

The Capacity Market (Amendment) (No. 2) Rules 2019

Presented to Parliament pursuant to Section 41(9) of the
Energy Act 2013

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1. Citation and commencement

1.1 These Rules may be cited as the Capacity Market (Amendment) (No. 2) Rules 2019.

1.2 These Rules come into force on the day on which the Electricity Capacity (No. 1) Regulations 2019 come into force.

1.3 In these Rules:

1.3.1 “the Rules” means the Capacity Market Rules 2014 as amended by:

- (a) the Capacity Market (Amendment) Rules 2014;
- (b) the Capacity Market (Amendment) (No. 2) Rules 2014;
- (c) the Capacity Market (Amendment) Rules 2015;
- (d) the Capacity Market (Amendment) (No. 2) Rules 2015;
- (e) the Capacity Market (Amendment) Rules 2016;
- (f) the Capacity Market (Amendment) (No. 2) Rules 2016;
- (g) the Capacity Market (Amendment) (No. 3) Rules 2016;
- (h) the Capacity Market (Amendment) Rules 2017;
- (i) the Capacity Market (Amendment) (No. 2) Rules 2017;
- (j) the Capacity Market (Amendment) (No. 3) Rules 2017;
- (k) the Capacity Market (Amendment) (No. 4) Rules 2017; and
- (l) the Capacity Market (Amendment) Rules 2019;

1.3.2 a reference to a Chapter, Rule or numbered Schedule by number alone is a reference to the Chapter, Rule or Schedule so numbered in the Rules; and

1.3.3 expressions which are defined in the Rules have the same meaning as in the Rules.

2. Amendments

2.1 The Rules are amended as set out in the Schedule to these Rules.

3. Application

3.1 Parts 1, 2 and 4 of the Schedule to these Rules apply in respect of:

- (a) any Capacity Agreement that has been awarded as a result of a Capacity Auction held before these Rules come into force;
- (b) the Conditional Agreement Auction, including the rights and obligations arising out of, or in relation to that auction (including any 2019 T-1 Agreement); and

3.2 Part 3 of the Schedule to these Rules applies in respect of any Conditional Capacity Agreement.

3.3 For the purpose of this Rule 3:

- (a) “2019 T-1 Agreement” means a Conditional Capacity Agreement and the Capacity Agreement that it becomes under Regulation 30(2A) of the Electricity Capacity Regulations 2014 (which is read into those Regulations as modifications to the application of the Regulations made by Regulation 31 of the Electricity Capacity (No. 1) Regulations 2019);
- (b) “Conditional Capacity Agreement” has the meaning given in Regulation 2(1) as modified by Part 5 of the Electricity Capacity (No. 1) Regulations 2019; and
- (c) “Conditional Agreement Auction” means the T-1 Auction for the Delivery Year commencing on 1 October 2019.

March 2019

Claire Perry
Minister of State for Energy and Clean Growth
Department for Business, Energy & Industrial Strategy

SCHEDULE

Part 1

Definitions and Interpretation

1. Amendments to Chapter 1 (General Provisions)

1.1 In Rule 1.2 (Definitions):

1.1.1 in Rule 1.2.1, in the definition of “the Regulations”:

- (a) for “and the” substitute “,”;
- (b) after “the Electricity Capacity (Amendment) Regulations 2015,” insert “the Electricity Capacity (Amendment) (No. 2) Regulations 2015¹, the Electricity Capacity (Amendment) Regulations 2016², the Electricity Capacity (Amendment) Regulations 2017³, and the (No. 1) Regulations 2019,”; and
- (c) in the appropriate place insert:

“(No. 1) Regulations 2019

means the Electricity Capacity (No. 1) Regulations 2019”.

¹ 2015/1974.

² 2016/742.

³ 2017/1053.

“Conditional Agreement Auction	has the meaning given to that term in Regulation 2(1) of the (No. 1) Regulations 2019”.
“Conditional Capacity Agreement	has the meaning given to that term in Regulation 2(1) (as modified by Part 5 of the (No. 1) Regulations 2019)”.
“T-1 auction for the Delivery Year commencing on 1 October 2019	means the Conditional Agreement Auction”.
“T-1 Termination Trigger Event	has the meaning given to that term in Regulation 2(1) of the (No. 1) Regulations 2019”.

1.2 In Rule 1.3 (Interpretation), after Rule 1.3.2, insert:

“1.3.3 In the Rules:

- (a) where a Rule applies in relation to a Capacity Agreement that existed on 15 November 2018:
 - (i) references to the Regulations in that Rule are references to the Regulations as modified by Regulations 12 to 23 of the (No. 1) Regulations 2019; and
 - (ii) words in that Rule which are defined as having the meaning given in the Regulations, have the meaning given in the Regulations as modified by Regulations 12 to 23 of the (No. 1) Regulations 2019;
- (b) where a Rule applies in relation to the Conditional Agreement Auction (including the rights and obligations arising out of, or in relation to, this auction):
 - (i) references to the Regulations in that Rule are references to the Regulations as modified by

Regulations 29 to 52 of the (No. 1) Regulations 2019; and

- (ii) words in that Rule which are defined as having the meaning given in the Regulations, have the meaning given in the Regulations as modified by Regulations 29 to 52 of the (No. 1) Regulations 2019.”.

Part 2

Amendments to Chapter 16 (Modifications in respect of Capacity Agreements existing on 15 November 2018 and in respect of the T-1 Auction for the Delivery Year commencing on 1 October 2019)

2. Amendments to Chapter 16

2.1 After Rule 16.1 (Purpose of this Chapter) insert:

“16.1A Definitions

16.1A.1 Rule 1.2 (Definitions) applies as if, in the appropriate place, there were inserted:

“2019 T-1 Agreement	means a Conditional Capacity Agreement and the Capacity Agreement that it becomes under Regulation 30(2A) (which is read into the Regulations as modifications to the application of the Regulations made by Regulation 31 of the Electricity Capacity (No. 1) Regulations 2019)”.
“Agreement Termination Trigger Event	has the meaning given to that term in Regulation 2(1) of the (No. 1) Regulations 2019”.
“Auction Withdrawal Notice	has the meaning given in Rule 4.13.2”.
“Auction Withdrawal Window	has the meaning given in Rule 4.13.2”.
“Deferred Capacity Payment Trigger Event	has the meaning given to that term in Regulation 2(1) of the (No. 1) Regulations 2019”.

“Standstill Period	has the meaning given to that term in Regulation 2(1) of the (No. 1) Regulations 2019”.
Termination Trigger Event	has the meaning given to that term in Regulation 2(1) of the (No. 1) Regulations 2019”.
“T-1 Capacity Agreement Trigger Event	has the meaning given to that term in Regulation 2(1) of the (No. 1) Regulations 2019”.

