



**Amendments to the Capacity Market Rules – Guidance Document**

**Dated: 22/08/2014**

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Rule changes

Rule to be amended	Current version	Amended version
Definition of “bidder”	Bidder means, for a Capacity Auction: (a)each Applicant for a Mandatory CMU which has Prequalified; and (b)each Applicant for any other Prequalified CMU in relation to which a confirmation has been submitted pursuant to Rule 5.5.14	In the definition of “Bidder”, in paragraph (a), for “a Mandatory CMU” substitute “an Existing Generating CMU”.
Definition of “bidding CMU”	Bidding CMU means each Prequalified CMU in respect of which a confirmation has been submitted pursuant to Rule 5.5.14	For the definition of “Bidding CMU” substitute: “Bidding CMU means, for a Capacity Auction: (a) each Existing Generating CMU which has Prequalified; and (b) each other Prequalified CMU in respect of which a confirmation has been submitted pursuant to Rule 5.5.14”.
Definition of “total project spend”	3.7.2 - Construction Plan  Each Applicant for a New Build CMU must state in the Application: (c) the total amount of Capital Expenditure proposed to be incurred in relation to the achievement of the Substantial Completion Milestone, if any (the “Total Project Spend”)	In Rule 3.7.2, for paragraph (c) substitute: “(c) the total amount of Capital Expenditure (excluding contingency) incurred, or expected in the reasonable opinion of the Applicant to be incurred (either by the Applicant or another person) with respect to the CMU between 1 May 2012 and the commencement of the first Delivery Year to which the Application relates (“the Total Project Spend”).”
New Rule 1.3A	The Rules did not explicitly deal with requirements as they apply to sole director companies and this new provision addresses the position.	1.3A Sole director companies  1.3A. Where a company has a sole director, any requirement in these Rules which requires- (a) that company to act by two directors signing a document is to be read as a requirement to act by the sole director only signing the document; (b) information to be provided in respect of the directors of that company is to



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		be read as a requirement applicable to the sole director only; and (c) authorisation by the board of directors is to be read as a requirement for authorisation by the sole director only.”
Rule 2.2.2	T – 22 weeks Prequalification Window opens T – 16 weeks Prequalification Window closes T – 10 weeks Prequalification Results Day T – 7 weeks Notification of updated Auction Parameters and confirmation of the conditional Prequalified Applicants which have fully Prequalified pursuant to Rule 4.6.3	In Rule 2.2.2, in the fourth entry in the table, in the first column, for “T – 7 weeks” substitute “T – 3 weeks”.
Rule 3.3.3	3.3.3An Application may not be made for a CMU for a Capacity Auction if: (a) that CMU, or any Generating Unit or DSR CMU Component comprised in that CMU, currently has a Capacity Agreement, or is part of a CMU which currently has a Capacity Agreement for the Delivery Year for which the Capacity Auction is to be held; (b) the Delivery Body has already received an Opt-out Notification for the CMU for that Capacity Auction; (c) the CMU is a Defaulting CMU or an Excluded CMU (but without prejudice to the requirement to submit an Opt-out Notification in accordance with Rule 3.11); or (d) the Application is for a Refurbishing CMU in respect of which: (i) the Pre-Refurbishment CMU was awarded a Capacity Agreement as a Refurbishing CMU in a previous Capacity Auction; and	Rule 3.3.3, after paragraph (a) insert: “(aa) the CMU does not meet the General Eligibility Criteria;”.



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	<p>(ii) such Capacity Agreement was reduced pursuant to Rule 6.8.4(a) at any time during the preceding two years, provided that this Rule does not prevent an Application in relation to such CMU as an Existing Generating CMU.</p>	
<p>Rule 3.4.3</p>	<p>3.4.3 Nominations relating to the CMU Each Applicant must: (a) specify in the Application: (i) the CMU to which the Application relates (including a description of, and the location of, the Generating Unit(s) and/or DSR CMU Component(s)); (ii) all relevant Meters and Meter Point Administration Numbers for all the relevant Meter(s) if applicable; and (iii) BM Unit Identifiers (as defined in the Balancing and Settlement Code) if applicable; and (b) if any Meter Point Administration Number specified in the Application has already been: (i) registered to another CMU which is a Capacity Committed CMU in respect of one or more of the same Delivery Years; or (ii) specified in a prior Application submitted in respect of another CMU in the same Prequalification Window, include in the Application a declaration explaining how the two CMUs relate and how metering will separately identify the output of each of them.</p>	<p>In Rule 3.4.3, for paragraph (a) substitute: “(a) specify in the Application: (i) the CMU to which the Application relates (including a description of, and the location of, the Generating Unit(s) and for Proven DSR CMUs, their CMU Component(s); (ii) all relevant Meters and Meter Point Administration Numbers for all the relevant Meter(s), except in respect of Unproven DSR CMUs; and (iii) BM Unit Identifiers (as defined in the Balancing and Settlement Code), if applicable; and” In Rule 3.4.3, in paragraph (b), before “if any” insert “except in respect of an Unproven DSR CMU,”</p>



