Draft amendments to the Capacity Market Rules

New proposed requirements applying to Capacity Agreements awarded as a result of Capacity Auctions after the coming into force of the Capacity Market (Amendment) (No. 3) Rules 2017, or a Transferred Part in respect of such a Capacity Agreement.

PART 1

Demonstrating satisfactory performance

1. Amendments to Chapter 6 (capacity agreements)

1.1 In Rule 6.10.1:

1.1.1 In Rule 6.10.1(p), omit “or”;

1.1.2 At the end of Rule 6.10.1(q), insert “or”; and

1.1.3 After Rule 6.10.1(q), insert:

“(r) where the Capacity Committed CMU is subject to, and fails to satisfy, the requirements of Rule 13.4.1ZA(a) (as modified by Rule 13.4.1ZC, where applicable) in respect of a Capacity Agreement awarded as a result of a Capacity Auction held after the coming into force of the Capacity Market (Amendment) (No. 3) Rules 2017, or a Transferred Part in respect of such a Capacity Agreement.”

1.2 In Rule 6.10.1A:

1.2.1 In Rule 6.10.1A(iv), omit “and”;

1.2.2 After Rule 6.10.1A(v), insert:

“(vi) paragraph (r) (Satisfactory Performance Days);”

1.3 In 6.10.2(a) for “Rule 6.10.1(a) to (q)” substitute “Rule 6.10.1(a) to (r)”.

1.4 After Rule 6.10.3(h), insert:

“(i) Where a Capacity Agreement awarded as a result of a Capacity Auction held after the coming into force of the
Capacity Market (Amendment) (No. 3) Rules 2017, or a Transferred Part in respect of such a Capacity Agreement, is terminated on the ground specified in Rule 6.10.1(r), the Capacity Provider is liable to pay a termination fee in accordance with Regulation 43.

(j) The amount of a termination fee payable under Rule 6.10.3(g) is TF5, as determined in accordance with Regulation 43(3)."

1.5 After Rule 6.10.3A(ca), insert:

"(cb) Where a Capacity Agreement awarded as a result of a Capacity Auction held after the coming into force of the Capacity Market (Amendment) Rules (No. 3) 2017, or a Transferred Part in respect of such a Capacity Agreement, is terminated on the ground specified in Rule 6.10.1(r), the Capacity Provider is liable to repay Capacity Payments in accordance with Regulation 43B."

1.6 In Rule 6.10.3A(d), after "Rule 6.10.1(ga)" insert ", Rule 6.10.1(r)".

2. Amendments to Chapter 9 (transfer of capacity obligations)

2.1 In Rule 9.5.1:

2.1.1 after "Satisfactory Performance Days during Winter" insert "in accordance with Rule 13.4.1"; and

2.1.2 for "Rules 13.4.1(a), 13.4.1(b) (if applicable) and 13.4.1(c)", substitute "Rules 13.4.1ZA and 13.4.1ZB to the extent specified in this Chapter 9".

2.2 For Rule 9.5.2, substitute:

"9.5.2 In the case of a Capacity Committed CMU that has transferred all of its Capacity Obligation for the period from 1 January to 30 April (both dates inclusive) of a Delivery Year under Rule 9.2.4(a):

(a) Rule 13.4.1 is modified so the words “at least one Satisfactory Performance Day occurring during the period from 1 January to 30 April (both dates inclusive) of the relevant Delivery Year” are read as “at least one Satisfactory Performance Day occurring during the"
period from 1 May to 31 July (both dates inclusive) of the relevant Delivery Year”; and

(b) If the Capacity Committed CMU fails to satisfy the requirements of Rule 13.4.1 (as modified) in the relevant Delivery Year:

(i) Rule 13.4.1ZA(a) does not apply;

(ii) Rule 13.4.1ZA(b) applies with the modification that the words “1 May in that Delivery Year until the later of 1 June in that Delivery Year” are replaced with the words “1 August in that Delivery Year until the later of 30 September in that Delivery Year”; and

(iii) Rule 13.4.1ZB applies as if the Capacity Committed CMU had been subject to and failed to satisfy the requirements of Rule 13.4.1ZA(a).

