EnergyLaw@Lansdown Chambers

Cap and Floor Scheme Update

The cap and floor scheme is a state-aid subsidy scheme aimed at supporting long duration energy storage (**LDES**). The floor, or guaranteed income, covers project cost (debt and equity) and a profit cap limits upside to a level (yet to be determined) that is judged to be 'fair'.

Ofgem recently announced the scheme target as (in sum) >50MW 8 hour batteries.

The scheme has been put together in haste (not a criticism). It is still being put together, although Window 1 opened for applications on 8 April; it closes on 9 June. Operation is due to start for projects selected for the scheme no later than 2030.

The rules and details are still to be developed (that will happen this year and next). The final planned consultation is due to end in Q2 next year after Ofgem has made minded-to decisions about which applicants will receive a cap and floor contract.

Scheme applicants are projects rather than companies owning projects. Blank Company Limited may be involved in an application, but the applicant will be BESS at Site X and BESS at Site Y, etc. Blank Company will have a varied number of applicant vehicles – perhaps as few as 2 or as many as 20.

There is to be between 2.7GW and 7.7GW of LDES on the networks by/in 2035. How much it is possible to realise and of that how many Window 1 applicants will be selected for the 2030 scheme is to be determined by how much can connect on a congested network at any given place at any given time.

We will know what that amounts to in piecemeal manner through the operation of the as-yet-incomplete and still-paused new connections regime, which is to be governed by the as-yet-to-be-drafted new Strategic Spatial Energy Plan (**SSEP**).

Ofgem is treading a fine line managing this ambitious cap and floor scheme and LDES targets in a very short time in the context of huge uncertainty about the availability of network capacity.

The new connections regime is not yet in place – there is a 'pause' (i.e., the connections regime is suspended) until the drop-dead date of 31 May while NESO sorts out the last details of the regime and they are approved and implemented.

A key feature of the regime is that any project not falling into the narrowly-restricted category of 'protected project' loses any connection offer it currently has and goes back into the queue. For many projects that will mean they have to start all over again and apply for a Gate 1 connection offer (see January 2025 Update for details). Other projects can enter the queue at Gate 2, provided they clear all the Gate 2 hurdles. Clearing Gate 2 can't be guaranteed until NESO has finished its revolutionary overhaul of the system.

The governing document, the SSEP, won't be in place until Q3 next year, so until then it isn't clear exactly (rather than in broad and rather vague terms) which parts of the networks could be available for LDES or, indeed, for anything else.

Why these two things are particularly difficult for Window 1 cap and floor applicants is that the requirements of that scheme don't fit readily with the, as yet incompletely unspecified, connections regime timetable. We know the structure of the new regime, we know how long the DNOs *think* the process will take from end to end, but we don't *know* how long each interval will take. So we don't know how the connections timetable fits with the cap and floor timetable, although we can make guesses.

Let's suppose that BESS at Site X applies today for a Gate 1 connection offer. What happens to that application? Apparently (and contrary to everything we have been told), the DNOs will consider the application and take it through the Gate 1 process until they reach the point where there's a transmission impact. NESO's view is that there's a transmission impact by every project over 5MW. So any LDES project has a transmission impact by definition – and that means no Gate 1 offer can be made to BESS at Site X until approved by NESO, which won't happen until the pause has ended (i.e., in June or possibly later). If BESS at Site Y applies for a transmission connection the opposite happens: there's a connections pause and the applicant must wait until it's ended.

How long will it take to get a Gate 1 offer after having made an application for a connection after the connections regime opens again? Will it take one month two months three months? We can hazard a guess and my guess is it will take three months. But there isn't a timetable to tell us that. There is just the guess one can make on the basis of past experience of a completely different arrangement.

The same is true of Gate 2 offers, both for transmission and distribution: there is a process but not a timetable.

Applicants for a cap and floor contract have connections hurdles to jump as they make their way through that particular process. They have to demonstrate at the stage of being assessed for their eligibility (stage 1 of the whole process) that a "grid connection application has been submitted and/or a firm grid connection offer has been received". At the same time it is recognised that a firm connection offer will not have been received by this stage.

When will a firm offer be received? The DNOs think (I stress 'think' as, indeed, they do) that the whole process from end-to-end of applying for and receiving a firm connection will take 12-14 months and could take more. That could well mean Ofgem's minded-to decisions about which projects should receive a cap and floor contract are taken before any of those projects has a firm connection offer.

A further wrinkle is that there is no guarantee that the selected projects will all, or that any given project will, receive a firm Gate 2 connection offer. So it is possible that neither of BESS at Sites X and Y receives a firm offer (they are both rejected) but that both receive a cap and floor contract.

This all sounds like a mess waiting to happen – a costly mess both to Ofgem and to applicants. Unusually, Ofgem has shown itself willing to listen, to change its plans, to reconsider eligibility requirements. It can't afford to come unstuck on this (there is already a potential JR in the wings from short duration storage), so my guess is that it will adapt and change as things go along and that if that means a battle with NESO for more capacity, Ofgem (and government policy) will win.