

European Commission
Directorate General for Energy
Unit B2 - Internal Market, Wholesale markets; electricity and gas
1049 Brussels
Belgium

04 February 2020

Consultation on the United Kingdom's Market Reform Plan for Great Britain

EDF in the UK welcomes the opportunity to respond to the European Commission's consultation on the United Kingdom's market reform plan for Great Britain.

EDF is the UK's largest producer of low carbon electricity. We operate low carbon nuclear power stations and are building the first of a new generation of nuclear plants. We also have a large and growing portfolio of renewable generation, including onshore and offshore wind, as well as coal and gas stations and energy storage. We have around five million electricity and gas customer accounts, including residential and business users. EDF is committed to building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

We agree with the UK Government's identification of market failures in its market reform plan. We also agree with the decision to introduce a Capacity Market to ensure resource adequacy to deliver security of electricity supply and that there is a continuing need for the Capacity Market. The decision to introduce the Capacity Market scheme was subject to a State aid investigation by the Commission in 2014 and the approval of the mechanism was confirmed by the Commission's State aid investigation in 2019.

The need for the Capacity Market stems from the rapidly changing electricity generation mix in Great Britain, with closures of significant amounts of existing generation capacity and the rapid growth of intermittent renewable generation expected to continue throughout the 2020s. The Capacity Market has succeeded in ensuring that there is adequate capacity to ensure security of supply while delivering value for money for consumers through competitive auctions.

The UK Government has carried out a Five Year Review of the operation of the Capacity Market, which identified areas where the mechanism could be improved. We welcome the UK Government's commitment to make incremental improvements to the mechanism following this review.

EDF believes that it is important that the Commission carries out the review required by Regulation (EU) 2019/243 expeditiously to confirm that the Capacity Market in Great Britain remains an appropriate measure to address resource adequacy. Such a conclusion would be consistent with

EDF Energy
90 Whitfield Street
London W1T 4EZ
Tel +44 (0) 00 0000 0000
Fax +44 (0) 00 0000 0000

edfenergy.com
EDF Energy Ltd.
Registered in England and Wales
Registered No. 2366852
Registered office: 90 Whitfield Street
London W1T 4EZ

the conclusion of the Commission's State aid investigation in 2019 and would help to maintain investor confidence in the Capacity Market.

Should you wish to discuss any of the issues raised in our response or have any queries, please contact me. I confirm that this letter may be published on the Commission's website.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

European Commission
Directorate General for Energy
Unit B2 – Internal Market, Wholesale markets; electricity and gas
1049 Brussels
Belgium

31 January 2020

RESPONSE TO THE EUROPEAN COMMISSION'S CONSULTATION ON THE UNITED KINGDOM'S MARKET REFORM PLAN FOR GREAT BRITAIN

Introduction

AQUIND Interconnector welcomes the opportunity to respond to the European Commission's ("**Commission**") consultation on the United Kingdom's ("**UK**") planned electricity market reforms for Great Britain ("**GB**")¹ as detailed in the 'GB Implementation Plan'.²

AQUIND Interconnector (the "**Project**") is a proposed high voltage direct current interconnector between GB and France that will facilitate improved electricity transmission connection between GB and France. The subsea cable will connect the South Coast of England with Normandy and provide 2,000 megawatts ("**MW**") of additional capacity from 2023 onwards.³ The Project is expected to make energy markets more efficient, improve security of supply, and help meet decarbonisation targets – ultimately ensuring greater reliability and affordability for consumers.

AQUIND Interconnector is currently a European Union ("**EU**") Project of Common Interest ("**PCI**") and has been designated a Nationally Significant Infrastructure Project ("**NSIP**") in the UK.⁴ The Project has been under development since 2014 and has met a number of key milestones (including obtaining connection agreements in both countries and an operational license in GB), completed detailed environmental surveys, and initiated the relevant permitting processes in the UK and France. AQUIND Interconnector is currently in the process of seeking regulatory approval from the National Regulatory Authorities ("**NRAs**") in the UK and France under Article 12 of Regulation (EU) No. 347/2013 (the "**TEN-E Regulation**"). The project will bring in excess of €1.5bn of social economic welfare benefits to the Member States, including France, Germany, Spain and Ireland, net of investment.

Summary

¹ Commission (2019) Consultation on the United Kingdom's market reform plan for Great Britain (available [here](#)).

² GB Implementation Plan (available [here](#)).

³ <http://aquind.co.uk/>

⁴ Direction by the Secretary of State under Section 35 of the Planning Act 2008 Relating to the Aquind Interconnector, July 2018.

AQUIND Limited is a company created in accordance with the law of England and Wales, company number 06681477, registered address OGN House, Hadrian Way, Wallsend, NE28 6HL

AQUIND SAS is a company created in accordance with the laws of the Republic of France, R.C.S 808 503 940, adresse du siege, 72 rue de Lessard 76100 Rouen

The UK faces an unprecedented challenge in respect of the electricity market in GB, to ensure continued security and reliability of electricity supply while transitioning away from existing thermal generation to renewable energy sources, while avoiding an adverse impact on consumer bills.

This challenge is particularly significant as the ongoing deployment of renewables and closure of thermal assets will increase the intermittency of electricity supply, which will make it increasingly challenging to balance the electricity system. The August 2019 power outage, which affected over one million UK consumers and caused significant disruption to rail services, was a timely reminder of the nature of the challenges facing the UK.⁵

Several countries in the EU have introduced various mechanisms to ensure the security of supply. The GB 'Capacity Market' ("CM") was introduced in 2014 in line with the energy market rules of the EU.⁶ The purpose of the CM was to mitigate risks arising from resource adequacy concerns and distortions that led policy makers to believe that, at the time, the energy market alone (i.e. without a capacity mechanism) would not provide adequate price signals to deliver the right amount and type of generation capacity.

Five years on, the UK has reviewed the resource adequacy concerns in GB and considered whether the CM continues to fulfil its objectives and whether these objectives remain appropriate.⁷ Given continued risks to security of supply (as described in the GB Implementation Plan) the UK is intending to continue operating the CM for the foreseeable future and to enhance the CM design to ensure that it can better meet its objectives.

The Commission is now seeking stakeholder views on the planned reform measures proposed by the UK.⁸

AQUIND Interconnector recognises the challenges associated with maintaining security of supply in the GB electricity market in the context of the ongoing deployment of renewable energy generation, the planned closure of existing thermal assets, and the increased intermittency of electricity supply associated with this transition. Our main comments in respect of GB Implementation Plan are as follows:

- ▶ **We welcome the UK's position that increased interconnection will contribute to security of supply in GB in the long term.** Various interconnectors are expected to provide around 14,000 MW of extra capacity by 2024,⁹ of which AQUIND Interconnector is expected to provide 2,000 MW of capacity by 2023. AQUIND Interconnector will contribute to the security of supply in GB, while also helping to diversify the supply mix and improve system stability and flexibility.
- ▶ **We firmly believe that the GB Capacity Market must operate on a 'technology neutral basis' to ensure consumers do not overpay for the benefits they receive.** For consumer benefits to materialise, the CM will need to operate in a manner that is both effective and fair. Specifically, the CM should continue to be 'technology neutral' and should ensure that all resources that contribute to security of supply in GB are remunerated fairly.
- ▶ **We agree that Ofgem's 'Cap & Floor' regime aims to be supportive of interconnector development, but we consider that changes to the default regime are necessary to facilitate third-party interconnector development.** Such modifications to the 'Cap & Floor' ("C&F") regime need to ensure that projects, which have already obtained a

⁵ Ofgem is currently investigating the 9 August 2019 power outage (see [here](#)).