9.5.3 In the case of a Capacity Committed CMU that has transferred part of its Capacity Obligation for the period from 1 January to 30 April (both dates inclusive) of a Delivery Year under Rule 9.2.4(a), Rule 13.4.1 is modified so the words from “its Capacity Obligation” to the end are read as “the highest level of Capacity Obligation or aggregate Capacity Obligations it held for the period from 1 January to 30 April (both dates inclusive) for at least one Settlement Period (which may fall within a System Stress Event) on one day (a “Satisfactory Performance Day”) during the period from 1 January to 30 April (both dates inclusive) of the relevant Delivery Year”.

9.5.4 In the case of a Capacity Committed CMU that has transferred all Capacity Agreements relating to that CMU outright under Rule 9.2.4(b) for the period from 1 January to 30 September (both dates inclusive):

(a) Rule 13.4.1 is modified so the words “three separate days (each a “Satisfactory Performance Day”) during the Winter of the relevant Delivery Year, with at least one Satisfactory Performance Day occurring during the period from 1 January to 30 April (both dates inclusive) of the relevant Delivery Year” are read as “two separate days (each a “Satisfactory Performance Day”) during the
period from 1 October to 31 December (both dates inclusive) of the relevant Delivery Year”.

(b) If the Capacity Committed CMU fails to satisfy the requirements of Rule 13.4.1 in the relevant Delivery Year:

(i) Rule 13.4.1ZA does not apply; and

(ii) Rule 13.4.1ZB applies as if the Capacity Committed CMU had been subject to and failed to satisfy the requirements of Rule 13.4.1ZA(a).

9.5.5 In the case of a CMU Transferee to which a Capacity Obligation has been transferred for a period that does not include any days during the period from 1 January to 30 April (both dates inclusive) of a Delivery Year, Rule 13.4.1 is modified to omit the words “with at least one Satisfactory Performance Day occurring during the period from 1 January to 30 April (both dates inclusive) of the relevant Delivery Year”.

3. Amendments to Chapter 13 (testing regime)

3.1 For Rule 13.4.1, substitute:

“13.4.1 Subject to Rules 13.4.1A, 13.4.1B, and the modifications in Chapter 9, a Capacity Committed CMU must demonstrate to the Delivery Body in accordance with Rule 13.4.2 capacity at a level equal to or greater than its Capacity Obligation or aggregate Capacity Obligations for at least one Settlement Period (which Settlement Periods may fall within a System Stress Event) on three separate days (each a “Satisfactory Performance Day”) during the Winter of the relevant Delivery Year, with at least one Satisfactory Performance Day occurring the period from 1 January to 30 April (both dates inclusive) for that Delivery Year.”

3.2 After Rule 13.4.1, insert:

“13.4.1ZA If the Capacity Committed CMU fails to satisfy the requirements of Rule 13.4.1 in the relevant Delivery Year:

(a) the Capacity Committed CMU must demonstrate three additional Satisfactory Performance Days occurring during the period from 1 May to 31 July (both dates inclusive); and

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(b) the Capacity Committed CMU’s entitlement to Capacity Payments will be suspended in accordance with the Regulations from 1 May in that Delivery Year until the later of 1 June in that Delivery Year and the day on which the third Satisfactory Performance Day is demonstrated pursuant to Rule 13.4.1ZA(a) above.

13.4.1ZB  If the Capacity Committed CMU is subject to, and fails to satisfy the requirements of, Rule 13.4.1ZA(a), the Capacity Agreement of the Capacity Committed CMU will be terminated in accordance with Rule 6.10.1(r).

13.4.1ZC

(a) Paragraph (b) of this Rule 13.4.1ZC applies if a Capacity Committed CMU has received a Termination Notice in relation to termination on the ground specified in Rule 6.10.1(r) if:

i. after reconsideration under Regulation 69 by the Delivery Body or an appeal to the Authority under Part 10 of the Regulations, the Delivery Body does not terminate the Capacity Agreement; or

ii. the Secretary of State has directed the Delivery Body to withdraw the termination notice.

(b) Rule 13.4.1ZA(a) is modified so that the Capacity Committed CMU may demonstrate the three additional Satisfactory Performance Days required under Rule 13.4.1ZA(a) in the Delivery Year in which the Capacity Committed CMU failed to satisfy the requirements of Rule 13.4.1ZA(a) or any subsequent Delivery Year of its Capacity Agreement (if applicable).