2.2 For Rule 16.2 (Application of this Chapter), substitute:

“16.2 Application of this Chapter in relation to Capacity Agreements that existed on 15 November 2018

16.2.1

- (a) The modifications made by the Rules specified in Rule 16.2.1(b) to (e), apply only in respect of a Capacity Agreement that existed on 15 November 2018 or a Transferred Part in respect of such a Capacity Agreement.
- (b) The modifications made by Rule 16.3.1 apply on and from 6 March 2019.
- (c) The modifications made by Rule 16.3.2, Rule 16.3.3, Rule 16.3.4, Rule 16.3.6, Rule 16.4A.2, Rule 16.4C.5, Rule 16.4C.10, and Rule 16.4C.13(b) apply on and from the coming into force of the Capacity Market (Amendment) (No. 2) Rules 2019.
- (d) The modifications made by Rule 16.3.5 apply on and from 6 March 2019 until (and including) the last day of the Standstill Period.

- (e) The modifications made by Rule 16.4.1, Rule 16.5.1 and Rule 16.5.2 apply on and from 6 March 2019 until the Auction Results Day for the Conditional Agreement Auction.

16.2A Application of this Chapter in relation to the Conditional Agreement Auction

16.2A.1

- (a) The modifications made by the Rules specified in Rule 16.2A.1(b) and (c), apply only in relation to the Conditional Agreement Auction, including the rights and obligations arising out of, or in relation to that auction.
- (b) The modifications made by Rule 16.3A.1, Rule 16.3A.2, Rule 16.3A.3, Rule 16.3A.4, Rule 16.3A.5, Rule 16.3A.6, Rule 16.3A.7, Rule 16.3A.8, Rule 16.3A.9, Rule 16.3A.10, Rule 16.4.A3(b), Rule 16.4.A4(b), Rule 16.4.A6(b), Rule 16.4A.1(b), Rule 16.4A.1(d), Rule 16.4A.1(e), Rule 16.4A.1(f), Rule 16.4A.1(g), Rule 16.4A.1(i), Rule 16.4A.3, Rule 16.4C.13(c) only insofar as that Rule modifies Rule 6.10.2 to insert Rule 6.10.2(cb), Rule 16.4C.16, Rule 16.4D.4(g), Rule 16.4E.2(h)(ii), Rule 16.4E.2(h)(iii) and Rule 16.4E.2(i)(i) apply on and from the day on which the Capacity Market (Amendment) (No. 2) Rules 2019 come into force.
- (c) The modifications made by Rule 16.6.1 and Rule 16.6.2 apply on and from 6 March 2019.

16.2B Application of other Rules in this Chapter

16.2B.1 The modifications made by any of the Rules in this Chapter 16 which are not listed in Rule 16.2.1(b) to (e), and Rule 16.2A.1(b) and (c), apply on and from the day on which the Capacity Market (Amendment) (No. 2) Rules 2019 come into force.”.

2.3 In Rule 16.3.2 (Modification to Connection Agreement deadline for New Build CMUs):

- (a) in Rule 16.3.2(a) (modification to Rule 3.7.3(c)(i)), for “31 March 2020” substitute “the date which is the later of the date which is five

months after the date on which the Deferred Capacity Payment Trigger Event occurs and 31 March 2020”;

- (b) in Rule 16.3.2(b) (modification to Rule 3.7.3(c)(ii)), for “31 March 2020” substitute “the date which is the later of the date which is five months after the date on which the Deferred Capacity Payment Trigger Event occurs and 31 March 2020”; and
- (c) in Rule 16.3.2(c) (modification of Rule 8.3.1(a)(i)), for “31 March 2020” substitute “the date which is the later of the date which is five months after the date on which the Deferred Capacity Payment Trigger Event occurs and 31 March 2020”.

2.4 In Rule 16.3.3 (Modification to Metering Test deadline for Existing CMUs and Proven DSR CMUs):

- (a) in Rule 16.3.3(a) (modification of Rule 8.3.3(e)(ii)), for “20 June 2020” substitute “the date which is the earlier of the date which is five months after the date on which the Deferred Capacity Payment Trigger Event occurs and 20 June 2020”; and
- (b) in Rule 16.3.3(b) (modification to insert Rule 13.3.2A(ba)), for “20 June 2020” substitute “the date which is the earlier of the date which is five months after the date on which the Deferred Capacity Payment Trigger Event occurs and 20 June 2020”.

2.5 In Rule 16.3.4 (Modification to Financial Commitment Milestone for New Build CMUs), for “31 March 2020” substitute “the date which is the later of the date which is five months after the date on which the Deferred Capacity Payment Trigger Event occurs and 31 March 2020”.

2.6 For Rule 16.3.6 (Modification of Termination Event in Rule 6.10.1(ba) for New Build CMUs), substitute:

“16.3.6 Modification of Termination Event in Rule 6.10.1(ba) for New Build CMUs

Rule 6.10.1(ba) applies as if after “New Build CMU” there were inserted “(except in respect of a Capacity Agreement which has its first Delivery Year commencing on 1 October 2021 and to whom Rule 6.6A.2 applies, or unless Rule 6.10.1ZA applies)”.

2.7 After Rule 16.3 insert:

“16.3A Modifications to obligations in respect of 2019 T-1 Agreements

16.3A.1 Modification to except Prospective CMUs from requirement to deliver a progress report

Chapter 12 (Monitoring) applies as if before Rule 12.2.1, there were inserted:

“12.2.A1 Rule 12.2 does not apply to a Capacity Provider awarded a 2019 T-1 Agreement in respect of a Prospective CMU, or in relation to a Transferred Part of that agreement.”

16.3A.2 Modification to the Financial Commitment Milestone

Rule 6.6 (Achieving the Financial Commitment Milestone) applies as if:

(a) for Rule 6.6.1 there were substituted:

“6.6.1 A Capacity Provider awarded a 2019 T-1 Agreement in respect of a Prospective CMU will be considered to have met the Financial Commitment Milestone obligation if, before the commencement of the Delivery Year, the Delivery Body has acknowledged receipt of a Funding Declaration made by at least two directors of the Capacity Provider (where Rule 6.6.5 applies).”;

(b) in Rule 6.6.2, after “Rule 6.6.1” there were inserted “(except where that Rule applies to a Capacity Provider awarded a 2019 T-1 Agreement in respect of a Prospective CMU)”; and

(c) in Rule 6.6.7, for “Rule 6.6.1(b)” there were substituted “Rule 6.6.1”.

16.3A.3 Modifications to Metering Assessment deadline for Existing Generating CMUs

Rule 3.6 (Additional Information for an Existing Generating CMU) applies as if:

- (a) in Rule 3.6.4(b)(ii) (metering arrangements), at the end there were inserted “(except that the reference to “the date falling six months prior to” is to be omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in relation to an Existing Generating CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”; and
- (b) in Rule 3.6.4(b)(iii), at the end there were inserted “(except that the reference to “the date falling four months prior to” is to be omitted in respect of a Capacity Provider awarded 2019 T-1 Agreement in relation to an Existing Generating CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”.

