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**Response to: BEIS Capacity Market Consultation on Future Improvements**

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**Uniper**

Uniper is an international energy company with around 11,000 employees and operations in 40 countries. In the UK, Uniper operates a flexible and diverse generation portfolio. With our seven-strong fleet of power stations and our flexible, fast-cycle gas storage facility, we support the energy transition and make a tangible contribution to Britain's energy supply security.

Uniper also offers a broad range of commercial activities through its Engineering Services division, while the well-established Uniper Engineering Academy delivers high-quality technical training and government-accredited apprenticeship programmes for the utility, manufacturing and heavy industry sectors, at its purpose-built facilities near Nottingham.

**We welcome this consultation and have addressed each of the questions in turn below. Our views in summary:**

- To provide delivery assurance and safeguards, we support the proposals that treat Unproven DSR seeking multi-year agreements on an equivalent basis to other capacity types seeking multi-year agreements.
- Where an Unproven DSR CMU seeking a multi-year agreement includes storage it is right to apply the correct storage de-rating factor and Extended Performance Test.
- We support incorporating the T-1 minimum capacity set aside methodology. There is a greater issue and impact on auction outcomes arising from plant that opts-out of the T-4 auction but declares that it will remain operational only to close before the delivery year, preventing replacement capacity being realised in the timescales.
- We agree with the proposed reporting and verification mechanism as the approach outlined in the calculations are a pragmatic application of the ACER guidance. Guidance is needed to calculate and independently verify the yearly limit. Only operational hours above minimum stable load should be counted.
- Direct participation of non-GB generation needs to be brought forward as soon as possible; to ensure that technology classes are treated the same and to remove a market distortion between GB and non-GB capacity in the auctions.

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### **Agreement lengths**

***Question 1. We would welcome your views on the impacts that access to multi-year agreements might have on Unproven DSR participation in the capacity auctions, including on levels of participation and bidding behaviour.***

Following the EC state aid approval decision from October 2019, we recognise that there is a need to enable Unproven DSR to be able to access multi-year agreements, although we do not think changes are necessary as it is already possible for DSR to prequalify as limited duration storage or generation if it wants to seek a multi-year agreement. Given the typical low cost nature of DSR as a resource, there is no further evidence to suggest that true demand turn down DSR has sufficiently high investment requirements that justify the need for longer term contracts.

With the additional flexibility the Unproven DSR category has in the capacity market arrangements for delivering less capacity than it originally won in the auction; where as long as a minimum 2MW is delivered, the only exposure is a reduction in its capacity obligation and corresponding capacity payments, we are concerned about unforeseen and unintended consequences, caused by discriminating in favour of this category of participant. The proposals to put Unproven DSR in an equivalent position to other capacity types seeking multi-year agreements are therefore important safeguards to avoid speculative bidding, market distortions and maintain competitive outcomes in the capacity auctions.

***Question 2. Is the proposed application of the CAPEX thresholds for Unproven DSR fit for purpose? In particular:***  
***(i) the definition of CAPEX for Unproven DSR***  
***(ii) the application of thresholds at CMU level***  
***(iii) the 77-month cut-off date. Should we reduce the cut-off date for DSR seeking to access multi-year agreements?***

We agree with the proposed approach to calculating CAPEX by reference to the CAPEX of Property, Plant and Equipment which has the primary purpose of delivering capacity. Breaking the CAPEX of Unproven DSR down to its components reflects the potentially diverse nature of the capacity being utilised to meet the obligation. The proposed difference for DSR then enables the CAPEX threshold to be applied consistently with other technologies at the CMU level.

In enabling Unproven DSR access to multi-year agreements there is merit in considering a shorter cut-off date that is aligned with the cut-off date for Refurbishing CMU's. This is because the nature of Unproven DSR means that the applicant is unlikely to know what technology and providers may be comprised in individual components within a CMU so far out. Typically an Unproven DSR provider spends the period between the auction result and the delivery year seeking and signing up components, which is also why this category is afforded greater flexibility in achieving the capacity awarded in the auction and has less exposure for under delivery in the CM. This compares to New Build capacity providers that have long lead times prior to becoming operational and with a minimum 90% delivery obligation. Notwithstanding the other safeguards proposed, setting a cut-off date at 77 months, prior to the Auction Results Day, provides further undue flexibility to Unproven DSR to meet its obligations.