⁶ See GB Implementation Plan, pages 2-3.

⁷ See GB Implementation Plan, pages 26-28, in line with Article 20(3) of Regulation (EU) No. 2019/943.

⁸ Previously, the EC found that the CM was compatible with EU State aid rules and necessary given the resource adequacy concerns identified by the UK. See Commission's State aid decisions in 2014 and 2019 ([here](#) and [here](#)).

⁹ GB Implementation Plan, pages 21-22.

positive Initial Project Assessment decision, as well as future projects are able to reach a Final Investment Decision (“FID”).

- ▶ **Further, we consider that the C&F regime should not unduly restrict participation by projects that do not have a PCI status.** We consider that Ofgem should take active steps to ensure new interconnectors can, following the UK’s exit from the EU, still access the C&F regime and/or clarify how Article 12 of the TEN-E Regulation would apply going forward.
- ▶ **As a factual observation, we note that AQUIND Interconnector is now pursuing a ‘regulated route’ via the ‘Cap & Floor’ regime.** We would like to clarify that the current regulatory status of AQUIND Interconnector is via the ‘regulated route’.¹⁰ In the UK, this takes the form of the C&F regime.

We elaborate on each of the above points in further detail in the remainder of this response.

Increased interconnection will contribute to security of supply in GB in the long term

The GB Implementation Plan recognises that further interconnection will help improve the functioning of the GB electricity market by contributing to “*energy security, affordability and decarbonisation*”. Over time, increased interconnection from projects such as AQUIND Interconnector, is likely to strengthen the resilience of the European transmission network and thus, indirectly, help reduce the need for an explicit CM.

AQUIND Interconnector will provide a reliable alternative electricity source for consumers in GB and France alike. The Project is expected to achieve over 95% technical availability over its life and compares favourably to most conventional thermal assets.¹¹

The security of supply benefits from AQUIND Interconnector will include:

- ▶ Participation in the GB (and French) capacity markets, which may potentially help to defer or avoid generation investment (notably expensive peaking plants);
- ▶ Contribution to a reduction in the probability of unserved energy;
- ▶ Supply mix diversification for both GB and France, driven by the fundamental differences in the GB and French generation mix; and
- ▶ Improved system flexibility and stability.¹²

The GB Capacity Market must operate on a ‘technology neutral basis’

The GB Implementation Plan explains that the GB CM operates on a ‘technology neutral basis’.¹³ However, interconnectors have been able to participate in the CM alongside other assets only from 2015 onwards (specifically the 2015 T-4 auction, for delivery in 2019/20).¹⁴

We are firmly of the view that interconnectors should be able to participate in the GB CM on the same terms as other assets that contribute to security of energy supply in GB, such as generators, storage, and demand-side response (“**DSR**”).¹⁵ We also consider that all participating assets should be remunerated fairly – that is, in proportion to the contribution that they make to the security of supply in GB. This is because a potential exclusion of a resource that has the potential to contribute

¹⁰ AQUIND previously applied for an ‘exemption’ from certain EU regulations, in order to operate as a merchant interconnector, but this application has been rejected by ACER in June 2018.

¹¹ SKM (2012) Calculating Target Availability Figures for HVDC Interconnectors (see [here](#)).

¹² This will manifest itself in a range of technical outcomes including an improved transient, voltage and frequency stability of both French and GB power systems.

¹³ GB Implementation Plan, pages 6-7.

¹⁴ BEIS (2015): Announcement of de-rating methodology for interconnectors in the Capacity Market.

¹⁵ We recognise that in the future, foreign generation may also participate directly in the GB CM (and indeed any other European capacity mechanism). However, the rules for foreign direct participation have not yet been established.

to GB security of supply risks increasing the CM auction clearing price. In turn, this would increase payments that GB consumers make to obtain a given level of security of supply.

The ‘Cap and Floor’ regime must do more to encourage different models of interconnection

AQUIND Interconnector welcomes the UK’s efforts to increase levels of interconnection in GB and we are also broadly supportive of the objectives of Ofgem’s C&F regime. However, we consider that further refinements to this regime are necessary to facilitate a level playing field between different types of interconnection projects and investors.

The current C&F regime is based on sound economic principles and offers a good general framework for attracting new interconnector investment, including from non-TSO parties. This has manifested itself in the range of developers who have put forward projects during ‘Window 1’ and ‘Window 2’ of the C&F process. While we agree that the C&F regime has “*reduced risks*”, we do not agree that it has “*unlocked substantial investment in interconnection*”, yet. In particular, we consider that certain adjustments to the regime are necessary to enable project finance projects to proceed.

As it stands, the C&F regime is most suited to projects where development and construction costs are financed from the regulated revenues of a national Transmission System Operator (“**TSO**”) or supported by its consolidated balance sheet. The C&F regime does not, however, sufficiently recognise significant structural differences between TSOs and non-TSO project promoters, who are likely to employ a range of alternative financing models (such as project finance). Similarly, the regime fails to recognise the requirements that an independent, third-party interconnector promoter must meet to raise sufficient external finance on the basis of the C&F regime.

Ofgem recently carried out a consultation on proposed changes to the C&F regime to enable project finance solutions (we currently await the results of this consultation).¹⁶ As submitted to Ofgem in response to this consultation,¹⁷ we are concerned that, without appropriate adjustments (or ‘variations’), the C&F regime will fail to enable the development of third-party GB interconnectors, to the detriment of GB consumers. We have encouraged Ofgem to consider what amendments would be appropriate to make to the default C&F regime design, to deliver the optimal outcomes for GB consumers.

The ‘Cap and Floor’ regime should not unduly restrict participation by projects that do not have a PCI status

Currently, interconnection projects can access Ofgem’s C&F regime through two main routes:

- ▶ by applying to participate in the C&F regime during ‘windows’ opened by Ofgem; or
- ▶ by requesting a regulated regime under Article 12 of the TEN-E Regulation, if they already hold PCI status.

We consider that the current arrangements can, in some cases, act as a barrier to entry for new projects, particularly those that do not have PCI status (as Ofgem has not indicated any plans to open the next window for participating in the C&F regime). The impact of these barriers will likely become more prominent going forward, when the UK leaves the EU. Even if a project between a Member State (“**MS**”) and a non-MS is designated a PCI¹⁸, it is currently unclear how Article 12 of the TEN-E Regulation would apply.