16.3A.4 Modifications to Metering Assessment deadline for Existing Interconnector CMUs

Rule 3.6A (Additional Information for an Existing Interconnector CMU) applies as if:

- (a) in Rule 3.6A.3(aa)(ii), at the end there were inserted “(except that the reference to “the date falling six months prior to” is to be omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in relation to an Existing Interconnector CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”; and
- (b) in Rule 3.6A.3(aa)(iii), at the end there were inserted “(except that the references to “the date falling four months prior to” is to be omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in relation to an Existing Interconnector CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”.

16.3A.5 Modifications to the Metering Assessment deadlines for Existing CMUs and Proven DSR CMUs

Rule 8.3.3 (Metering) applies as if:

- (a) in Rule 8.3.3(a)(ii), at the end, there were inserted “(except that the reference to “the date falling six months” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in relation to an Existing CMU, or a Proven DSR CMU, who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”;
- (b) in Rule 8.3.3(a)(iii), at the end, there were inserted “(except that the reference to “no later than the date falling four months after the auction in the case of” is to be construed as a reference to “prior to the commencement of the Delivery Year” in respect of a Capacity Provider awarded a 2019 T-1 Agreement in relation to an Existing CMU or a Proven DSR CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”.

16.3A.6 Modification to Metering Test deadlines for Existing CMUs and Proven DSR CMUs

- (a) Rule 8.3.3(e)(iii) applies as if at the end, there were inserted “(except that the reference to “the date falling two weeks” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in relation to an Existing CMU or a Proven DSR CMU)”;
- (b) Rule 13.3.2A(c) applies as if at the end, there were inserted “(except that the reference to “the date falling five months” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in relation to an Existing CMU or a Proven DSR CMU)”;
- (c) Rule 13.3.2A(d) applies as if at the end, there were inserted “(except that the reference to “the date falling four months” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in relation to an Existing CMU or a Proven DSR CMU)”.

16.3A.7 Modification to the Metering Assessment deadline for Proven DSR CMUs

Rule 3.9.4 (Metering Arrangements) applies as if:

- (a) in Rule 3.9.4(b)(ii), at the end there were inserted “(except that the reference to “the date falling six months” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in respect of a Proven DSR CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”;
- (b) in Rule 3.9.4(b)(iii), at the end there were inserted “(except that the reference to “the date falling four months” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in respect of a Proven DSR CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”.

16.3A.8 Modification to DSR Test deadline for Unproven DSR CMUs

- (a) Rule 3.10.2(a) applies as if at the end, there were inserted “(except that the reference to “the date falling one month before” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in respect of an Unproven DSR CMU who confirmed in the Application in respect of that CMU that they would complete a DSR Test or Joint DSR Test)”.
- (b) Rule 8.3.2(a) applies as if at the end, there were inserted “(except that the reference to “one month prior to” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in respect of an Unproven DSR CMU who confirmed in the Application in respect of that CMU that they would complete a DSR Test or Joint DSR Test)”.

16.3A.9 Modification to Metering Assessment deadline for Unproven DSR CMUs

Rule 3.10.2(b) applies as if at the end, there were inserted “(except that the reference to “the date falling four months before” were omitted in respect of a Capacity Provider awarded a 2019 T-1 Agreement in respect of an Unproven DSR CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Assessment)”.

16.3A.10 Modification to Metering Test deadline for Unproven DSR CMUs

- (a) Rule 3.10.2(c) applies as if at the end, there were inserted “(except that the reference to “the date falling two weeks before” were omitted in respect of a Capacity Provider awarded a 2019 T-1 agreement in respect of an Unproven DSR CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Test)”.
- (b) Rule 8.3.3(e)(i) applies as if at the end, there were inserted “(except that the reference to “the date falling two weeks prior to” were omitted in respect of a Capacity Provider awarded a 2019 T-1 agreement in respect of an Unproven DSR CMU who confirmed in the Application in respect of that CMU that they would complete a Metering Test)”.
- (c) Rule 13.3.2A(a) applies as if at the end, there were inserted “(except that the reference to “the date falling four months” were omitted in respect of a Capacity Provider awarded a 2019 T-1 agreement in respect of an Unproven DSR CMU, who confirmed in the Application in respect of that CMU that they would complete a Metering Test)”.

16.3B Modifications to Chapter 1 (General Provisions)

16.3B.1 Rule 1.2 (definitions) applies as if:

- (a) in the definition of “Capacity Agreement Notice”, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (b) in the definition of “Capacity Provider”, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (c) in the definition of “Contracted Capacity”, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (d) in the definition of “Defaulting CMU”, after “Capacity Agreement”, in each place it occurs, there were inserted “or a Conditional Capacity Agreement”;

- (e) in the definition of “Duration Bid”, after “Capacity Agreement” there were inserted “or Conditional Capacity Agreement”;
- (f) in the definition of “Financial Commitment Milestone”, at the start of paragraph (a) there were inserted “other than in the case of a Capacity Provider awarded a 2019 T-1 Agreement”;
- (g) in the definition of “New Build Capacity Provider”, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (h) in the definition of “Termination Fees”, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
- (i) for the definition of “T-1 Agreement” there were substituted:

“T-1 Agreement

means:

(a) a Capacity Agreement awarded pursuant to a T-1 Auction; or

(b) a 2019 T-1 Agreement”.

16.3B.2 Rule 1.4 (Times and dates) applies as if:

- (a) in Rule 1.4.1(a), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
- (b) in Rule 1.4.2, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”.

16.3C Modifications to Chapter 2 (Auction Guidelines and De-rating)

16.3C.1 Rule 2.3.3(b) (De-rating of CMUs) applies as if after “Capacity Agreements” there were inserted “or Conditional Capacity Agreements”.

2.8 Amendments to Rule 16.4 (modifications to Chapter 3 (prequalification information))

2.8.1 Before Rule 16.4.1 insert:

“16.4.A1 Rule 3.3 (Submitting an Application for Prequalification) applies as if:

- (a) in Rule 3.3.3(a), after “Capacity Agreement” there were inserted “(or a Conditional Capacity Agreement where Chapter 3 applies by virtue of Rule 3.13.2)”;
- (b) in Rule 3.3.3(d)(i), after “Capacity Agreement” there were inserted “(or a Conditional Capacity Agreement where Chapter 3 applies by virtue of Rule 3.13.2)”;
- (c) in Rule 3.3.3(d)(ii), after “Capacity Agreement” there were inserted “(or Conditional Capacity Agreement where Chapter 3 applies by virtue of Rule 3.13.2)”;
- (d) in Rule 3.3.3(e), after “Capacity Agreement” there were inserted “(or a Conditional Capacity Agreement where Chapter 3 applies by virtue of Rule 3.13.2)”;
- (e) in Rule 3.3.3(f)(ii), after “Capacity Agreement” there were inserted “(or a Conditional Capacity Agreement where Chapter 3 applies by virtue of Rule 3.13.2)”.