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Rule 3.4.9	<p>(e) neither it nor any member of the Applicant's Group nor any person to whom Capacity Market Confidential Information has been disclosed, has disclosed Capacity Market Confidential Information, whether directly or indirectly, to another person other than:</p> <ul style="list-style-type: none"><li>(i) in accordance with any requirement under:<ul style="list-style-type: none"><li>(aa) an enactment;</li><li>(bb) a licence under section 6(1) of EA 1989 (where the Applicant is the holder of such a licence); or</li><li>(cc) a document maintained under such a licence;</li></ul></li><li>(ii) to the Delivery Body;</li><li>(iii) to a member of that Applicant's Group;</li><li>(iv) to its Agent provided that such Agent is not also the Agent of another Applicant (unless the other Applicant is a member of the Applicant's Group); or</li><li>(v) where the Applicant is not the legal owner of the CMU to which the Application relates, to the legal owner of the CMU;</li><li>(vi) to any potential purchaser of the CMU;</li><li>(vii) where the Applicant is the legal owner of the CMU, to any third party having, or potentially having, Despatch Control with respect to that CMU;</li><li>(viii) to any provider of finance with respect to the CMU;</li><li>(ix) to any shareholder in the Applicant;</li><li>(x) to the Applicant's professional advisors;</li></ul>	<p>In Rule 3.4.9, in paragraph (e)(ix), at the end insert "or, where such a shareholder is a company and a member of a Group, to any other company which is a member of that Group".</p>
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	(xi) in respect of information that was already public.	
Rule 3.12.5	3.12.5 Each Opt-out Notification must be accompanied by a statement, signed by two of the directors of that person, that the directors of the relevant person have formed the opinion, on the basis of due and careful enquiry as to the Applicant’s situation at the date of the statement, that the person can correctly make the declaration in Rule 3.11.5.	Rule 3.12.5 substitute: Each Opt-out Notification must be accompanied by a statement, signed by two directors of the person submitting the Opt-out Notification (“the relevant person”), that the directors of the relevant person have formed the opinion, on the basis of due and careful enquiry as to the relevant person’s situation at the date of the statement, that the relevant person can correctly make the declaration in Rule 3.11.5.”.
Rule 4.2.3	4.2.3 If more than one Application or Opt-out Notification is received with respect to a CMU during a Prequalification Window, the most recent in time to be submitted will prevail and any earlier Application or Opt-out Notification will be deemed not to have been submitted.	In Rule 4.2.3, delete “or Opt-out Notification” in both places in which it occurs.
Rule 4.3.1(b)	4.3.1 For each Application submitted in accordance with the Regulations and the Rules, the Delivery Body must: (a) review the Additional Information submitted with the Application; and (b) where the Application is for a Generating CMU, satisfy itself that the Generating CMU is not a Defaulting CMU or an Excluded CMU for that Capacity Auction; and	In Rule 4.3.1, substitute paragraph (b) and add paragraph (c) as follows: “(b) satisfy itself that the CMU is not a Defaulting CMU for that Capacity Auction; and (c) where the Application is for a Generating CMU, satisfy itself that the Generating CMU is not an Excluded CMU for that Capacity Auction.”.
Rule 4.6.3	4.6.3 Within five Working Days of receiving from an Applicant a copy of a notice in accordance with Rule 4.6.2, the Delivery Body must notify that Applicant that it is fully Prequalified.	In Rule 4.6.3 for “Within” substitute “Except where Rule 4.6.3A applies, within”. After Rule 4.6.3 insert: “4.6.3A. Rule 4.6.3 does not apply where Rule 4.7.1 applies to the Applicant and the Applicant has not complied with Rule 4.7.1 at the time the Applicant