***Question 3. Do the proposed additional checks at prequalification provide sufficient certainty that the CAPEX thresholds will be met by Unproven DSR? If not, what additional requirements should be applied at prequalification?***

We support the proposed additional checks at prequalification. They provide further delivery assurance for what could be the uncertain nature of the components within the CMU and will act as a safeguard against speculative bidding.

***Question 4. Is the proposed increase in credit cover for Unproven DSR bidding for a multi-year agreement suitable for ensuring that these CMUs will be committed to delivering their capacity, and will it prevent Unproven DSR from speculatively bidding for multi-year agreements?***

***Is there a need to consider, in addition to increased credit cover for Unproven DSR bidding for a multi-year agreement, draw down of credit cover for Unproven DSR that has its agreement length reduced?***

We agree with the proposal to increase the level of credit cover to £10,000/MW for Unproven DSR seeking multi-year agreements as this is consistent with the level required for New Build CMU's. This places an equivalent hurdle to other categories of capacity where there is additional risk that the new capacity may not turn up.

It may be necessary to review in the future the draw down of credit cover for Unproven DSR with a multi-year agreement that has its agreement length reduced, to deter speculative bidding and underline delivery assurance. A more effective solution could be to align non-delivery penalties and termination provisions for Unproven DSR with other capacity categories with multi-year agreements.

***Question 5. Should the Extended Years Criteria be applied to DSR? If so, how could it be applied to turn-down DSR?***

To be consistent with other capacity types, the Extended Years Criteria should be applied to all Unproven DSR CMU's with a multi-year agreement. Where the DSR technology is a form of behind the meter generation it should be required to comply with the criteria to ensure that it is built to equivalent new and high standards for the size of installation being installed. For example compliance with the Environmental Permitting (England and Wales) (Amendment) Regulations 2018.

***Question 6. Are the proposed arrangements for a partial release of credit cover suitable for incentivising Unproven DSR with a multi-year agreement to make early progress towards delivery? Is there anything we could change to improve the incentive? Do you agree that Unproven DSR with multi-year agreements shouldn't have to provide progress reports, as is required of generation?***

We agree that the partial release of credit cover provides an incentive to support delivery.

Progress reports provide important information that should be made available to the market. They should also apply to Unproven DSR seeking multi-year agreements so that there is greater transparency of the recruitment of CMU components and their contribution prior to the Notifying of DSR Components milestone. There needs to be greater visibility of the potential of any shortfall in capacity coming to the market in time for the T-1 auction of the affected delivery year. The proposed additional information and declarations, including the ITE certificate, required as part of achieving the



proposed DSR Partial Credit Cover Release milestone provides a proxy for the progress report to at least 50% of the CMU's capacity obligation. The DSR Partial Credit Cover Release milestone is not intended to be mandatory however. Without a requirement to provide progress on the fulfilment of a capacity obligation there is no clarity to either the Delivery Body or the market as to whether there will be a shortfall or not prior to the Notifying of DSR Components milestone.

***Question 7. Is the proposed application of the Long-Stop Date to Unproven DSR CMUs with a multi-year agreement suitable? Are there any risks or unintended consequences that we should be aware of?***

We agree with applying the Long-Stop Date to Unproven DSR with multi-year agreements in relation completion of the DSR Test, as this is equivalent treatment to New Build CMU's.

***Question 8. Is the proposed application of the Evidence of Total Project Spend milestone to Unproven DSR CMUs with multi-year agreements suitable, in particular the requirement to componentise costs?***

***Are there any risks or unintended consequences due to the Evidence of Total Project Spend occurring after the start of the delivery year and DSR CMUs being able to reallocate components?***

We agree with the proposed application of the Evidence of Total Project Spend milestone to Unproven DSR CMU's with multi-year agreements. With the potential multi-component nature of Unproven DSR, breaking the costs down in to components in the ITE certificate reflects the proposed application of IAS16 and the Property, Plant and Equipment which has the primary purpose of delivering capacity at the component level for Unproven DSR. This provides evidence and assurance that the CAPEX threshold has been achieved at the CMU level to justify the multi-year agreement.