16.4.A2 Rule 3.4 (Information to be provided in all Applications) applies as if:

- (a) in Rule 3.4.1(c)(i), after “Capacity Agreement” there were inserted “or Conditional Capacity Agreement”;
- (b) in Rule 3.4.8(b), after “a Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (c) in Rule 3.4.8(b), after “the Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.4.A3 Rule 3.6 (Additional Information for an Existing Generating CMU) applies as if:

- (a) in Rule 3.6.4(b)(ii), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
- (b) in Rule 3.6.4(d)(ii)(bb), “the date falling two weeks prior to” were omitted.

16.4.A4 Rule 3.6A (Additional Information for an Existing Interconnector CMU) applies as if:

- (a) in Rule 3.6A.3(aa)(ii), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
- (b) in Rule 3.6A.3(c)(ii)(bb), “the date falling two weeks prior to” were omitted.

16.4.A5 Rule 3.7.1(b)(ii) (Relevant Planning consents for a New Build CMU) applies as if after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.4.A6 Rule 3.9 (Additional Information for a Proven DSR CMU)

- (a) in Rule 3.9.4(b)(ii), after “Capacity Agreement”, there were inserted “or a Conditional Capacity Agreement”; and
- (b) in Rule 3.9.4(d)(ii)(bb), “the date falling two weeks prior to” were omitted.

2.9 After Rule 16.4 (Modifications to Chapter 3 (prequalification information))insert:

“16.4A Modifications to Chapter 4 (Determination of Eligibility)

16.4A.1 Modifications to Chapter 4

- (a) Rule 4.4 (decisions to be made by the Delivery Body) applies as if:
 - (i) in Rule 4.4.2(c)(i), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
 - (ii) in Rule 4.4.2(d)(i), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”.

- (b) Rule 4.4.3 applies as if after “by Rule 4.6” there were inserted “or if an Auction Withdrawal Notice is submitted in accordance with Rule 4.13”.
- (c) Rule 4.5.1(b)(viii) applies as if after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.
- (d) Rule 4.5.2 applies as if:
 - (i) after “Rule 4.6.4” there were inserted “or Rule 4.14”; and
 - (ii) after “Rule 4.6.1A” there were inserted “, excluding any Applicant to whom Rule 4.14 applies”.
- (e) Rule 4.5A (New Build Interconnector CMU and Unproven DSR CMU: Applicant Credit Cover) applies as if before Rule 4.5A.1 there were inserted:
 - “4.5A.A1 Rule 4.5A does not apply in respect of an Applicant for a Conditionally Prequalified CMU who is not required to provide Applicant Credit Cover by virtue of Regulation 59(1C) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 49(1) of the (No. 1) Regulations 2019).”.
- (f) Rule 4.5B (New Build Interconnector CMU and Unproven DSR CMU: provision of Applicant Credit Cover) applies as if before Rule 4.5B.1 there were inserted:
 - “4.5B.A1 Rule 4.5B does not apply in respect of an Applicant for a Conditionally Prequalified CMU who is not required to provide Applicant Credit Cover by virtue of Regulation 59(1C) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 49(1) of the (No. 1) Regulations 2019).”.
- (g) Rule 4.6 (Conditional Prequalification: Applicant Credit Cover) applies as if before Rule 4.6.1 there were inserted:

“4.6.A1 Rule 4.6 does not apply in respect of an Applicant for a Conditionally Prequalified CMU who is not required to provide Applicant Credit Cover by virtue of Regulation 59(1C) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 49(1) of the (No. 1) Regulations 2019).”.

(h) Rule 4.7.1(c)(i) applies as if after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

(i) After Rule 4.6, there were inserted:

“4.6A **Delivery Body notice in respect of the Conditional Agreement Auction**

4.6A.1

(a) This Rule 4.6A.1 applies to an Applicant in respect of the Conditional Agreement Auction for a CMU which is prequalified subject to satisfaction of a further requirement, and who is not required to provide Applicant Credit Cover by virtue of Regulation 59(1C) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 49(1) of the (No. 1) Regulations 2019).

(b) Except where Rule 4.6A.1(c) applies, a CMU described in Rule 4.6A.1(a) shall be deemed to be a Prequalified CMU and the Delivery Body must:

(i) as soon as reasonably practicable after the last day of the Auction Withdrawal Window, notify the Applicant in respect of that CMU that it is fully Prequalified; and

(ii) update the Capacity Market Register in accordance with Rule 7.5.1(z).

(c) Rule 4.6A.1(b) does not apply where Rule 4.7.1 applies to the Applicant for the CMU described in Rule 4.6A.1(a), and the Applicant has not complied with Rule 4.7.1 by the end of the Auction Withdrawal Window.”

16.4A.2 Modifications in respect of provision of Applicant Credit Cover after the Deferred Capacity Payment Trigger Event occurs for Capacity Agreements that existed on 15 November 2018.

Chapter 4 applies as if after Rule 4.11A, there were inserted:

“4.12 Provision of Applicant Credit Cover after Deferred Capacity Payment Trigger Event: Capacity Agreements that existed on 15 November 2018

4.12.1 This Rule 4.12 applies in respect of a person to whom Regulation 59(5A) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 20(2)(e) of the (No. 1) Regulations 2019) applies.

4.12.2 Within 5 Working Days of the date on which the Deferred Capacity Payment Trigger Event occurs, the CM Settlement Body must notify the Delivery Body of the amount of Applicant Credit Cover held by each person who, immediately before 15 November 2018, was required to provide Applicant Credit Cover under Regulation 59 and maintain Applicant Credit Cover under Regulation 60 (“Settlement Body notification”).

4.12.3 Within 5 Working Days of the Settlement Body notification, the Delivery Body must issue a notice to each person to whom a Settlement Body notification relates, specifying that the person must, within 40 Working Days of the date of the notice, provide Applicant Credit Cover in accordance with Regulation 59(1) in the amount determined in accordance with Regulation 59(2)(a) or Regulation 59(4) (as the case may be).

4.12.4 If the CM Settlement Body gives notice to a person that it has approved the Applicant Credit Cover provided by that person, it must on the same day provide the Delivery Body with a copy of such notice.”.