Ultimately, limited access to the C&F regime will limit the pool of prospective interconnection developers, reduce the volume of new interconnection, and result in harm to GB consumers. We

¹⁶ Ofgem (2019) Consultation on proposed changes to our electricity interconnector cap and floor regime to enable project finance solutions (available [here](#)).

¹⁷ We expect that Ofgem will publish our response on their website in due course.

¹⁸ The requirements for being designated as a PCI would also become more challenging: GB projects will only be eligible for PCI status if they can demonstrate they have significant cross-border impacts (TEN-E Regulation, Article (4)(1c(ii))).

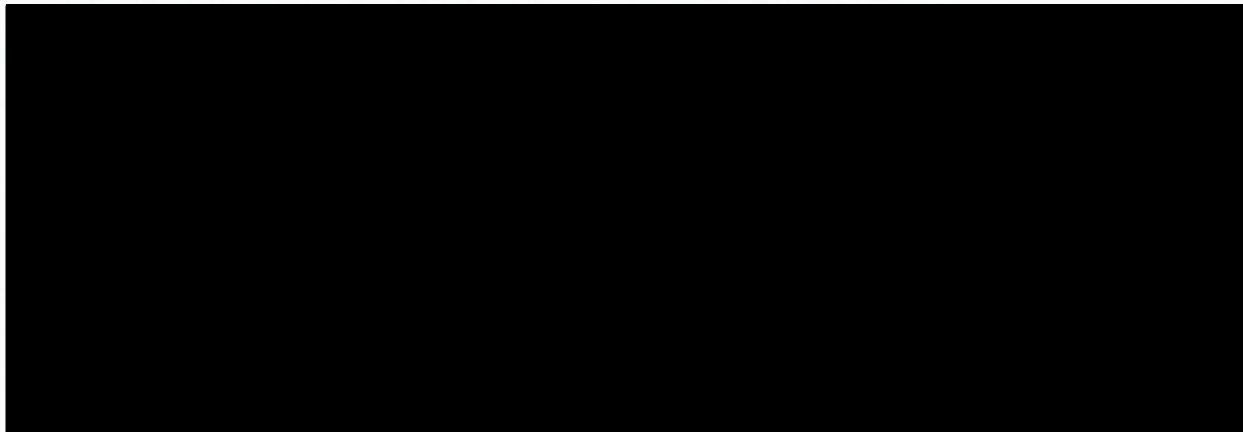
consider that Ofgem should take active steps to mitigate against this eventuality for the benefit of customers.

AQUIND Interconnector is now following a regulated C&F route

Our final observation is a factual point regarding AQUIND Interconnector. The 'GB Implementation Plan' describes AQUIND Interconnector as following a 'merchant' regulatory route.¹⁹ However, we consider that it is more appropriate to describe AQUIND Interconnector as a project currently pursuing a 'regulated route (C&F)'. This is for the following reasons:

- ▶ Although AQUIND Interconnector originally followed a 'merchant' route, the Agency for the Cooperation of Energy Regulators ("ACER") rejected our request for a regulatory exemption under Article 17 of Regulation (EC) 714/2009 primarily on the basis that, as a PCI, AQUIND Interconnector should instead apply for a regulatory regime pursuant to Article 12 of the TEN-E Regulation.²⁰
- ▶ We appealed ACER's decision to the General Court on 14 December 2018,²¹ and the appeal is currently ongoing. However, in line with ACER's guidance, we have since developed an 'Investment Request' in line with Article 12 of the TEN-E Regulation. This was submitted to the relevant NRAs in August 2019.

By submitting an Investment Request under Article 12 of the TEN-E Regulation, AQUIND Interconnector is now effectively following a regulated route which, in the UK, takes the form of the C&F regime.



¹⁹ GB Implementation Plan, Table 3.

²⁰ ACER Decision No. 05/2018 (available [here](#)); upheld by the ACER Board of Appeal in Case A-001-2018 ([here](#)).

²¹ Case T-735/18.

European Commission
Directorate General for Energy
Unit B2 - Internal Market, Wholesale markets; electricity and gas
1049 Brussels
Belgium

07 February 2020

Energy UK response to Ireland's and Northern Ireland's electricity market reform plans

I am writing you in response to your Consultation on Ireland's and Northern Ireland's electricity market reform plans.

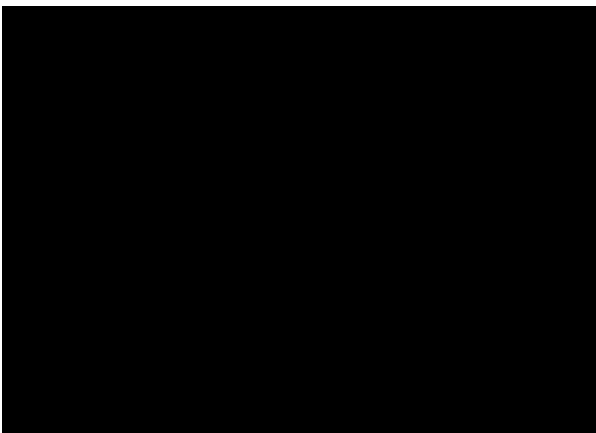
Energy UK recognises the similar market failures of the Integrated Single Electricity Market (I-SEM) to that of the GB electricity market. The implementation, therefore, of a capacity mechanism (the "Capacity Remuneration Mechanism") is appropriate and as noted in the Implementation Plans the Capacity Remuneration Mechanism will be essential to maintain resource adequacy, whilst facilitating decarbonisation objectives. To enable these outcomes, Energy UK considers it essential to maintain fair and equal participation in I-SEM for power generators based in Northern Ireland under both current and future and market rules.

The small market size of the I-SEM makes it very sensitive to generation exiting the market, whilst the high penetration of renewable generation serves to amplify the 'missing money' challenge. As is noted by the Single Energy Market (SEM) committee, this renewable generation in such a small island system increases the "missing money" market failure. The reliance on smaller generators, limited interconnection options, and the prospect of Kilroot Unit 1 and 2 exiting the market from 2024, means that the Irish market will likely enter into an adequacy deficit from 2025.

In order to address the adequacy issues as outlined in the Implementation Plans, there is a need for a capacity mechanism; and, the Capacity Remuneration Mechanism has effectively delivered in this regard since 2017. The Capacity Remuneration Mechanism provides a stable and predictable income to relevant generators, thereby maintaining security of supply in case of high stress scenarios, and in turn supporting the high deployment of renewable generation. Energy UK advocates its continuation, underpinning investment from a wide range of market participants, ensuring security of supply, at least cost to the consumer.

If you have any questions, please feel free to contact me.