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		provides the copy of the notice in accordance with Rule 4.6.2.”
Rule 4.11.1	4.11.1 If the Delivery Body publishes adjusted Auction Parameters for a Capacity Auction (other than to notify a change to the Demand Curve) after the Prequalification Window for that Capacity Auction has closed, an Applicant with respect to a Prequalified Mandatory CMU may submit an Opt-out Notification at any time up to (but not including) the date falling 17 Working Days prior to the commencement of the first Bidding Window for that Capacity Auction.	In Rule 4.11.1: Omit “(other than to notify a change to the Demand Curve)”. For “Mandatory CMU” substitute “Existing Generating CMU”. For “an Opt-out Notification” substitute “a notice to the Delivery Body withdrawing from the Auction”. After Rule 4.11.1 insert:  “4.11.1A Rule 4.11.1 does not apply if the adjusted Auction Parameters do not include changes to any of the Auction Parameters listed in paragraphs (c) to (h) of Regulation 11(1). 4.11.1B In the case of a Prequalified Mandatory CMU, a notice under Rule 4.11.1 must be in the form of an Opt-out Notification, and must comply with Rule 3.11 and, so far as applicable, Rule 3.12.”.
Rule 4.11.2	4.11.2 With effect from the date of an Opt-out Notification pursuant to Rule 4.11.1, the relevant Mandatory CMU shall no longer be Prequalified.	In Rule 4.11.2: For “an Opt-out Notification” substitute “a notice”. For “Mandatory CMU” substitute “Existing Generating CMU”.
Rule 5.5.14	5.5.14 Between the dates falling 15 Working Days and 10 Working Days prior to the commencement of the first Bidding Window, the Applicant for each Prequalified Prospective Generating CMU, Refurbishing CMU and DSR CMU that wishes to participate in a Capacity Auction must, subject to Rule 5.5.17, submit a notice to the Delivery Body which: (a) confirms that it will participate as a Bidder with respect to that CMU in the Capacity Auction; and (b) in the case of a Prospective Generating CMU or a Refurbishing CMU, specifies the	In Rule 5.5.14, for “Prospective Generating CMU”, in both places in which it occurs, substitute “New Build CMU”.



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	<p>duration of Capacity Agreement in whole Delivery Years (not being greater than the Maximum Obligation Period for that CMU) that it requires at the Price Cap.</p>	
<p>Rule 8.3.3</p>	<p>8.3.3 Metering            (a) If an Existing Generating CMU or a Proven DSR CMU is awarded a Capacity Agreement then, where the Capacity Provider made a declaration in the Application for that CMU in accordance with Rule 3.6.4(b) or Rule 3.9.4(b) (as applicable), the Capacity Provider must complete a Metering Assessment with respect to that CMU by no later than the date falling three years prior to the commencement of the first Delivery Year.            (b) If an Unproven DSR CMU is awarded a Capacity Agreement then the Capacity Provider must complete a Metering Assessment with respect to that CMU.            (c) Following the completion of a Metering Assessment pursuant to Rule 8.3.3(a) or 8.3.3(b), the Delivery Body must notify the relevant Capacity Provider whether or not, based on such Metering Assessment, the metering arrangements for such CMU will be subject to a Metering Test.            (d) If:            (i) an Unproven DSR CMU has been awarded a Capacity Agreement and the Delivery Body notifies the relevant Capacity Provider, pursuant to Rule 8.3.3(c), that such CMU is</p>	<p>In Rule 8.3.3:            After paragraph (b) insert:            “(ba) If a Prospective Generating CMU is awarded a Capacity Agreement then the Capacity Provider must, as soon as reasonably practicable after the CMU becomes Operational, and in any event not later than the Long Stop Date:            (i) provide to the Delivery Body detailed line diagrams showing electrical configurations and metering sites at which the Generating Units are located; and            (ii) complete a Metering Assessment in relation to the CMU.”.            In paragraph (c), for “Rule 8.3.3(a) or 8.3.3(b)” substitute “Rule 8.3.3 (a), (b) or (ba)”.            In paragraph (d)(i), at the beginning, insert “a Prospective Generating CMU or”.            In paragraph (e), at the end insert:            “; or            (iv) in the case of a Prospective Generating CMU, as soon as reasonably practicable after the date on which the Capacity Provider receives notification under Rule 8.3.3(d)(i), and in any event not later than the Long Stop Date”.</p>