Component reallocation for Unproven DSR CMU's with multi-year agreements needs to be controlled and monitored robustly to prevent gaming. If the sum of individual Unproven DSR components necessitate a multi-year agreement there should be confidence that the associated assets or customers can honour that initial agreement length immediately after successful completion of the DSR Test and commencement of the Delivery Year, irrespective of whether the Long-Stop Date has been relied upon. Component reallocation for Unproven DSR CMU's should not be permitted. The assets requiring a multi-year agreement should be bound to that CMU for the duration of the agreement.

***Question 9. Do you agree that Unproven DSR with multi-year agreements should not be able to increase their capacity obligation after the DSR Test, or be subject to a Minimum Completion Requirement? Please provide reasons. Are there any unintended consequences that may arise from this proposal?***

Taking in to account the potentially different nature of capacity technology, this is an appropriate approach that reflects equivalent treatment between generation and Unproven DSR technologies. It would however be appropriate to review aligning non-delivery penalties and termination provisions for Unproven DSR with other capacity categories with multi-year agreements to underline delivery and avoid speculative bidding.



**Question 10. Will the proposed amendment suitably clarify our policy intent and address the issue of standalone storage units being entered into the CM as DSR CMUs?**

We note that several standalone storage CMUs successfully prequalified and subsequently secured CM agreements as DSR CMUs in the recent T-3 and T-1 auctions. In line with current policy, any standalone storage units which do not meet the definition of a permitted on-site generating units should be identified by the Delivery Body, subject to Rule 6.10.1(o) and follow the termination process.

We agree that the proposed amendments should help eliminate any future policy ambiguity that electricity imported to charge a storage unit is subtracted from the baseline demand of a site.

**Question 11. Are there any unintended consequences that may arise as a result of applying storage de-rating factors and requiring extended performance testing for DSR CMUs with multi-year agreements that contains behind-the-meter storage components? Is our proposal to check whether these CMUs contain a storage component through a declaration at prequalification suitable?**

The ability for Unproven DSR to seek multi-year agreements could increase the amount of applicants with storage components. If the de-rating factor is higher than typical for the prevailing DSR component technology then the Unproven DSR CMU could be over-rewarded and create a short fall in available capacity. Where an Unproven DSR CMU seeking a multi-year agreement is planned to or subsequently includes storage then it is right to apply the storage de-rating factor and Extended Performance Test to the whole of the CMU. Notwithstanding the applied de-rating for turn down DSR it may be appropriate to apply the Extended Performance Test to all DSR to ensure that their contribution to security of supply are accurately and fairly reflected.

If the storage component is recruited to the Unproven DSR CMU after prequalification, and it was not *expected* to be recruited at the point of prequalification, then the applicant should be required to declare this prior to the DSR Test milestone and for this to be verified by an ITE. This is so that the appropriate de-rating factor can be applied and be subject to the Extended Performance Test.

**Question 12. Is the proposal to restrict each DSR component to being used only once to meet Evidence of Total Project Spend requirements sufficient to prevent gaming through component reallocation?**

**Do we need to consider preventing DSR with multi-year agreements from reallocating components until the cut-off date has passed?**

**Should we collect the serial numbers of equipment in each DSR component in order to help prevent high CAPEX equipment being moved between components?**

If it is taken forward, component reallocation for Unproven DSR CMU's with multi-year agreements needs to be controlled and monitored robustly to prevent gaming. Unless there is a like for like swap of technology, reallocation of DSR components in multi-year agreements adds complexity to the evaluation of a DSR CMU's contribution to security of supply if the mix of DSR components within the CMU changes over time. There needs to be greater transparency to the market of what components are comprised within a DSR CMU at a point in time to ensure that a fair and accurate reflection of its



contribution to security of supply is accounted for. DSR components should only be used once to meet the Evidence of Total Project Spend requirements. To support this we agree that serial numbers of equipment should be collected and published on the Capacity Register to monitor Unproven DSR CMU's with multi-year agreements. An additional declaration could also be required confirming that none of the assets/components have previously been used to meet Evidence of Total Project Spend requirements.

