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Dear Trisha,

Authority¹ decision to send back CUSC modification proposal CMP300 'Cost reflective Response Energy Payment for Generators with low or negative marginal costs'.

1. Purpose of this document

The purpose of this document is to set out our decision to send back the CMP300 ("the Proposal") Final Modification Report ("FMR") and to direct the CUSC Panel to revise and resubmit the FMR. We have decided that we cannot properly form an opinion on the Proposal based on the submitted FMR and associated documentation. Therefore, we are sending the FMR back for further work.

2. Context

On 19 January 2021, the CUSC Panel submitted a FMR for CMP300 'Cost reflective Response Energy Payment for Generators with low or negative marginal costs'. The Proposal seeks to improve the cost reflectivity of the Response Energy Payment ("REP") for Balancing Mechanism Units ("BMUs") with low or negative marginal costs, as a consequence of having a Contract for Difference ("CfD"). It is our view that, at this stage, there is insufficient evidence to support the Proposal. We further outline our detailed reasons for this send back in section 3 below.

¹ References to "Ofgem", "the Authority", "we", "us" and "our" are used interchangeably in this letter. The Authority is the Gas and Electricity Markets Authority. Ofgem is the Office of the Authority.

3. Reason for send back

The submitted FMR has the following deficiencies, meaning we are unable to form an opinion:

- a. The FMR lacks sufficient evidence to support the suggestion that the Proposal better facilitates the CUSC objectives², in particular CUSC objective (b). The proposer highlights that the Proposal's principle of cost reflectivity can be proven by parties sharing information on plant marginal cost with the Authority. Currently, the provision of this information by only one party is inadequate for us to make a robust decision. We acknowledge that such information is commercially sensitive; however, and as a workgroup member urged, providing this information directly to the Authority on a confidential basis would support our decision-making process;
- b. We have received confidential evidence from a market participant, who is active in the provision of Mandatory Frequency Response, on how it is impacted by the current arrangements. Whilst we understand how it considers it is impacted by current arrangements, this does not in isolation demonstrate how this wider class of users are disadvantaged under the current arrangements;
- c. The FMR notes that three responses were received to the Workgroup Consultation and two responses were received to the Code Administrator Consultation. It is not clear that this shows broad support from affected parties that this modification better facilitates objective (b); and
- d. On 31 October 2016, the Authority published a decision on CMP237 'Response Energy Payment for Low Fuel Cost Generation' setting the REP to £0/MWh for providers with zero fuel costs. The decision considered that the modification would better facilitate CUSC objective (b), through the exemption of non-fuel generators from the REP payment. We do not consider that the FMR has fully demonstrated the same rationale should apply in the case of the Proposal, where the relevant generators do have associated fuel costs and therefore are exposed to disparate marginal costs.

4. Our expectations

We therefore direct the Panel to revise the FMR in the following way:

1. Provide more evidence that demonstrates objective (b) would be better facilitated for CfD BMUs as a class of users;
2. Seek further feedback from industry and affected parties to improve the robustness of the assessment of the proposals. Given the potential impact of the proposed modification on CfD BMUs, we are of the view that the FMR should seek to demonstrate that there is sufficient stakeholder support across industry participants

² (a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; (b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity; (c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency; and (d) Promoting efficiency in the implementation and administration of the CUSC arrangements.

including CfD BMUs. The FMR should detail industry engagement in the workgroups and engagement with external bodies; and

3. Make best endeavours to secure further supporting evidence to demonstrate the economic impact of the Proposal against the class of users that would be affected.

After addressing these issues and revising the FMR accordingly, the Panel should re-submit it to us for decision as soon as practicable.

Yours sincerely,

Heather Stewart
Head of GB Wholesale Markets
Energy Systems Management and Security

Duly authorised on behalf of the Authority