(c) Rule 13.4.1ZB(a) does not apply.

13.4.1ZD  In the case of a Capacity Committed CMU that was a New Build CMU, Rule 13.4.1ZB(b) applies from the start of its first full Delivery Year as a Capacity Committed CMU.”

3.3  In Rule 13.4.1A, after “Rule 13.4.1,” insert “13.4.1ZA and 13.4.1ZC,”.
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3.4  In Rule 13.4.1B:

3.4.1 after “in Rule 13.4.1,” insert “13.4.1ZA and 13.4.1ZC,”; and

3.4.2 for “instead of Rule 13.4.1” substitute “to meet the requirements of Rule 13.4.1, 13.4.1ZA or 13.4.1ZC”.

3.5 In Rule 13.4.1C, after “Rule 13.4.1” insert “, 13.4.1ZA and 13.4.1ZC”.

3.6 For Rule 13.4.2, substitute:

“13.4.2 The Capacity Provider of a Generating CMU, a DSR CMU or an Interconnector CMU must notify the Delivery Body of the occurrence of the requisite number of Satisfactory Performance Days it has demonstrated:

(a) by the end of Winter;
(b) by 31 July of the Delivery Year, if Rule 13.4.1ZA applies;
(c) by the end of each Delivery Year, if Rule 13.4.1ZC applies; and
(d) where the Satisfactory Performance Days have been demonstrated in accordance with Rule 13.4.1B, must specify in the notification that this is the case and the DSR CMUs and Non-CMRS Distribution CMUs to which this applies.”

3.7 In Rule 13.4.4:

3.7.1 For “and” substitute “or”; and

3.7.2 For “Rule 13.4.1(a)” substitute “Rule 13.4.1ZA(a)”.

3.8 For Rule 13.4.6, substitute:

“13.4.6. The Delivery Body must notify the CM Settlement Body of:

(a) any failure by a Capacity Committed CMU to satisfy its obligations pursuant to Rule 13.4.1;
(b) any failure by a Capacity Committed CMU to satisfy its obligations (where applicable) pursuant to Rule
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13.4.1ZA(a) by the end of the relevant Delivery Year (as modified by Rule 13.4.ZC); and

(c) the date on which a Capacity Committed CMU satisfies its obligations pursuant to Rule 13.4.1ZA(a) (as modified by Rule 13.4.ZC).”
PART 2

Energy Limited Storage

4. Amendments to Chapter 1 (general provisions)

4.1. In Rule 1.2.1, in the appropriate place, insert:

“Energy Limited Generating Technology Class means a Generating Technology Class identified as such in Schedule 3”.

5. Amendments to Chapter 2 (auction guidelines and de-rating)

5.1. After Rule 2.2.4, insert:

“2.2.5 If, following the close of the Prequalification Window for a Capacity Auction held in the 2017/18 Auction Window, the Secretary of State makes amendments to the Generating Technology Classes in Schedule 3 to introduce new Generating Technology Classes regarding Storage for that Capacity Auction, the Delivery Body must publish the De-rating Factor for each new Generating Technology Class within five Working Days of the amendment of the Generating Technology Classes and the new De-rating Factors shall thereafter form part of the Auction Guidelines for that Capacity Auction.”

5.2. In Rule 2.3.4:

5.2.1. in paragraph (a), after “for CMUs in a Generating Technology Class,” insert “except for CMUs in an Energy Limited Generating Technology Class,”;

5.2.2. at the end of paragraph (b), omit “and”;

5.2.3. at the end of (c), insert:

“; and

(d) for CMUs in an Energy Limited Generating Technology Class, the Equivalent Firm Capacity (“EFC”) of that Energy Limited Generating Technology Class.”
5.3. After Rule 2.3.5A, insert:

“2.3.5B EFC is determined by the Delivery Body for an Energy Limited Generating Technology Class in accordance with the methodology set out in Schedule 3B.”

5.4. For Rules 2.3.8 to 2.3.10, substitute:

“2.3.8 The Delivery Body:

(a) must, on the request of the Secretary of State or the Authority; and

(b) may, at any other time, consult interested parties as to whether the calculation methodology for TCWAA, AABS and/or EFC is achieving its objective and/or whether an alternative methodology (for which it may make proposals) would be more effective.

