then used in Rule 8.3.6 to compare the TPS incurred with the minimum Threshold that applied to the specific Auction in which the Capacity Agreement was awarded. This ensures that the Threshold is relevant to the Auction from which the capacity agreement originates. PP further suggested that the definition should make it clear that the Threshold applies when assessing anything related to the Capacity Agreement arising from that Auction.
- 5.32 PP concluded by emphasising that this is an initial surgery item, and it will return as a Change Proposal. PJ reiterated that while he doesn't think the red text is necessary, if it were to be included, it should be more specific, relating to the Capacity Agreement awarded in that Auction, not any Capacity Agreement in general.
- 5.33 PP discussed the definition of Qualifying £/kW Capital Expenditure. KH raised a point of confusion regarding the deletion of the red text at the bottom of slide 33, asking how it relates to the blue text paragraph above it. Specifically, KH questioned whether the deletion was intended to align with the blue text. PP responded by noting the blue text highlights that De-rated Capacity (DRC) is solely related to the Connection Capacity. PP explained that the Connection Capacity is only marginally relevant to Capital Expenditure since the Connection

Capacity only involves the infrastructure for the connection, rather than the generating plant behind that connection.

- 5.34 EH agreed with the sentiment, noting that the red text should indeed be deleted. She felt that at best, it was redundant, and at worst, it introduced an alternative definition of De-rated Capacity that should not exist. De-rated Capacity should not be subject to interpretation by the Applicant, as it is already defined elsewhere in the Rules. EH acknowledged that while Applicants may not be using this as a loophole, it still presents a potential risk by offering an alternative definition of De-rated Capacity. She therefore agreed that the redlined text should be removed to ensure consistency with the established definition. Based on this discussion, CMAG agreed to the proposed amendments.
- 5.35 PP discussed Rule 8.3.6, Evidence of Total Project Spend and asked if there were any questions. RaT raised a question about whether the issue is that, if only 90% of the original Connection Capacity is delivered, the De-rated Capacity remains at the higher figure until it is demonstrated otherwise. PP responded, emphasising that De-rated Capacity does not change. Even if the Minimum Completion Requirement (MCR) is met at >50%, and the connection is capable of taking 100% but the plant only outputs 51%, the De-rated Capacity would still be 100%.
- 5.36 RaT responded, questioning whether it is the intent that, even if only the MCR is met, the full 100% Capital Expenditure must be expected in order to secure the duration of the Capacity Agreement. RaT acknowledged that while this may be the outcome, he was uncertain if it was the intended approach, suggesting that it would require further clarification. PP clarified that this issue will be addressed later under TPS Q3 on slide 36 and will be covered in more detail at that stage.
- 5.37 PP moved on to TPS Q2 on slide 35 and asked CMAG, should the qualifying period for TPS be extended from the start of the first DY to such later date SCM/MCR are met and the Agreement becomes effective.
- 5.38 KH raised a concern regarding the increasing number of Capacity Providers experiencing delays due to Distribution Network Operators (DNOs) and Transmission Operators (TOs) being unable to provide the required capacity because of connection issues. KH noted that Applicants are advised to get supplier's invoices submitted early, even for work not yet completed, so that these can count towards TPS incurred by the start of the first Delivery Year. KH suggested that if a CMU is delayed in connecting, all Capital Expenditure associated with the delay should be included in TPS, and there should not be an additional 'penalty' (by late costs being excluded from TPS) on top of the delay.
- 5.39 AM responded that CMAG must be cautious when addressing such issues, as it is important to avoid straying into policy territory. While CMAG can provide valuable input on the clarity of the Rules, if the matter is related to Delivery Assurance, it falls under the remit of DESNZ. AM clarified that CMAG can identify the issue and raise it with DESNZ, but any policy-related decisions should remain with DESNZ.
- 5.40 PP echoed AM's point, explaining that the purpose of raising these high-level questions is to highlight a fundamental issue and assess whether it is constrained by policy. AM added that any discussions involving Delivery Assurance, Financial Commitment Milestone, or Total Project Spend would likely be considered a policy issue by DESNZ, and it should ultimately be their decision to make. PP clarified that if a Change Proposal ventures into policy territory, CMAG would produce a report stating that the issue is not progressing due to policy intent being outside of CMAG's Scope. CMAG could then explore the matter further, providing DESNZ and Ofgem with information on why members believe it warrants consideration.
- 5.41 KH queried the next steps, expressing concerns that if issues cannot be progressed due to policy constraints, the process could seem redundant. PP responded that, based on recent briefing documents, CMAG could continue identifying potential issues and highlighting them through redlining or other means. If the issue is policy-related, CMAG would stop at the initial stage and focus on outlining potential consequences and providing specific examples of how the issue might impact Capacity Providers, such as curtailed Capacity Agreements and/or the need for re-procurement of capacity at subsequent Auctions. KH emphasised that, compared to other issues discussed, this feels like a more urgent and tangible problem, suggesting that CMAG should aim to produce a paper on the topic to potentially prompt action. EH supported the idea of producing a paper, agreeing that it may be a policy issue but still worthy of discussion. She expressed her willingness to dedicate time to address the issue and create a starting point for future reference.
- 5.42 PP asked for analytics from EMR DB to possibly support a briefing paper outlining the issue. EW agreed to respond.