16.4A.3 Modifications in respect of withdrawal from the Conditional Agreement Auction

Chapter 4 applies as if after Rule 4.12, there were inserted:

“4.13 Withdrawal from the Conditional Agreement Auction

4.13.1 This Rule 4.13.1 applies if the Secretary of State gives a direction to the Delivery Body to allow Prequalified CMUs (including CMUs which have prequalified subject to satisfaction of a further requirement) to withdraw from the Conditional Agreement Auction under Regulation 28(1)(a) (read with Regulation 28(2) as modified by Regulation 30(4) of the (No. 1) Regulations 2019) (“Secretary of State auction withdrawal direction”).

4.13.2 An Applicant with respect to a Prequalified CMU or a CMU that has prequalified subject to satisfaction of a further requirement may submit a notice to the Delivery Body withdrawing from the Conditional Agreement Auction (an “Auction Withdrawal Notice”) during the period beginning on the date of any Secretary of State auction withdrawal direction and ending on the date which is 31 Working Days prior to the first day of the first Bidding Window for the Conditional Agreement Auction (both dates inclusive) (the “Auction Withdrawal Window”).

4.13.3 An Applicant for a prequalified Mandatory CMU must state in an Auction Withdrawal Notice the matters specified in Rule 3.11.2(f) as if Rule 3.11.2 applied to Auction Withdrawal Notices, and for that purpose, a reference in Rule 3.11.2 to an “Opt-out Notification” is to be construed as a reference to an “Auction Withdrawal Notice”.

4.14 Consequences of withdrawal from the Conditional Agreement Auction

4.14.1 If the Delivery Body receives an Auction Withdrawal Notice in accordance with Rule 4.13.2:

- (a) the relevant CMU shall no longer be Prequalified, or prequalified subject to satisfaction of a further requirement, as the case may be; and
- (b) the Delivery Body must as soon as reasonably practicable after receiving such a notice amend the Capacity Market Register in accordance with Rule 7.5.1(za).".

16.4B Modifications to Chapter 5 (Capacity Auctions)

16.4B.1 Rule 5.3.2(b) applies as if after "Capacity Agreement" there were inserted "or Conditional Capacity Agreement".

16.4B.2 Rule 5.3.3(c) applies as if after "Capacity Agreement" there were inserted "or a Conditional Capacity Agreement".

16.4B.3 Rule 5.5.14(b) applies as if after "Capacity Agreement" there were inserted "or Conditional Capacity Agreement".

16.4B.4 Rule 5.6 (Duration Bids in a Capacity Auction) applies as if:

- (a) in Rule 5.6.1 after "Capacity Agreement" there were inserted "or Conditional Capacity Agreement";
- (b) in Rule 5.6.2(b) after "Capacity Agreement" there were inserted "or Conditional Capacity Agreement";
- (c) in Rule 5.6.5(b) after "Capacity Agreement" there were inserted "or Conditional Capacity Agreement"; and
- (d) in Rule 5.6.6(b) after "Capacity Agreement" there were inserted "or Conditional Capacity Agreement".

16.4B.5 Rule 5.7.2(b) applies as if after "Capacity Agreement" there were inserted "or Conditional Capacity Agreement".

16.4B.6 Rule 5.9 (Capacity Auction clearing) applies as if:

- (a) in Rule 5.9.5(c), after “Capacity Agreement” there were inserted “or Conditional Capacity Agreement”;
- (b) in Rule 5.9.5(d), after “Capacity Agreement” there were inserted “or Conditional Capacity Agreement”; and
- (c) in Rule 5.9.7, after “Capacity Agreement” there were inserted “(or in the case of the Conditional Agreement Auction, a Conditional Capacity Agreement)”.

16.4B.7 Rule 5.10 (Capacity Auction results) applies as if:

- (a) in Rule 5.10.1, in each place it occurs, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (b) in Rule 5.10.1A(b) after “Capacity Agreement” there were inserted “or Conditional Capacity Agreement”;
- (c) in Rule 5.10.3, in each place it occurs, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (d) in Rule 5.10.6(b), after “Capacity Agreements” there were inserted “or Conditional Capacity Agreements”;
- (e) in Rule 5.10.6(c) after “Capacity Agreements” there were inserted “or Conditional Capacity Agreements”;
- (f) in Rule 5.10.6(d) after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (g) in Rule 5.10.6(e) after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (h) at the beginning of Rule 5.10.7, there were inserted “Subject to Rule 5.10.8,”; and
- (i) after Rule 5.10.7 there were inserted:

“5.10.8 The result of the Conditional Agreement Auction is final when it is entered in the Capacity Market Register in accordance with Rule 7.4.3 and Conditional Capacity Agreements come into force from this time.”.

16.4B.8 Rule 5.14.3(a)(i) applies as if after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”.

16.4C Modifications to Chapter 6 (Capacity Agreements)

16.4C.1 Rule 6.2 (Nature of Capacity Agreement Notices and Capacity Agreements) applies as if:

(a) in the heading for Rule 6.2, for “and Capacity Agreements” there were substituted “, Capacity Agreements and Conditional Capacity Agreements”;

(b) in Rule 6.2.1, after “Delivery Years” there were inserted “(and includes the agreement a Conditional Capacity Agreement becomes under Regulation 30(2A) (which is read into those Regulations as modifications to the application of the Regulations made by Regulation 31 of the Electricity Capacity (No. 1) Regulations 2019))”;

(c) after Rule 6.2.1, there were inserted:

“6.2.1A A Conditional Capacity Agreement comprises the rights and obligations accruing to a Capacity Provider under or by virtue of the Regulations or the Rules in relation to a particular Capacity Committed CMU for the Delivery Year commencing on 1 October 2019, which has accrued through or in relation to the Conditional Agreement Auction.”;

(d) in Rule 6.2.2, after “the Capacity Agreement”, in the first place it occurs, there were inserted “or the Conditional Capacity Agreement”;

(e) in Rule 6.2.2(a), after “Capacity Payments” there were inserted “(or, in the case of a Conditional Capacity Agreement, the Capacity Provider’s right to receive

Capacity Payments if the Conditional Capacity Agreement becomes a Capacity Agreement in accordance with Regulation 30(2A) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 31(c) of the (No. 1) Regulations 2019”); and

- (f) in Rule 6.2.3(c), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”.

16.4C.2 Rule 6.3 (Issuing Capacity Agreement Notices) applies as if:

- (a) in Rule 6.3.1:
 - (i) for “a Capacity Agreement by” there were substituted “a Capacity Agreement or a Conditional Capacity Agreement by”; and
 - (ii) after “relevant Capacity Agreement” there were inserted “or Conditional Capacity Agreement”;
- (b) in Rule 6.3.4, “of the Capacity Agreement”, were substituted “of the Capacity Agreement or Conditional Capacity Agreement (as the case may be)”.

16.4C.3 Rule 6.5 (Survival) applies as if in Rule 6.5.1:

- (a) after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
- (b) at the end there were inserted “, unless Rule 6.10.5 (Termination of Capacity Agreement by Termination Trigger Event) applies”.