Yours sincerely



European Commission
Directorate General for Energy
Unit B2 – Internal Market, Wholesale markets' electricity and gas
1049 Brussels
Belgium

06 February 2020

Consultation on the United Kingdom's market reform plan for Great Britain

I am writing in response to the Consultation on the United Kingdom's market reform plan for Great Britain based on the GB Implementation Plan submitted to the European Commission (the "Commission") in December 2019.

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

We represent the diverse nature of the UK's energy industry with our members delivering almost all (90%) of both the UK's power generation and energy supply for over 27 million UK homes as well as businesses.

Energy UK agrees with the identified market failures by the UK Government in its GB Implementation Plan, and recognises both the necessity to have implemented a market-wide capacity mechanism to address these, and the ongoing need for it. The elected mechanism (the "Capacity Market") was introduced under an original State aid decision by the European Commission (the "Commission") in 2014. This decision came about to address the security of supply challenges arising from an increasing capacity margin from end of life generation exiting the market, the "missing money" market failure, the implications of a much higher proportion of low carbon capacity with low running costs.

This capacity margin concern is identified by Great Britain's System Operator, National Grid¹ in its annual Winter Outlook reports. Of note is the Winter Outlook report of 2013/14² which forecast peak weather corrected electricity demand forecast for winter 2013/14 at 54.8 GW, and de-rated actual generator availability over peak weather corrected demand to be just 60.5GW, just 5% of electricity margin against Average Cold Spell (ACS).

We agree with the proposition set out in the GB Implementation Plan that GB continues to experience resource adequacy concerns. Due to the Capacity Market, we have experienced a Loss of Load Expectation (LOLE) between 0 and 1 hours³, below the minimum reliability standard of 3hours/year. Recent analysis by the UK Government and National Grid ESO demonstrates that the LOLE would

¹ Prior to April 2019 the Transmission System Operator for GB was National Grid. Following legal separation in April 2019, this responsibility is now held by National Grid Electricity System Operator (ESO).

² National Grid Winter Outlook 2013/14 - <https://www.nationalgrideso.com/document/63796/download>

³ Winter Outlook ESO Winter Outlook 2019/20 - <https://www.nationalgrideso.com/document/127551/download>

Energy UK

26 Finsbury Square
London
EC2A 1DS

T 020 7930 9390
www.energy-uk.org.uk
t @EnergyUKcomms

exceed the reliability standard in the absence of the Capacity Market between 2019/20 and 2023/24.⁴ It therefore appears unlikely that the reliability standard would be met over the next 5 years without the Capacity Market, and demonstrates its continued need.

The Capacity Market continues to ensure that capacity and the “missing money” market failure is addressed at least cost to consumers. It does this through competitive auctions which run on a pay-as-clear basis, and we have experienced decreasing clearing prices as competition increases, with the recent T-3 2022/23 auction clearing at £6.44/kW/year, down from £8.40/kW/year clearing price in the T-4 2021/22 auction. Further, the Capacity Market acts to reduce scarcity pricing in the event of a capacity stress event and providing wider benefits to the system and consumers.

Energy UK agrees with the necessity for the Capacity Market and fully supports the continuation of the mechanism. Since its inception, the Capacity Market has secured billions of pounds of investment in the GB electricity system to ensure security of supply and has demonstrated its ability to significantly improve LOLE beyond the minimum standard.

For your reference, I have attached as Appendix A to this letter Energy UK’s response to the Commissions (Directorate General for Competition) call for evidence on the GB capacity mechanism’s State aid review which outlines members views of the Capacity Market. This was submitted to the Directorate General for Competition in April 2019.

If Energy UK could be of any assistance throughout the Commissions review, or you have any questions in regards to this response, please feel free to contact me.

Yours sincerely,

[Redacted signature block]

⁴ Page 26 GB Implementation Plan - https://ec.europa.eu/energy/sites/ener/files/gb_implementation_plan-final.pdf

Appendix A

Energy UK response to the European Commission's request for evidence on Great Britain's Capacity Market

18th April 2019

About Energy UK

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing lifelong employment as well as quality apprenticeships and training for those starting their careers. Annually, the energy industry invests over £11bn, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

Executive Summary

Energy UK welcomes the opportunity to provide evidence to the European Commission, as part of its in-depth investigation into Great Britain's Capacity Market (GB CM). We support the original decision made in 2014 to approve the GB CM and believe that it remains compatible with the European Union's (EU) State aid rules and that it was fundamentally the correct decision. The GB CM annulment has brought uncertainty to many companies that hold capacity agreements and have made investment decisions on the basis that the mechanism was State aid compliant and could be legally relied upon. It is worth highlighting, that although statements have been made by the UK Government that there is no immediately impending security of supply issue, as financial uncertainty increases, there is an increased chance of capacity unavailability due to financial constraints. We therefore strongly encourage the Commission to conclude its State aid investigation on the GB CM as rapidly as possible consistent with due process, to ensure the continued security of supply.

The mechanism has been successful in bringing to market significant volumes of Demand Side Response (DSR). The UK government has put in place a number of measures to bring forward DSR including dedicated transitional auctions for DSR, which resulted in the technology achieving higher clearing prices than has been possible in auctions open to all technologies. The existing CM design has proven to deliver competitive auctions between different capacity providers with a significant proportion of unproven DSR CMUs able to obtain agreements without the need for access to longer agreement tenures. There is a lack of evidence to suggest that access to longer term agreements would increase the amount of DSR able to compete. The reasoning behind DSR not being able to qualify for longer term agreements being that it does not meet the requirement of the significant capital expenditure threshold, which large new-build Capacity Market Units (such as generation or storage) may be able to easily meet.

The possibility of foreign capacity directly competing in the GB CM has been an aim of the UK Government since the mechanism's original design. Challenges, however, remain in the way in which this might be delivered, and the UK Government has presented proposals how this could be brought forwards. We encourage the UK Government to continue to review how this could be done, however, we ask that the European Commission is pragmatic in its review of this element, and policy intent is acknowledged to bring foreign capacity to market outside of the current interconnector model.

a) Background to the GB Capacity Market - EMR Five-Year Review Process

The UK government consulted extensively prior to introducing the GB CM and recognised that adjustments over time would likely be needed, to reflect learning from experience. Under Great Britain's Electricity Market Reform (EMR), a Contracts for Difference (CfD) scheme, a Carbon Price Floor (CPF) and a Capacity Market (GB CM) were proposed and subsequently brought forward. The EMR works to bring renewables to market through the CfD, to encourage lower carbon forms of generation through the CPF and to deliver security of supply to Great Britain through the GB CM. In all, the GB CM works alongside the CfD mechanism and the CPF in efforts to combine meeting domestic decarbonisation goals with security of supply.

In the EMR it was stipulated that following five years of implementation, there should be a holistic review for its appropriateness and effectiveness. This process of policy review was to be concluded in 2019, following consultation in 2018. This framework provided an opportunity for appropriate adjustments to be made to the mechanism considering learning from experience and development of the energy system. It should be noted GB CM stakeholders were able to make their views known on the scope of this review and the elements of it during the Five-Year Review consultation.