If the sum of individual Unproven DSR components necessitate a multi-year agreement there is no clear driver for the components to be re-allocated for at least the duration of the payback period. Unproven DSR components relying on a multi-year agreement should not need to be re-allocated providing the assets are properly maintained or customers committed to comparable contract lengths. If there is any shortfall to meet the capacity obligation this could be covered by secondary trading. We therefore do not think Unproven DSR components benefitting from multi-year agreements should be permitted to reallocate components.

***Question 13. If we allow DSR with multi-year agreements to reallocate components, is the proposal for an annual repeat of the DSR Test for CMUs that have reallocated components (in line with current arrangements for DSR) suitable and are there any unintended consequences that may arise?***

If DSR with multi-year agreements is allowed to reallocate components it should be required to repeat the DSR Test annually to ensure that the capacity obligation can continue to be met.

***Question 14. Are there any unintended consequences which may arise from preventing Unproven DSR CMUs with a multi-year agreement from secondary trading until after completing the DSR Test?***

To avoid unintended consequences Unproven DSR CMU's with multi-year agreements should not be allowed to secondary trade until after completing the DSR Test to ensure that deliverable capacity is available to be traded. Secondary trading of DSR components adds complexity to the evaluation of a DSR CMU's contribution to security of supply if the mix of DSR components within the CMU changes over time. There needs to be greater transparency to the market of what components are comprised within a DSR CMU at a point in time to ensure that a fair and accurate reflection of its contribution to security of supply is accounted for.

***Question 15. Are further legislative changes required to enable DSR to access longer-term agreements, which have not been identified in Section 2.1 of this consultation? Please provide details.***

None that we have identified.

#### **The minimum capacity threshold**

***Question 16. How much participation of CMUs sized 1-2MW do you expect there will be in future capacity auctions and what impact might this have on auction liquidity and price?***

Based on previous opportunities in the transitional auctions to qualify capacity below 2MW there appeared to be limited appetite to do so at the lower level. However, although the capacity auctions are already highly competitive the lower capacity

threshold may facilitate greater competition. This may improve the potential for secondary trading.

#### **The amount of T-1 set aside capacity**

***Question 17. Are there any unintended consequences which may arise from formalising the 50% set-aside commitment and the 95% confidence interval methodology in legislation?***

We do not envisage any unintended consequences. There is a greater issue and impact on auction outcomes arising from plant that opt-out of the T-4 auction but declares that it will remain operational only to close before the delivery year, preventing replacement capacity being realised in the timescales. Other than managing technical risk, from a commercial perspective it is questionable why a capacity provider would not want to participate in the CM but remain operational. If the technical risk is seen as too great to contract 4 years ahead then it cannot be relied upon. Where capacity has opted out but declared itself to be available in the Delivery Year it would be prudent to discount its capacity contribution significantly, to reflect the risk that it may not subsequently be available.

#### **Incorporating new technologies in to the CM**

***Question 18. Are you aware of any new capacity types not currently participating in the CM which can effectively contribute to addressing the generation adequacy problem? If so, please provide details.***

We are not aware of any new capacity types at this time.

***Question 19. Do you agree with the proposal to introduce a new duty on the Secretary of State to review annually whether there are any new capacity types, not currently participating in the CM, which can effectively contribute to addressing the generation adequacy problem? We would welcome your views on the scope and steps of the review itself.***

This seems sensible and broadly reflects the process that was followed to introduce the limited duration storage technology class. As is already the case, new capacity types should not benefit from any other form of subsidy in order to participate in the capacity market.

#### **Emissions limits reporting and verification mechanism**

***Question 20. Do you agree with the proposed reporting and verification mechanism, outlined in this section? Please set out your reasons.***

We do broadly agree with the proposed reporting and verification mechanism as the approach outlined in the calculations are a pragmatic application of the ACER guidance.