16.4C.4 Rule 6.6 (Achieving the Financial Commitment Milestone) applies as if in Rule 6.6.5, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.4C.5 Rule 6.6A (Achieving the Financial Commitment Milestone: New Build CMUs) applies as if in Rule 6.6A.1, after “T-1 Agreement” there were inserted “(or in respect of a person to whom Regulation 59(1C) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 20(2)(b) of the (No. 1) Regulations 2019) applies”.

16.4C.6 Rule 6.7 (Achieving the Substantial Completion Milestone) applies as if:

- (a) in Rule 6.7.4(a)(i), in the second place it occurs, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (b) in Rule 6.7.4(b), in each place it occurs, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (c) in Rule 6.7.4, after “such Capacity Agreement” there were inserted “or Conditional Capacity Agreement”;
- (d) in Rule 6.7.5, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
- (e) in Rule 6.7.6A, in each place it occurs, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.4C.7 Rule 6.8 (Sanctions for Delay in Achieving Milestones) applies as if:

- (a) in Rule 6.8.2A(a), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (b) in Rule 6.8.2C(a), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (c) in Rule 6.8.2D:
 - (i) after “following Capacity Agreements” there were inserted “or Conditional Capacity Agreements”; and
 - (ii) in Rule 6.8.2D(a), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and
 - (iii) in Rule 6.8.2D(b), after “Capacity Agreement” there were inserted “or Conditional Capacity Agreement”; and

- (d) in Rule 6.8.5, in the second place it occurs, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement (as the case may be)”.
- 16.4C.8 Rule 6.9 (Exclusion of Force Majeure) applies as if after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.
- 16.4C.9 Rule 6.10.1 (Termination Events) applies as if:
- (a) in the words before Rule 6.10.1(a):
 - (i) after “Capacity Agreement”, in the first place it occurs, there were inserted “or Conditional Capacity Agreement”; and
 - (ii) after “Capacity Agreement”, in the second place it occurs, there were inserted “or a Conditional Capacity Agreement”;
 - (b) in Rule 6.10.1(c), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
 - (c) in Rule 6.10.1(d), in each place it occurs, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
 - (d) in Rule 6.10.1(g), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
 - (e) in Rule 6.10.1(ga), after “Capacity Agreement”, in both places it occurs, there were inserted “or the Conditional Capacity Agreement”;
 - (f) in Rule 6.10.1(h), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
 - (g) in Rule 6.10.1(ha), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
 - (h) in Rule 6.10.1(i), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;

- (i) in Rule 6.10.1(j), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (j) in Rule 6.10.1(o), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (k) at the end of Rule 6.10.1(r), there were inserted “or a Conditional Capacity Agreement”; and
- (l) at the end of Rule 6.10.1(s), there were inserted “or a Conditional Capacity Agreement”.

16.4C.10 Rule 6.10 (Termination) applies as if after Rule 6.10.1 there were inserted:

“6.10.1ZA Modifications to Rule 6.10.1(ba) (Termination Events)

- (a) A Termination Event does not arise under Rule 6.10.1(ba)(i) if:
 - (i) a New Build Capacity Provider (“A”) has not provided Applicant Credit Cover in accordance with Regulation 59 at any time during the Standstill Period;
 - (ii) Regulation 59(1C) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 20(2)(b) of the (No. 1) Regulations 2019) applies to A; and
 - (iii) A provides Applicant Credit Cover in accordance with Regulation 59(5A) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 20(2)(e) of the (No. 1) Regulations 2019).
- (b) A Termination Event does not arise under Rule 6.10.1(ba)(ii) if:
 - (i) a New Build Capacity Provider (“A”) has not maintained Applicant Credit Cover in accordance with Regulation 60(1) at any time during the Standstill Period;

- (ii) Regulation 60(4B) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 21 of the (No. 1) Regulations 2019) applies to A; and
- (iii) A provides Applicant Credit Cover in accordance with Regulation 59(5A) (which is read into the Regulations as modifications to the application of the Regulations by Regulation 20(2)(e) of the (No. 1) Regulations 2019) and maintains that Applicant Credit Cover in accordance with Regulation 60(1).”.

16.4C.11 Rule 6.10.1A (Termination Events: Transfers under Rule 9.2.4(a)) applies as if:

(a) in Rule 6.10.1A(a):

- (i) after “specified in” there were inserted “Rule 6.10.1AA and”;
- (ii) after “Capacity Agreement”, in the first place it occurs, there were inserted “or a Conditional Capacity Agreement”; and
- (iii) after “a “Capacity Agreement”” there were inserted “or a “Conditional Capacity Agreement””; and

(b) in Rule 6.10.1A(b):

- (i) after “a Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
- (ii) after “any Capacity Agreement” there were inserted “or any Conditional Capacity Agreement”.

16.4C.12 Chapter 6 (Capacity Agreements) applies as if, after Rule 6.10.1A, there were inserted:

“6.10.1AA Termination Event: Undue Financial Hardship relating to Non-Payment of Capacity Payments during Standstill Period

- (a) The Secretary of State may direct the Delivery Body in accordance with Regulation 33(2) (as modified by Regulation 26 and Regulation 35 of the (No. 1) Regulations 2019 in respect of Capacity Agreements that existed on 15 November 2018 and 2019 T-1 Agreements respectively) to withdraw a Termination Notice in respect of a Capacity Agreement or a Conditional Capacity Agreement (“the relevant agreement”) and instead terminate the relevant agreement on the ground that it would involve undue financial hardship to require the Capacity Provider to pay a termination fee in respect of the termination of the relevant agreement, owing to the exceptional circumstances of the Capacity Provider’s particular case arising from the non-payment to the Capacity Provider of capacity payments (which were prevented from being paid by the law relating to state aid) during the Standstill Period.

- (b) If the relevant agreement is terminated on the ground specified in Rule 6.10.1AA(a), the Capacity Provider:
 - (i) is not liable to pay a Termination Fee;

 - (ii) must repay any Capacity Payments paid to the Capacity Provider in respect of the period TP3, as defined in Regulation 43B(3)(c) (as modified by Regulation 18 and Regulation 44 of the (No. 1) Regulations 2019 in respect of Capacity Agreements that existed on 15 November 2018 and 2019 T-1 Agreements respectively); and

 - (iii) waives their right to any Capacity Payment in respect of a month included (in whole or in part) in the Standstill Period.”.