2.3.9 The objective referred to in Rule 2.3.8 is to derive a percentage which most reliably reflects the average expected contribution of the relevant CMUs during System Stress Events.

2.3.10 Following a consultation in accordance with Rule 2.3.8 the Delivery Body may propose a revised calculation methodology for TCWAA, AABS and/or EFC to the relevant entity which, if approved by the relevant entity and, where required, introduced via amendments to these Rules, must be applied for subsequent Delivery Years.

2.3.10A For the purposes of Rule 2.3.10, unless the Authority and Secretary of State agree otherwise, the relevant entity is:

(a) the Authority where the Authority requested the consultation under Rule 2.3.8(a); and

(b) in any other case, the Secretary of State.”

6. Amendments to Chapter 4 (determination of eligibility)

6.1. After Rule 4.5, insert:
4.5ZA Amendments to Storage Generating Technology Classes after close of Prequalification Window

4.5ZA.1 If, following the close of the Prequalification Window for a Capacity Auction held in the 2017/18 Auction Window, the Secretary of State makes amendments to the Generating Technology Classes in Schedule 3 to introduce new Generating Technology Classes regarding Storage for that Capacity Auction:

(a) the Delivery Body must notify those Applicants for CMUs that no longer fall within the Generating Technology Class specified in their Application of the new Generating Technology Classes and their De-rating Factors by no later than five Working Days after the amendment of the Generating Technology Classes; and

(b) the Applicant must notify the Delivery Body of which Generating Technology Class their CMU falls into by no later than ten Working Days after the amendment of the Generating Technology Classes.

4.5ZA.2 If Rule 4.5ZA.1 applies to an Applicant and the Delivery Body has not received notice from that Applicant as to the Generating Technology Class for the relevant CMU, or a notice from that Applicant under Rule 4.11A.1, by the deadline in Rule 4.5ZA.1(b) the Delivery Body must treat that CMU as falling within the Energy Limited Generating Technology Class with the lowest De-rating Factor for the purpose of updating the Capacity Market Register with the new De-rated Capacity of that CMU in accordance with Rule 7.5.1(x).

4.5ZA.3 Following a notification by an Applicant under Rule 4.5ZA.1(b), or where Rule 4.5ZA.2 applies, the Delivery Body must, by no later than thirteen Working Days after the amendment of the Generating Technology Classes, issue a notice to the Applicant to confirm:
(a) the Generating Technology Class and De-rated Capacity which applies to the relevant CMU; and

(b) that the Capacity Market Register has been updated to record the change to the Generating Technology Class and any change to the De-rated Capacity of the relevant CMU.

4.5ZA.4 Where the De-rated Capacity of a CMU has been amended in accordance with Rule 4.5ZA.3, the Applicant with respect to that CMU may submit a request to the CM Settlement Body for a portion of its Applicant Credit Cover to be released in accordance with the Regulations.

6.2. After Rule 4.11, insert:

"4.11A Auction Guidelines Published after Prequalification specifying revised De-rating Factors

4.11A.1 If a new De-rating Factor applies to a Prequalified Existing CMU for a Capacity Auction held in the 2017/18 Auction Window as a result of amendments to the Generating Technology Class regarding Storage after the close of the Prequalification Window for that Capacity Auction, an Applicant with respect to such a Prequalified Existing CMU may submit a notice to the Delivery Body withdrawing from that Capacity Auction.

4.11A.2 A notice pursuant to Rule 4.11A.1 may be submitted from the date on which the Delivery Body publishes revised De-rating Factors in accordance with Rule 2.2.5, and must be submitted no later than ten Working Days prior to the commencement of the first Bidding Window for that Capacity Auction.

4.11A.3 With effect from the date of a notice pursuant to Rule 4.11A.1, the relevant Existing CMU shall no longer be Prequalified."

7. Amendments to Chapter 7 (capacity market register)
7.1. At the end of Rule 7.5.1(v), omit “and”.

7.2. At the end of Rule 7.5.1(w), insert:

“(x) to record any change to the De-rated Capacity and Generating Technology Class of a CMU, pursuant to Rule 4.5ZA, by no later than thirteen Working Days after the amendment of the Generating Technology Classes; and

(y) to record that an Existing CMU is no longer prequalified within five Working Days of the Delivery Body receiving a notification pursuant to Rule 4.11.1 or Rule 4.11A.1.”