- 5.43 PP moved on to TPS Q3 on slide 36, the TPS £/kW test against the Minimum £/kW Thresholds using the original DRC rather than any lower Operational Physical Capacity (OPC). KH expressed frustration that the Rules don't reflect the current reality. For example, if only 51% of capacity is being delivered, it seems odd not to use the actual connection capacity or the OPC, but wasn't sure if this would stray into policy. BH noted that it does touch on policy, as AM mentioned earlier. KH also highlighted that since CP30, NESO has been pursuing this, stating it's achievable, while DESNZ and Ofgem have emphasized the need to resolve the connection queue. As a result, the context has shifted, and the environment is different from when the Rules were originally written. KH suggested DESNZ should identify and feedback to CMAG the specific policy intent (as consulted on) that might limit any such changes proposed by CMAG. AM confirmed no harm in raising policy issues, but CMAG should be aware of where the work they are doing leads. Efficiencies in the Rules can be recommended, but there are policy questions arising from looking at the Rules and how they have changed.
- 5.44 PP raised there could be inconsistency in the Rules around Question 3, but RaT and EH didn't think the policy intent is clear but also take the point of whether the Rules are appropriate. PP agreed to write up issues and what could be possible impacts. Make that available to members on CMAG SharePoint, with any additional evidence and forward that to Ofgem and DESNZ.
- 5.45 PP moved on to TPS Q4 on slide and acknowledged that the same issues over Policy intent would arise.
- 5.46 It was agreed that CMAG Secretariat would produce a Briefing paper covering TPS Q2-4 for Member and Representative review and addition of real-world scenarios and impact assessments. EW undertook to provide pertinent analytics, eg over Capacity Agreements becoming effective after the start of the first Delivery Year, being subject to Reduction Notice or being Terminated due to failing £/kW Thresholds and any increases in OPC under Rule 6.7.6. CMAG could then agree for the Briefing to be provided to Ofgem and DESNZ for consideration.

### **Extended Years Criteria**

- 5.47 JM presented the Extended Years Criteria (EYC) surgery item, going over the context of where the change arose before moving on to the drafting questions on the briefing document.
- 5.48 JM queried if members and representatives had had time to review the briefing document. MD noted that, upon reviewing the rules, it appeared that the criteria were quite complicated and at times seemed to contradict themselves. While the delivery body can comment on the matter, MD suggested that the rules might be more navigable if they were simplified. Specifically, MD proposed that the Extended Years Criteria could be set out more clearly in the main body of the rules, with an annex providing additional details, supplemented by clear work examples as further guidance. MD acknowledged that there may not be any real-world issues with the current form and the Rules are navigable at the moment, but expressed concern that, should practical issues arise, there could be ambiguity around interpreting the rules.
- 5.49 JM asked if any real-world examples had yet surfaced where this complexity had caused problems. EH agreed with MD, noting that while the rules are currently navigable, she had written many ITE EYC reports using them when she was an ITE. She acknowledged that the rules are complicated but emphasised that they do not present a barrier to completing the assessment. Once familiar with them, the process becomes easier, as the intention behind the Rules is clear. While there could be a benefit to simplifying them, EH did not consider it a top priority. She noted that the Total Project Spend issue is more pressing at the moment. The only point EH raised in the document was regarding the three-month timeline, which she found confusing, though she again emphasised that it was not a top priority.
- 5.50 PP inquired whether there had been any instances where a Prospective CMU had been subject to a Reduction Notice. EMR DB confirmed that while such Reduction Notice occurrences have been observed, they were typically not due to the party failing to meet the EYC requirements.
- 5.51 PP then raised the question of whether it would be worthwhile for CMAG to proceed with reviewing the Drafting Questions and potential redlined legal text on slides 45-52 for a potential Change Proposal, given the lack of concrete evidence suggesting an immediate need for such a change. PP also noted the challenge of finding a sponsor for the proposal, as there seems to be little investment from stakeholders.
- 5.52 CMAG acknowledged the complexities in the current rules but observed that there have been no significant cases where parties have struggled to meet the EYC. EH added that the only example she could recall involved an assessment where generators (ie Apparatus) in Great Britain were used within the three years prior, though