Many incremental refinements have already been made to the GB CM since 2014 to better deliver the CM objectives. The wider Five-Year Review of the mechanism had commenced with a consultation launched in August 2018⁵ and further consideration and consultations planned in 2019. While Energy UK members have a range of opinions on how detailed GB CM rules should evolve over time, our members are united in their view that the GB CM remains fundamentally the right instrument for delivering security of supply. The already planned Five-Year Review is the right mechanism for considering and consulting on any changes which might be considered desirable in the light of the experience to date. Adjustments have already been delivered through this policy evolution strategy, including enabling interconnected capacity to participate (2015), addressing the risk of accumulating multiple State aid revenues of a CMU (2016), and bringing forward the start of the GB CM to address immediate security of supply concerns (2016).

b) Appropriateness of the measure

Under the mechanism, longer term (>1 year) agreements are only available for new or refurbishment projects which meet substantial Capital Expenditure (CapEx) thresholds. Historically, Turn-down DSR does not involve CapEx of the necessary scale. Therefore, it has not been deemed appropriate to award longer-term agreements, and has not been able to meet the criteria necessary to warrant such support. Although in scope for the GB CM Five-Year review, at the time of mechanism design this seemed an appropriate measure and criteria for multi-year contract eligibility. Energy UK does note that DSR that is new build or refurbished Behind-The-Meter (BTM) generation or storage can secure longer term agreements by participating in auctions as generation/storage. It has never been the policy intent to

⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732546/CM_Review_call_for_evidence_final_4.pdf

restrict DSR's ability to come to market, rather, it is deemed the most appropriate way to incentivise participation without being disproportionate to the expenditure incurred by the capacity provider.

Some DSR providers in Energy UK's membership are of the view that multi-year agreement availability in T-4 auctions would not incentivise customers to bid into auctions. This is due to the required time to comply with agreement obligations; considering developments since 2014, others may find value in multi-year contracts, if they can meet eligibility criteria. Providers of DSR can be customer sites that wish to maintain a certain level of flexibility (they may not see value in locking-in to a long-term agreement where obligations must be met at risk of penalties or termination fees). The T-1 auctions are of importance for these assets. We note that in the 2013 EMR consultation document "*the target volume of capacity [for DSR] for the year ahead will be at least 50% of the capacity that was reserved for it at the four year ahead stage will be procured*"⁶, this would further incentivise these forms of DSR.

The chosen 2MW threshold aimed to keep the mechanism's administration processes manageable and is the same or similar to thresholds which apply in other Capacity Markets around Europe. There is little evidence that it has disadvantaged DSR – for example the transitional auction which allowed a much lower threshold (500kW) attracted very few bids below the 2MW threshold (8.5MW, representing 8 CMUs).⁷

c) Proportionality of the measure

The GB CM cost recovery method is appropriate, proportionate and fair. Being based on gross electricity consumption between 16:00 and 19:00 each weekday in winter ensures that there is a dependable signal to reduce peak demand. This also ensures that the GB CM costs are recovered in a fair and equitable way from all types of consumers. The GB CM cost recovery method, based on supplier market share on typical winter peak periods, provides an additional incentive for DSR to facilitate reduction in demand on winter weekdays. While alternatives were considered, there were sound reasons for the chosen methodology and it cannot be said to disadvantage DSR. This methodology provides regularity to all suppliers and provides them with a predictable charging stream.

d) Avoidance of negative effects on competition and trade

The policy behind the GB CM and the design of the mechanism has opened competition for all technologies that can meet pre-determined requirements to maintain security of supply. This included providing DSR an appropriate and proportional route to market in the mechanism. DSR is a key tool to providing capacity to the GB energy system, potentially bring significant cost savings to the GB billpayer, and it is our view that this is recognised by UK Government. The GB CM has included measures clearly designed to support DSR, such as lower credit requirements (£5,000/MW compared to £10,000 for new build generation⁸) and softer testing regime requirements. It would, however, prove impossible to reserve amounts of DSR capacity in auctions, as it would be inconsistent with The Environmental and Energy State Aid Guidelines (EEAG).

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/255254/emr_consultation_implementation_proposals.pdf

⁷ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC0322\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC0322(02)&from=EN)

⁸https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791236/Principal_Regulations_Keeling_Schedule_general_final.pdf

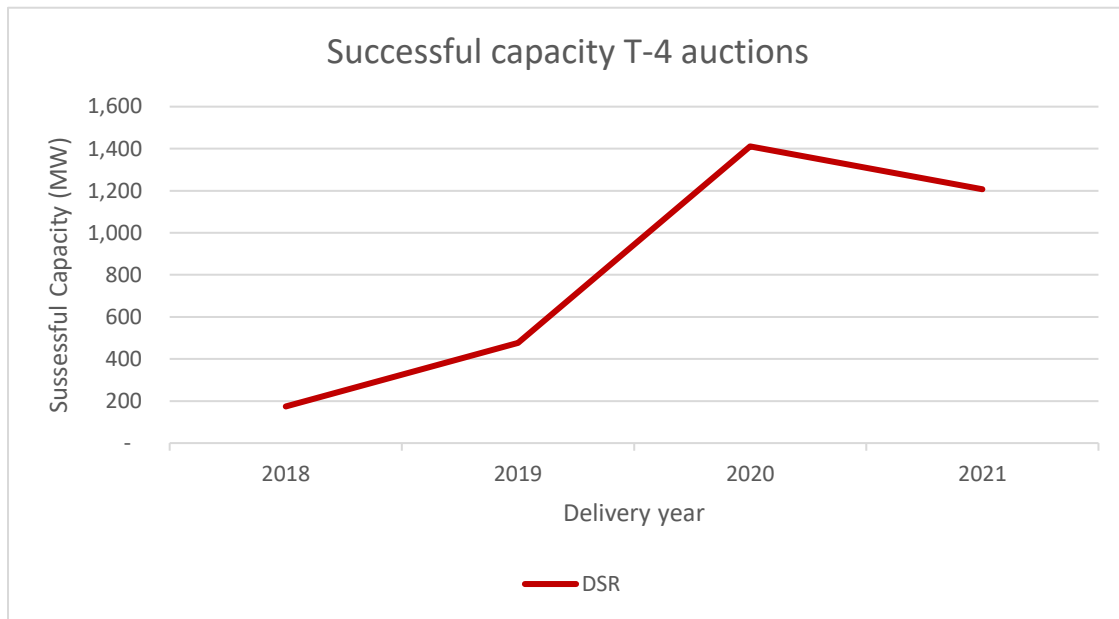


Figure 1 Successful Demand Side Response (DSR) Capacity Bids into the CM T-4 auctions (MW)