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	<p>subject to a Metering Test; or</p> <p>(ii) an Existing Generating CMU or a Proven DSR CMU has been awarded a Capacity Agreement and either:</p> <p>(aa) the Prequalification Decision in relation to such CMU specifies, pursuant to Rule 4.5.1(b)(xi), that the CMU is subject to a Metering Test; or</p> <p>(bb) the CM Settlement Body notifies the relevant Capacity Provider, pursuant to Rule 8.3.3(c), that such CMU is subject to a Metering Test,</p> <p>the Capacity Provider must provide a Metering Test Certificate with respect to that CMU by no later than the relevant date specified in Rule 8.3.3(e).</p> <p>(e) The date by which a Capacity Provider must provide a Metering Test Certificate where required to do so under Rule 8.3.3(d) is:</p> <p>(i) in the case of a Unproven DSR CMU, the date falling 1 month prior to the start of the relevant Delivery Year;</p> <p>(ii) in the case of an Existing Generating CMU or a Proven DSR CMU that has been awarded a Capacity Agreement in a T-4 Auction, the date falling 18 months prior to the start of the first Delivery Year;</p> <p>(iii) in the case of an Existing Generating CMU or a Proven DSR CMU that has been awarded a Capacity Agreement in a T-1 Auction, the date falling 1 month prior to the start of the first</p>	
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	<p>Delivery Year.</p> <p>(f) A Capacity Provider must:</p> <p>(i) notify the Delivery Body and the CM Settlement Body in advance of any proposed change to:</p> <p>(aa) the metering configuration for any Generating Unit or DSR CMU Component; or</p> <p>(bb) the arrangements specified in the information provided pursuant to Rule 3.4.3; and</p> <p>(ii) in the case of a proposed change pursuant to Rule 8.3.3(f)(i)(aa), obtain a Metering Test Certificate for the DSR CMU with the proposed new metering configuration prior to the change taking effect; and</p> <p>(iii) obtain the prior confirmation of the CM Settlement Body that such proposed changes:</p> <p>(aa) will meet the standards required at Prequalification; and</p> <p>(bb) in the case of a DSR CMU or and DSR CMU Component, will not affect its ability to determine the Baseline Demand with accuracy on a half-hourly basis.</p>	
<p>Rule 8.3.3 and 8.3.4</p>	<p>8.3.4 Changing DSR Components</p> <p>(a) Subject to Rule 8.3.4(b), a Capacity Provider must not change the DSR Components of a DSR CMU that is a Prequalified CMU or a Capacity Committed CMU.</p> <p>(b) A Capacity Provider may notify the Delivery Body and the CM Settlement Body that it</p>	<p>After Rule 8.3.3 insert:</p> <p>“8.3.3A Notifying DSR Components</p> <p>(a) A Capacity Provider in respect of an Unproven DSR CMU must, by no later than the date specified in Rule 8.3.3(b) below, give a notice to the Delivery Body specifying:</p> <p>(i) each DSR CMU Component which forms part of the Unproven DSR CMU, including a description of, and the location of, each such DSR CMU Component; and</p>



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	<p>wishes to remove a DSR CMU Component from a DSR CMU that is a Capacity Committed CMU.</p> <p>(c) With effect from the date falling five Working Days after receipt by the CM Settlement Body of a notice pursuant to Rule 8.3.4(b):</p> <p>(i) the Baseline Demand; and</p> <p>(ii) the Metered Volume, of the DSR CMU Component referred to in the notice, must not be included in any determination of the DSR Volume of the DSR CMU in which the DSR CMU Component was comprised.</p> <p>(d) A DSR CMU Component that is the subject of a notice pursuant to Rule 8.3.4(b) cannot be reinstated as part of a DSR CMU.</p>	<p>(ii) all relevant Meters, and Meter Point Administration Numbers for those Meters if applicable</p> <p>(b) The date referred to in Rule 8.3.3(a) is the earlier of the dates on which the Capacity Provider:</p> <p>(i) completes a Metering Assessment under Rule 8.3.3(b); or</p> <p>(ii) provides the Delivery Body with the information required in order to carry out a DSR Test under Rule 13.2.5.”.</p> <p>In Rule 8.3.4, for paragraph (a) substitute:</p> <p>“(a) Subject to Rule 8.3.4(b), a Capacity Provider must not change the DSR Components of:</p> <p>(i) a Proven DSR CMU that is a Prequalified CMU or a Capacity Committed CMU; or</p> <p>(ii) an Unproven DSR CMU in respect of which the Capacity Provider has given a notice under Rule 8.3.3A.”.</p>
<p>Rule 8.3.6</p>	<p>8.3.6 Evidence of Capital Expenditure</p> <p>Where a Prospective Generating CMU has been awarded a Capacity Agreement with a duration exceeding one Delivery Year:</p> <p>(a) the relevant Capacity Provider must provide the Delivery Body, prior to the start of the first Delivery Year, with a certificate from an Independent Technical Expert confirming that it is satisfied, on the basis of evidence reviewed, that the Capital Expenditure incurred divided by the De-Rated Capacity of the CMU is:</p> <p>(i) less than the Three Year Minimum £/kW Threshold; or</p>	<p>In Rule 8.3.6, for “Capital Expenditure”, in each place that it occurs, substitute “Total Project Spend”.</p>