she suggested this was more likely a case of the Capacity Provider forgetting to include relevant details, rather than an issue with the Rules themselves.

- 5.53 Given that ITEs appear to be familiar with the EYC requirements, CMAG agreed that there is no immediate need to pursue this issue further. DESNZ and Ofgem have been provided with the Briefing document for potential future clarification of the Rules, should they choose to revisit the matter.

## 6. CMAG Forward Work Plan

- 6.1 The CMAG Secretariat presented the CMAG Forward Work Plan.
- 6.2 EH inquired about the status of CP382. CA clarified that it is nearing completion, with only a few items remaining for CMAG's review. An agenda item will be included in the next meeting to address the identified gaps, after which the report will be submitted to Ofgem.

## 7. Action Log

- 7.1 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, published on the website

## 8. Any Other Business (AOB)

- 8.1 EH inquired about the timing of Ofgem's next statutory consultation. AM responded that no specific date has been set yet, as the schedule will depend on the Change Proposals received. The original plan for regular, scheduled consultations did not work out as a consequence of the 2024 General Election, so for now, consultations will be held when there are enough Change Proposals to send out.
- 8.2 EH asked when a consolidated set of Rules, incorporating The Capacity Market (Amendment) (No.3) Rules 2024, would be available, acknowledging that it would only be valid for the next four months until the anticipated July publication of further Rules amendments for Prequalification 2025. She highlighted the difficulty of working without a consolidated version that clearly indicates the Rule changes. MB responded that they were unsure but would inquire with the relevant team. PP noted that the regulatory changes related to the Rules are currently going through parliamentary procedures, meaning that producing anything at this stage would be an overhead until the July consolidation. However, he agreed with EH that having the consolidated version, even temporarily, would be useful.
- 8.3 KH asked when prequalification would take place, specifically when it would close. BH responded that she would inquire about the timing once the draft Operational Plan is produced, noting that while it was released in February last year, this year the Auctions are scheduled later, which has resulted in delays to several timelines.
- 8.4 MB provided an update on Rule 6.10.1(g) and 6.10.1(ga). DESNZ has worked with internal legal colleagues to assess the termination events under these rules.
- i **(g)** refers to a situation where a capacity provider ceases to have a Grid Connection Agreement that secures TEC for each relevant Delivery Year, at least equal to the de-rated capacity of the relevant CMUs for that Delivery Year.
  - ii **(ga)** refers to when the Capacity Provider reduces their TEC secured by their Grid Connection Agreement to below the sum of the Capacity Obligations for that CMU and all other CMUs linked to that GCA.

In both cases, the event will not be triggered if the fault is solely due to a Transmission Licensee's failure to provide a connection point when required. While (g) implies a cessation of TEC equal to the relevant obligated capacity for any reason, (ga) currently implies an action taken by the Capacity Provider to reduce their TEC.

At this time, the department will need to consider any unintended consequences of changes to the Termination Events and does not believe these should be removed for the moment. DESNZ will continue to review these and other Termination Events regularly.

- 8.5 AM gave an update on the Confidential Information being reviewed by Ofgem and its impact on the drafting of Exhibit C. AM noted that the Exhibits will have to be reviewed and cross referenced by their legal team at some point.
- 8.6 The next CMAG meeting will take place on **18 March 2025**.