Evidence provided over the lifetime of the GB CM from auctions held to date shows that DSR participation in the mechanism has grown substantially over time and a range of DSR companies have had noted success. The transitional auctions provided commercial opportunities (and resulting in higher auction clearing prices) which were not accessible to other technologies or forms of capacity provider. These auctions in 2016 and 2017, brought forward an additional 475MW and 312MW respectively, with the 2017 auction run solely for turn-down DSR participation. At the time of the GB CM's design, there was an expectation that DSR would primarily participate in T-1 auctions, whereas increasing amounts have been brought to market through the T-4 auctions. The results from the previous GB CM auction show a clear increase in DSR participation and awarded capacity agreements (in megawatts). As outlined in Figure 1, the original T-4 2014 auction brought short of 200MW of DSR capacity into the GB CM, compared to the T-4 2016, just two years later, successfully awarded capacity agreements to 1.4GW of DSR. In 2017 this saw a further 1.2GW, a significant volume, and clearly demonstrates that the CM provides incentives for DSR providers.⁹

e) Participation of foreign capacity

Energy UK acknowledges the case for the direct participation of foreign capacity in the GB CM. We agree that capacity providers should be able to participate in the Capacity Mechanisms (CMs) of other Member States and welcome the process for developing a methodology of cross-border participation as set out in the newly adopted recast of the EU Electricity Regulation (Regulation). The details to be included in that methodology are still to be further specified by ENTSO-E and approved by ACER within the timescales foreseen in the Regulation once it enters into force. The UK Government has acknowledged the potential to include of foreign capacity directly competing in the GB CM since the mechanisms original design. It was initially proposed that this could be done through implicit auctions in which buyers and sellers in each market can bid into the other.¹⁰ However, this is a complex policy

⁹ <https://www.emrdeliverybody.com/CM/Auction-Results-1.aspx>

¹⁰ https://ec.europa.eu/energy/sites/ener/files/documents/cross-border_crm_study_-_final_report_-_170106.pdf

to implement and the UK Government should be given time to explore how this would be done and the scope for appropriate reciprocal arrangements with interconnected countries. We would expect the European Commission to provide support on an ongoing basis to assist all CMs in the EU to create a consistent approach forward including this in CM designs as appropriate over time.

The UK government has shown considerable intent to apply this in domestic policy and has continued to investigate how this could be brought forward, consulting on this as part of the call for evidence issued in August 2018¹¹. Energy UK believes that this should be reviewed outside of the scope of this process to approve the GB CM, given the need for a clear focus on ensuring the security of supply. The current interconnector model provides a suitable solution in the interim. Energy UK looks forward to continuing to work with the UK Government to develop an appropriate framework to facilitate this.

[REDACTED]

¹¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732546/CM_Review_call_for_evidence_final_4.pdf

Energy UK Corporate Members (April 2019)

AES UK HQ	Nuvve
Bristol Energy	Octopus Investments
Brockwell Energy	Open Utility
Callesti Energy	Opus Energy
Calon Energy	Orsted
Carron Energy	PeakGen
Centrica Energy	Pod Point
Corby Power	Robin Hood Energy
CRF Hydropower	RES
Co-Operative Energy	RWE
Drax Group	Sembcorp Utilities UK
Haven Power	ScottishPower
E	Shell Energy Europe
Ecotricity	Simplicity Energy
E.ON UK	Smartest Energy
EDF Energy	Social Energy
EP Invest	SSE
ENGIE	Statoil
ESB	Toto Energy
Flogas	Triton Power
Garbhaig Hydro Power Company	Uniper
Green Energy Network	Utilita Energy Limited
Green Frog Power	Utility Warehouse
Green Star Energy	Vitol/VPI Immingham
Good Energy	
Highview Power	
Hudson Energy	
Innogy	
InterGen	
Jersey Electricity	
Low Carbon	
Manx Utilities	
Marble Power	
Marubeni Europower	
National Grid	
Natural Power	
npower	

Energy UK Associate Corporate Members (April 2019)

British Hydropower Association
Buglass Energy Advisory
CGI
China Light and Power
Chubu Electric Power Co
Cornwall Energy
Deloitte
Delta EE
DNV KEMA
Doosan Babcock Energy
Eaga Charitable Trust
EDF Trading
Electroroute
Elexon
Energyhelpline
Energylinx
Enel X UK
EPEX SPOT
ESCP Europe
ESPUG
EY LLP
Fichtner Consulting Engineers
Gentrack
Herbert Smith Freehills
Horizon Nuclear Power
Huntswood CTC
Japan Electric Power Information Centre (JEPIC)
Local Waste Solutions
MGT Teeside
Mott MacDonald
Navitas
Nord Pool
NorthConnect JV
NuScale Power
Osaka Gas
Passiv Systems
Pöry Management Consulting (UK)
Publicis.Sapient
PWC
RSK
SENER Engineering
Shell
SIA Partners
SGN
Siemens
SQS Group
Stag Energy
Tigre
Tokyo Electric Power Company
Vivid Economics
Vuepoint Solutions
Wood Mackenzie Global Consultants

Energy UK response to the European Commission's request for evidence on Great Britain's Capacity Market

18th April 2019

About Energy UK

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing lifelong employment as well as quality apprenticeships and training for those starting their careers. Annually, the energy industry invests over £11bn, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

Executive Summary

Energy UK welcomes the opportunity to provide evidence to the European Commission, as part of its in-depth investigation into Great Britain's Capacity Market (GB CM). We support the original decision made in 2014 to approve the GB CM and believe that it remains compatible with the European Union's (EU) State aid rules and that it was fundamentally the correct decision. The GB CM annulment has brought uncertainty to many companies that hold capacity agreements and have made investment decisions on the basis that the mechanism was State aid compliant and could be legally relied upon. It is worth highlighting, that although statements have been made by the UK Government that there is no immediately impending security of supply issue, as financial uncertainty increases, there is an increased chance of capacity unavailability due to financial constraints. We therefore strongly encourage the Commission to conclude its State aid investigation on the GB CM as rapidly as possible consistent with due process, to ensure the continued security of supply.

The mechanism has been successful in bringing to market significant volumes of Demand Side Response (DSR). The UK government has put in place a number of measures to bring forward DSR including dedicated transitional auctions for DSR, which resulted in the technology achieving higher clearing prices than has been possible in auctions open to all technologies. The existing CM design has proven to deliver competitive auctions between different capacity providers with a significant proportion of unproven DSR CMUs able to obtain agreements without the need for access to longer agreement tenures. There is a lack of evidence to suggest that access to longer term agreements would increase the amount of DSR able to compete. The reasoning behind DSR not being able to qualify for longer term agreements being that it does not meet the requirement of the significant capital expenditure threshold, which large new-build Capacity Market Units (such as generation or storage) may be able to easily meet.