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	<p>(ii) equal to or greater than Three Year Minimum £/kW Threshold and less than the Fifteen Year Minimum £/kW Threshold; or (iii) equal to or greater than the Fifteen Year Minimum £/kW Threshold; (b) if the Maximum Obligation Period consistent with the amount of Capital Expenditure so certified is shorter than the duration of the Capacity Agreement specified in the Capacity Market Register, the Delivery Body must update the Capacity Market Register so that the duration of the Capacity Agreement is equal to the Maximum Obligation Period for such Capital Expenditure; and (c) if the relevant Capacity Provider fails to provide the Delivery Body with a certificate in accordance with Rule 8.3.6(a), the duration of the Capacity Agreement will be reduced to one Delivery Year and the Delivery Body must update the Capacity Market Register accordingly.</p>	
Schedule 3	Please see table in the CM Rules	<p>In Schedule 3: In the first entry in the table: in the first column, delete “and oil burning reciprocating engines (non-autogeneration)”; and in the second column, delete “Oil burning reciprocating engines not used for autogeneration”. In the second entry in the table: in the first column, delete “gas burning”; and in the second column, delete “Gas burning”.</p>
Exhibits A,B,C, D	Please see exhibits in the CM rules	In Exhibits A, B and C:



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		<p>after “belief” insert “<sup>A1</sup>”;</p> <p>after “Director” where it appears in the right-hand signature block insert “<sup>A2</sup>”;</p> <p>and</p> <p>at the end of Exhibits A, B and C insert the following as footnotes (but in the case of Exhibit A, footnote “<sup>A1</sup>” is to appear before footnote “1” and footnote “<sup>A2</sup>” after footnote “1”):</p> <p><sup>A1</sup> For sole director companies, substitute “I, being the director of [APPLICANT], HERBY CERTIFY as at the date of this certificate that, having made due and careful enquiry and to the best of my knowledge, information and belief:”.</p> <p><sup>A2</sup> No second signature is required for sole director companies, see Rule 1.3A.”</p> <p>In Exhibit C, in paragraph (e):</p> <p>At the beginning, insert:</p> <p>“(i) in accordance with any requirement under:</p> <p>(aa) an enactment;</p> <p>(bb) a licence under section 6(1) of EA 1989 (where the Company is the holder of such a licence); or</p> <p>(cc) a document maintained under such a licence;”.</p> <p>Re-number the existing sub-paragraphs (i) to (x) as (ii) to (xi).</p> <p>In sub-paragraph (vii) (as so re-numbered), for the words from “having” to the end, substitute “having, or potentially having, Despatch Control with respect to that CMU”.</p> <p>In sub-paragraph (viii) (as so re-numbered), delete “where the CMU is a Prospective Generating CMU”.</p> <p>For sub-paragraph (ix) (as so re-numbered), substitute: “to any shareholder in the Applicant or, where such a shareholder is a company and a member of a Group, to any other company which is a member of that Group”.</p> <p>In Exhibit D:</p>
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Department  
of Energy &  
Climate Change

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		after “Director” where it appears in both right-hand signature blocks insert “ <sup>1</sup> ”; and at the end of Exhibit D insert the following as a footnote: “ <sup>1</sup> No second signature is required for sole director companies, see Rule 1.3A.”.
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