16.4C.13 Rule 6.10.2 (procedure for automatic termination) applies as if:

- (a) in Rule 6.10.2(a), after “Capacity Agreement”, in each place it occurs, there were inserted “or the Conditional Capacity Agreement”;

- (b) in Rule 6.10.2(b)(i), for “60 Working Days” there were substituted “12 months”;

(c) after Rule 6.10.2(c), there were inserted—

“(ca) Within 20 Working Days of receipt of a Termination Notice under Rule 6.10.2(a), a Capacity Provider may make written representations to the Secretary of State in accordance with Regulation 33(4) (as modified by Regulation 26 and Regulation 35 of the (No. 1) Regulations 2019 in respect of Capacity Agreements that existed on 15 November 2018 and 2019 T-1 Agreements respectively):

(i) applying to have the Capacity Agreement or the Conditional Capacity Agreement (as the case may be) terminated on the ground specified in Rule 6.10.1AA(a) instead of the ground specified in the Termination Notice;

(ii) specifying the reasons for requesting the termination of the Capacity Agreement or the Conditional Capacity Agreement (as the case may be) on the ground specified in Rule 6.10.1AA(a); and

(iii) confirming the Capacity Provider acknowledges the consequences specified in Rule 6.10.1AA(b) of the termination of the Capacity Agreement or the Conditional Capacity Agreement (as the case may be) on the ground specified in Rule 6.10.1AA(a).

(cb) If Rule 6.10.3ZA (Termination Fee: Concurrent Termination Notices) applies in relation to a Capacity Provider, any representations made by the Capacity Provider to the Secretary of State under Rule 6.10.2(b), Rule 6.10.2(c) or Rule 6.10.2(ca) must specify for each Termination Notice in respect of the Capacity Agreement or the Conditional Capacity Agreement which has not been withdrawn at the time the representations are made—

- (i) the date on which the Termination Notice was issued;
 - (ii) the date 60 Working Days from the date on which the Termination Notice was issued; and
 - (iii) the Termination Event specified in the Termination Notice.”;
- (d) after Rule 6.10.2(d), there were inserted—
- “(da) The Delivery Body must, if directed by the Secretary of State in accordance with Regulation 33(2), withdraw the Termination Notice it has issued in respect of a Capacity Agreement or Conditional Capacity Agreement and instead terminate the Capacity Agreement or Conditional Capacity Agreement solely on the ground specified in Rule 6.10.1AA(a) with immediate effect.”;
- (e) in Rule 6.10.2(e):
- (i) at the beginning, there were inserted “Subject to Rule 6.10.3ZA (in respect of a 2019 T-1 Agreement) and Rule 6.10.5,”; and
 - (ii) after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (f) in Rule 6.10.2(f):
- (i) in the words before Rule 6.10.2(f)(i), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
 - (ii) in Rule 6.10.2(f)(i), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;

(iii) in Rule 6.10.2(f)(ii), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and

(g) in Rule 6.10.2(g), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.4C.14 Rule 6.10.2A (Termination procedure: Transferred Part) applies as if:

(a) in Rule 6.10.2A(a):

(i) in the words before paragraph (a) after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;

(ii) in Rule 6.10.2A(a)(ii), for ““Capacity Agreement or the Conditional Capacity Agreement of the relevant CMU” to the end” there were substituted ““Capacity Agreement or Conditional Capacity Agreement for the relevant CMU (where Rule 6.10.2(a) applies as modified by Rule 16.4C.12(a)) to the end”;

(b) in Rule 6.10.2A(c), for ““Capacity Agreement”” there were substituted ““Capacity Agreement or a Conditional Capacity Agreement” or “Capacity Agreement and a Conditional Capacity Agreement” (where Rule 6.10.2(e) and (f) applies as modified by Rule 16.4C.12(e) and (f))”; and

(c) in Rule 6.10.2A(d), for “Capacity Agreement” there were substituted “Capacity Agreement or the Conditional Capacity Agreement (where Rule 6.10.2A(d) applies as modified by Rule 16.4C.12(g))”.

16.4C.15 Rule 6.10.3 (Termination Fees) applies as if:

(a) in Rule 6.10.3(c), in both places it occurs, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;

(b) in Rule 6.10.3(d):

- (i) in Rule 6.10.3(d)(i), after “Capacity Agreement” there were inserted “, Conditional Capacity Agreement”;
 - (ii) in Rule 6.10.3(d)(ii), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and
 - (iii) in Rule 6.10.3(d)(iii), after “Capacity Agreement” there were inserted “, Conditional Capacity Agreement”;
- (c) in Rule 6.10.3(g), in both places it occurs, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
 - (d) in Rule 6.10.3(i), in both places it occurs, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”; and
 - (e) after Rule 6.10.3(j), there were inserted:
 - “(k) Where a 2019 T-1 Agreement or a Transferred Part in respect of such an agreement is terminated on the ground specified in Rule 6.10.1(i), the Capacity Provider is liable to pay the termination fee specified in Rule 6.10.3(l) in accordance with Regulation 43 (as modified by Regulation 41 of the (No. 1) Regulations 2019).
 - (l) The amount of the termination fee payable under Rule 6.10.1(i) is TF1, as determined in accordance with Regulation 43(3) (as modified as described in Rule 6.10.3(k)).
 - (m) Where a Capacity Agreement or Conditional Capacity Agreement or Transferred Part in respect of such a Capacity Agreement is terminated on the ground specified in Rule 6.10.1AA(a), the Capacity Provider is not liable to pay a termination fee.”.

16.4C.16 Rule 6.10 (Termination) applies as if after Rule 6.10.3, there were inserted:

“6.10.3ZA Termination Fee: concurrent Termination Notices

- (a) This Rule 6.10.3ZA applies if the Delivery Body gives a Capacity Provider holding a 2019 T-1 Agreement more than one Termination Notice in respect of that agreement and the notice periods specified in the Termination Notices cover one or more of the same days (“concurrent Termination Notices”).
- (b) The Delivery Body must terminate the agreement:
 - (i) on the ground specified in whichever of the concurrent Termination Notices first reaches the date on which it is automatically terminated as described in Rule 6.10.2(e); or
 - (ii) on the ground determined by the Delivery Body in accordance with Rule 6.10.3ZA(c) if more than one of the concurrent Termination Notices reaches the date on which the agreement is automatically terminated as described in Rule 6.10.2(e) on the same day (“concurrent termination day”).
- (c) The Delivery Body must determine the ground for termination of the 2019 T-1 Agreement by determining which of the Termination Events specified in the concurrent Termination Notices that automatically terminate the agreement on the concurrent termination day comes first:
 - (i) in respect of Existing Generating CMUs, in the list of Termination Events specified in Rule 6.10.3ZA(d);
 - (ii) in respect of Proven DSR CMUs, in the list of Termination Events specified in Rule 6.10.3ZA(e);
 - (iii) in respect of Unproven DSR CMUs, in the list of Termination Events specified in Rule 6.10.3ZA(f); and