The possibility of foreign capacity directly competing in the GB CM has been an aim of the UK Government since the mechanism's original design. Challenges, however, remain in the way in which this might be delivered, and the UK Government has presented proposals how this could be brought forwards. We encourage the UK Government to continue to review how this could be done, however, we ask that the European Commission is pragmatic in its review of this element, and policy intent is acknowledged to bring foreign capacity to market outside of the current interconnector model.

a) Background to the GB Capacity Market - EMR Five-Year Review Process

The UK government consulted extensively prior to introducing the GB CM and recognised that adjustments over time would likely be needed, to reflect learning from experience. Under Great Britain's Electricity Market Reform (EMR), a Contracts for Difference (CfD) scheme, a Carbon Price Floor (CPF) and a Capacity Market (GB CM) were proposed and subsequently brought forward. The EMR works to bring renewables to market through the CfD, to encourage lower carbon forms of generation through the CPF and to deliver security of supply to Great Britain through the GB CM. In all, the GB CM works alongside the CfD mechanism and the CPF in efforts to combine meeting domestic decarbonisation goals with security of supply.

In the EMR it was stipulated that following five years of implementation, there should be a holistic review for its appropriateness and effectiveness. This process of policy review was to be concluded in 2019, following consultation in 2018. This framework provided an opportunity for appropriate adjustments to be made to the mechanism considering learning from experience and development of the energy system. It should be noted GB CM stakeholders were able to make their views known on the scope of this review and the elements of it during the Five-Year Review consultation.

Many incremental refinements have already been made to the GB CM since 2014 to better deliver the CM objectives. The wider Five-Year Review of the mechanism had commenced with a consultation launched in August 2018¹ and further consideration and consultations planned in 2019. While Energy UK members have a range of opinions on how detailed GB CM rules should evolve over time, our members are united in their view that the GB CM remains fundamentally the right instrument for delivering security of supply. The already planned Five-Year Review is the right mechanism for considering and consulting on any changes which might be considered desirable in the light of the experience to date. Adjustments have already been delivered through this policy evolution strategy, including enabling interconnected capacity to participate (2015), addressing the risk of accumulating multiple State aid revenues of a CMU (2016), and bringing forward the start of the GB CM to address immediate security of supply concerns (2016).

b) Appropriateness of the measure

Under the mechanism, longer term (>1 year) agreements are only available for new or refurbishment projects which meet substantial Capital Expenditure (CapEx) thresholds. Historically, Turn-down DSR does not involve CapEx of the necessary scale. Therefore, it has not been deemed appropriate to award longer-term agreements, and has not been able to meet the criteria necessary to warrant such support. Although in scope for the GB CM Five-Year review, at the time of mechanism design this seemed an appropriate measure and criteria for multi-year contract eligibility. Energy UK does note that DSR that is new build or refurbished Behind-The-Meter (BTM) generation or storage can secure longer term agreements by participating in auctions as generation/storage. It has never been the policy intent to restrict DSR's ability to come to market, rather, it is deemed the most appropriate way to incentivise participation without being disproportionate to the expenditure incurred by the capacity provider.

Some DSR providers in Energy UK's membership are of the view that multi-year agreement availability in T-4 auctions would not incentivise customers to bid into auctions. This is due to the required time to comply with agreement obligations; considering developments since 2014, others may find value in multi-year contracts, if they can meet eligibility criteria. Providers of DSR can be customer sites that wish to maintain a certain level of flexibility (they may not see value in locking-in to a long-term agreement where obligations must be met at risk of penalties or termination fees). The T-1 auctions are of importance for these assets. We note that in the 2013 EMR consultation document "*the target volume of capacity [for DSR] for the year ahead will be at least 50% of the capacity that was reserved for it at the four year ahead stage will be procured*"², this would further incentivise these forms of DSR.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732546/CM_Review_call_for_evidence_final_4.pdf

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/255254/emr_consultation_implementation_proposals.pdf

The chosen 2MW threshold aimed to keep the mechanism’s administration processes manageable and is the same or similar to thresholds which apply in other Capacity Markets around Europe. There is little evidence that it has disadvantaged DSR – for example the transitional auction which allowed a much lower threshold (500kW) attracted very few bids below the 2MW threshold (8.5MW, representing 8 CMUs).³

c) Proportionality of the measure

The GB CM cost recovery method is appropriate, proportionate and fair. Being based on gross electricity consumption between 16:00 and 19:00 each weekday in winter ensures that there is a dependable signal to reduce peak demand. This also ensures that the GB CM costs are recovered in a fair and equitable way from all types of consumers. The GB CM cost recovery method, based on supplier market share on typical winter peak periods, provides an additional incentive for DSR to facilitate reduction in demand on winter weekdays. While alternatives were considered, there were sound reasons for the chosen methodology and it cannot be said to disadvantage DSR. This methodology provides regularity to all suppliers and provides them with a predictable charging stream.

d) Avoidance of negative effects on competition and trade

The policy behind the GB CM and the design of the mechanism has opened competition for all technologies that can meet pre-determined requirements to maintain security of supply. This included providing DSR an appropriate and proportional route to market in the mechanism. DSR is a key tool to providing capacity to the GB energy system, potentially bring significant cost savings to the GB billpayer, and it is our view that this is recognised by UK Government. The GB CM has included measures clearly designed to support DSR, such as lower credit requirements (£5,000/MW compared to £10,000 for new build generation⁴) and softer testing regime requirements. It would, however, prove impossible to reserve amounts of DSR capacity in auctions, as it would be inconsistent with The Environmental and Energy State Aid Guidelines (EEAG).

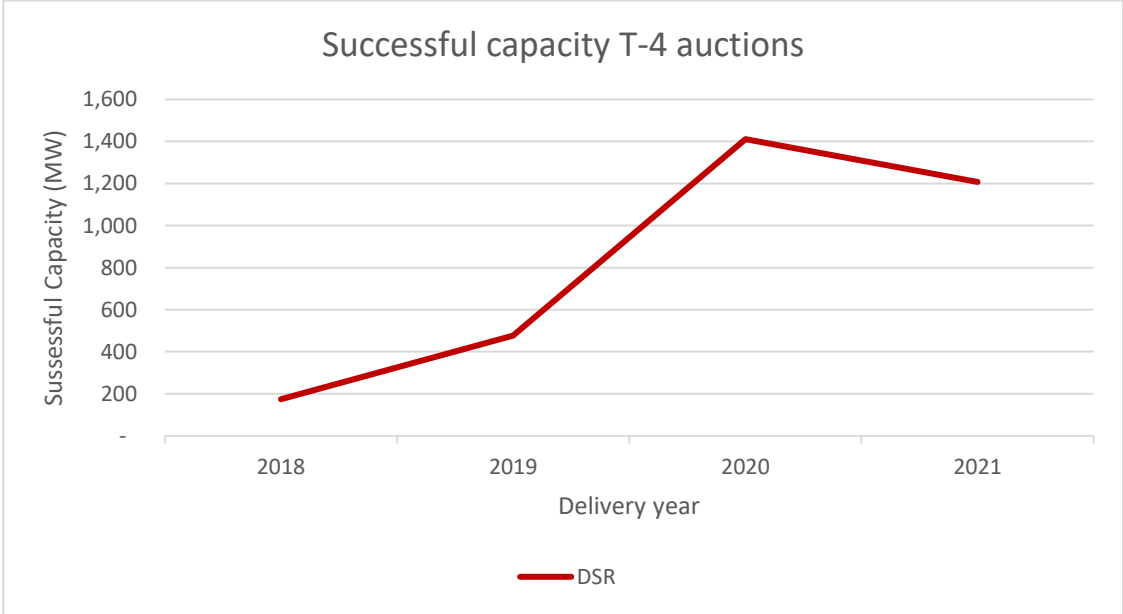


Figure 1 Successful Demand Side Response (DSR) Capacity Bids into the CM T-4 auctions (MW)