There could be further improvements to remove instance of duplication of regulation. If a plant has already provided Annex F information to a regulator as part of evidence to support other regulatory requirements (such as its environmental permit) verification should not be necessary.

The proposal for the 550gCO<sub>2</sub>/kWh calculation requires a one off verification using fixed emission factors from IPCC 2006, unless there are changes to fuel or generating capacity. This is a sensible approach for an installation combusting a single fuel type. Where an installation combusts multiple fuels, if there is a possibility of exceeding the emission limit by varying the fuel mix, annual verification should be required. If the Fossil Fuels Emissions Declaration and accompanying information, including independent verification, of the previous 12 months data shows that the limit has been exceeded the capacity should not be able to prequalify.

***Question 21. Do you have any views on the proposal that applicants in respect of Unproven DSR will be allowed to declare in their prequalification applications that they commit to recruiting only components that comply with the emissions limits, and to provide an updated declaration as part of the notifying DSR components milestone?***

We agree with this approach.

***Question 22. What are your views on the proposal in section 2.5.4 for requiring reporting for CMUs which seek to take advantage of the yearly limit?***

Annual verification of operational hours is necessary. To avoid differences in interpretation between applicants, independent verifiers and the Delivery Body; guidance is needed on when in the stage of operation the operational hours limit applies. The ACER opinion has examples, which include start-up and shut-down in the calculation of operational hours. Using this approach will add complexity to tracking the number of starts during the delivery year and to subsequent verification. To determine the yearly limit only operational hours above minimum stable load should be counted.

***Question 23. What are your views on the proposal in section 2.5.6 for not establishing a monitoring regime as advised in the ACER opinion?***

We agree that this is not necessary and is consistent with the pragmatic approach proposed for calculating and reporting against the emissions limits.

***Question 24. What are your views on the proposal in section 2.5.7 for not applying the emissions limits to waste to energy plants?***

We do not agree and are concerned that whilst waste may not fall within the definition of a fossil fuel under the Energy Act 2013, the exemption, combined with the existing small emitter exemption under the EU ETS, creates a market distortion that could affect competition in the capacity auctions. From a wider policy perspective this is inconsistent with reaching net-zero.

***Question 25. Do you have any further comments or any suggestions on how the proposed emissions limits reporting and verification mechanism could be improved?***

Although interconnectors are not to be included as they are not classified as generation, this provides another driver to introduce direct participation of non-GB capacity in place of the interconnector proxy as soon as possible. This is in order to ensure that technology classes are treated the same and to remove a market distortion between capacity in GB and non-GB in the capacity auctions.



The consultation does not set out how the emissions limits and reporting and verification requirements will interact with opt-out declarations and mandatory CMU requirements. What is required where a mandatory CMU does not meet the emissions limits will need to be clarified.

### **Long-term STOR**

***Question 26. Do you agree that it is appropriate to remove the exclusion on Long-term STOR? What would you expect the impacts of removing the exclusion on Long-term STOR to be? Are there any unintended consequences that may arise from removing the exclusion?***

We do not see what benefit is gained by allowing participation from capacity holding Long-term STOR agreements as they already form part of the Target Capacity calculation background. The types of capacity holding Long-term STOR are also, in our view, unlikely to be able to meet the new EPS limits other than by taking advantage of the 350kg CO<sub>2</sub> per installed kW yearly limit. Their future compliance however will be wholly dependent on the future dispatch instructions of the ESO.

### **Fraud and error**

***Question 27. Do you agree with our proposals to require additional information to be added to the CM Register? Do you agree this will advance our fraud and error objectives? If not, can you please provide reasons?***

We agree with the proposals as they provide greater transparency in the Capacity Register, which should help to minimise fraud and error risk.

***Question 28. Do you agree with our proposal to require that the same information requirements should apply to capacity providers who already hold capacity agreements?***

We agree with the proposals as they provide greater transparency in the Capacity Register.

### **Minor corrections to the Rules**

***Question 29. Do you agree with these proposed corrections?***

Yes.