Evidence provided over the lifetime of the GB CM from auctions held to date shows that DSR participation in the mechanism has grown substantially over time and a range of DSR companies have had noted success. The transitional auctions provided commercial opportunities (and resulting in higher

³ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC0322\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019XC0322(02)&from=EN)

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791236/Principal_Regulations_Keeling_Schedule_general_final.pdf

auction clearing prices) which were not accessible to other technologies or forms of capacity provider. These auctions in 2016 and 2017, brought forward a an additional 475MW and 312MW respectively, with the 2017 auction run solely for turn-down DSR participation. At the time of the GB CM's design, there was an expectation that DSR would primarily participate in T-1 auctions, whereas increasing amounts have been brought to market through the T-4 auctions. The results from the previous GB CM auction show a clear increase in DSR participation and awarded capacity agreements (in megawatts). As outlined in Figure 1, the original T-4 2014 auction brought short of 200MW of DSR capacity into the GB CM, compared to the T-4 2016, just two years later, successfully awarded capacity agreements to 1.4GW of DSR. In 2017 this saw a further 1.2GW, a significant volume, and clearly demonstrates that the CM provides incentives for DSR providers.⁵

e) Participation of foreign capacity

Energy UK acknowledges the case for the direct participation of foreign capacity in the GB CM. We agree that capacity providers should be able to participate in the Capacity Mechanisms (CMs) of other Member States and welcome the process for developing a methodology of cross-border participation as set out in the newly adopted recast of the EU Electricity Regulation (Regulation). The details to be included in that methodology are still to be further specified by ENTSO-E and approved by ACER within the timescales foreseen in the Regulation once it enters into force. The UK Government has acknowledged the potential to include of foreign capacity directly competing in the GB CM since the mechanisms original design. It was initially proposed that this could be done through implicit auctions in which buyers and sellers in each market can bid into the other.⁶ However, this is a complex policy to implement and the UK Government should be given time to explore how this would be done and the scope for appropriate reciprocal arrangements with interconnected countries. We would expect the European Commission to provide support on an ongoing basis to assist all CMs in the EU to create a consistent approach forward including this in CM designs as appropriate over time.

The UK government has shown considerable intent to apply this in domestic policy and has continued to investigate how this could be brought forward, consulting on this as part of the call for evidence issued in August 2018⁷. Energy UK believes that this should be reviewed outside of the scope of this process to approve the GB CM, given the need for a clear focus on ensuring the security of supply. The current interconnector model provides a suitable solution in the interim. Energy UK looks forward to continuing to work with the UK Government to develop an appropriate framework to facilitate this.

[REDACTED]

⁵ <https://www.emrdeliverybody.com/CM/Auction-Results-1.aspx>

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/65634/7090-electricity-market-reform-policy-overview-.pdf

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732546/CM_Review_call_for_evidence_final_4.pdf

Energy UK Corporate Members

AES UK HQ
Bristol Energy
Brockwell Energy
Callesti Energy
Calon Energy
Carron Energy
Centrica Energy
Corby Power
CRF Hydropower
Co-Operative Energy
Drax Group
Haven Power
E
Ecotricity
E.ON UK
EDF Energy
EP Invest
ENGIE
ESB
Flogas
Garbhaig Hydro Power Company
Green Energy Network
Green Frog Power
Green Star Energy
Good Energy
Highview Power
Hudson Energy
Innogy
InterGen
Jersey Electricity
Low Carbon
Manx Utilities
Marble Power
Marubeni Europower
National Grid
Natural Power
npower
Nuvve
Octopus Investments
Open Utility
Opus Energy
Orsted
PeakGen
Pod Point
Robin Hood Energy
RES
RWE
Sembcorp Utilities UK
ScottishPower
Shell Energy Europe
Simplicity Energy
Smartest Energy
Social Energy
SSE
Statoil
Toto Energy
Triton Power
Uniper
Utilita Energy Limited
Utility Warehouse
Vitol/VPI Immingham

Energy UK Associate Corporate Members

British Hydropower Association
Buglass Energy Advisory
CGI
China Light and Power
Chubu Electric Power Co
Cornwall Energy
Deloitte
Delta EE
DNV KEMA
Doosan Babcock Energy
Eaga Charitable Trust
EDF Trading
Electroroute
Exxon
Energyhelpline
Energylinx
Enel X UK
EPEX SPOT
ESCP Europe
ESPUG
EY LLP
Fichtner Consulting Engineers
Gentrack
Herbert Smith Freehills
Horizon Nuclear Power
Huntswood CTC
Japan Electric Power Information Centre (JEPIC)
Local Waste Solutions
MGT Teeside
Mott MacDonald
Navitas
Nord Pool
NorthConnect JV
NuScale Power
Osaka Gas
Passiv Systems
Pöyry Management Consulting (UK)
Publicis.Sapient
PWC
RSK
SENER Engineering
Shell
SIA Partners
SGN
Siemens
SQS Group
Stag Energy
Tigre
Tokyo Electric Power Company
Vivid Economics
Vuepoint Solutions
Wood Mackenzie Global Consultants



Union Française de l'Électricité

February 4th, 2020

UFE's opinion on United Kingdom's electricity market reform plan for Great Britain

UFE welcomes the opportunity to comment on the implementation plan submitted by British authorities in order to reform its electricity market, as required by Article 20 of the Electricity Regulation 2019/943.

UFE acknowledges that the establishment of such a plan is mandated by Regulation for Member States with identified resource adequacy concerns prior to the introduction of a capacity mechanism. As such, **UFE suggests to the European Commission to primarily focus its assessment on the aspects of the regulatory framework directly related to security of supply issues faced by the Member State authoring the plan.**

From that perspective, UFE considers that current wholesale and balancing markets' rules in the United Kingdom are – generally speaking – well-designed and appropriate (including for demand-side response). The introduction of a capacity mechanism to tackle adequacy concerns and ensure security of supply by sending the appropriate signals to maintain or build the necessary capacities (generation, demand-side response, storage...) appears therefore justified.

Other aspects of the implementation plan are in our view less directly related to the investment framework and security of supply and could therefore be considered of lesser importance in the context of the European Commission' assessment.