- (iv) in respect of New Build CMUs, in the list of Termination Events specified in Rule 6.10.3ZA(g).
- (d) The list of Termination Events for Existing Generating CMUs referred to in Rule 6.10.3ZA(c)(i) is:
 - (i) the Termination Event in Rule 6.10.1(ha) (Metering Assessment); and
 - (ii) the Termination Event in Rule 6.10.1(h) (Metering Test);
- (e) The list of Termination Events for Proven DSR CMUs referred to in Rule 6.10.3ZA(c)(ii) is:
 - (i) the Termination Event in Rule 6.10.1(ha) (Metering Assessment); and
 - (ii) the Termination Event in Rule 6.10.1(h) (Metering Test);
- (f) The list of Termination Events for Unproven DSR CMUs referred to in Rule 6.10.3ZA(c)(iii) is:
 - (i) the Termination Event in Rule 6.10.1(ha) (Metering Assessment);
 - (ii) the Termination Event in Rule 6.10.1(i) (DSR Test Certificate); and
 - (iii) the Termination Event in Rule 6.10.1(h) (Metering Test); and
- (g) The list of Termination Events for New Build CMUs referred to in Rule 6.10.3ZA(c)(iv) is:
 - (i) the Termination Event in Rule 6.10.1(b) (Financial Commitment Milestone); and
 - (ii) the Termination Event in Rule 6.10.1(c) (Minimum Completion Requirement).”.

16.4C.17 Rule 6.10.3A (repayment of capacity payments) applies as if:

- (a) in Rule 6.10.3A(a), after “Capacity Agreement” there were inserted “, Conditional Capacity Agreement”;
- (b) in Rule 6.10.3A(aa), after “Capacity Agreement”, in both places it occurs, there were inserted “or a Conditional Capacity Agreement”;
- (c) in Rule 6.10.3A(b), after “Capacity Agreement” there were inserted “, Conditional Capacity Agreement”;
- (d) in Rule 6.10.3A(c), after “Capacity Agreement” there were inserted “, Conditional Capacity Agreement”;
- (e) in Rule 6.10.3A(ca), after “Capacity Agreement” there were inserted “, Conditional Capacity Agreement”;
- (f) in Rule 6.10.3A(cb):
 - (i) after “Capacity Agreement,” in the first place it occurs, there were inserted “, a Conditional Capacity Agreement”; and
 - (ii) after “Capacity Agreement”, in the second place it occurs, there were inserted “or a Conditional Capacity Agreement”;
- (g) in Rule 6.10.3A(d), after “Capacity Agreement” there were inserted “, Conditional Capacity Agreement”; and
- (h) after Rule 6.10.3A(d), there were inserted—
 - “(e) Capacity Payments are repayable in respect of the period TP3, as defined in Regulation 43B(3)(c), where the Capacity Agreement, Conditional Capacity Agreement, or Transferred Part is terminated on the ground specified in Rule 6.10.1AA(a).”.

16.4C.18 Rule 6.10 (Termination) applies as if after Rule 6.10.4, there were inserted:

“6.10.5 Termination of Capacity Agreements and/or Conditional Capacity Agreements by the Termination Trigger Event

- (a) Rule 6.10.5(b) and Rule 6.10.5(c) apply on and from the date on which the Secretary of State notifies the Delivery Body under Regulation 6 (termination trigger events) of the (No. 1) Regulations 2019.
- (b) The termination of a Capacity Agreement or Conditional Capacity Agreement specified in the Secretary of State’s notification (the “affected agreement”) by virtue of Regulation 6(3) of the (No. 1) Regulation 2019 occurs notwithstanding any of the following:
 - (i) if prior to the day on which the Agreement Termination Trigger Event or the T-1 Termination Trigger Event occurs (as applicable), a Termination Notice has been issued in respect of the affected agreement, but the affected agreement had not been terminated by the day on which the applicable trigger event occurs;
 - (ii) if prior to the day on which the Agreement Termination Trigger Event or the T-1 Termination Trigger Event occurs (as applicable), the Capacity Provider had made written representations in respect of a Termination Notice relating to the affected agreement to the Secretary of State in accordance with Regulation 33(4) which had not been considered or decided by the Secretary of State by the day on which the applicable trigger event occurs; and
 - (iii) if on the day on which the Agreement Termination Trigger Event or the T-1 Termination Trigger Event occurs (as applicable), a dispute or appeal has been brought by any person in accordance with Part 10 of the Regulations, which has not been finally determined by the day on which the applicable trigger event occurs.
- (c) If the Delivery Body receives a notification from the Secretary of State under Regulation 6 of the (No. 1) Regulation 2019 (termination trigger events), the

Delivery Body must as soon as reasonably practicable in respect of each affected agreement:

- (i) give a notice to the Capacity Provider; and
- (ii) update the Capacity Market Register in accordance with Rule 7.5.1(zc)."

16.4C.19 Rule 6.11.5 applies as if, after "Capacity Agreement" there were inserted "or a Conditional Capacity Agreement".

16.4D Modifications to Chapter 7 (Capacity Market Register)

16.4D.1 Rule 7.2.5(b) applies as if after "Capacity Agreement" there were inserted "or the Conditional Capacity Agreement".

16.4D.2 Rule 7.3(b) applies as if for "or Capacity Agreement" there were substituted ", Capacity Agreement, or Conditional Capacity Agreement".

16.4D.3 Rule 7.4 (Contents of the Capacity Market Register) applies as if:

- (a) in Rule 7.4.1(d)(xiii), after "Capacity Agreement" there were inserted "or the Conditional Capacity Agreement";
- (b) in Rule 7.4.2(a), after "Capacity Agreement" there were inserted "or Conditional Capacity Agreement";
- (c) in Rule 7.4.3, after "Capacity Agreement" there were inserted "or a Conditional Capacity Agreement";
- (d) in Rule 7.4.4, after "Capacity Agreement" there were inserted "or a Conditional Capacity Agreement";
- (e) In Rule 7.4.5:
 - (i) in Rule 7.4.5(b):
 - (aa) after "Capacity Agreement", in the first place it occurs, there were inserted "or the Conditional Capacity Agreement"; and

- (bb) after “Capacity Agreement”, in the second place it occurs, there were inserted “or that Conditional Capacity Agreement”;
- (ii) in Rule 7.4.5(e), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (iii) in Rule 7.4.5(h), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (iv) in Rule 7.4.5(o), in both places it occurs, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and
- (v) in Rule 7.4.5(p), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”.

16.4D.4 Rule 7.5 (Delivery Body amendments to the Capacity Market Register) applies as if:

- (a) in Rule 7.5.1(d), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (b) in Rule 7.5.1(f), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (c) in Rule 7.5.1(g), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (d) in Rule 7.5.1(h), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (e) in Rule 7.5.1(i), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (f) in Rule 7.5.1(p):
 - (i) in the text before Rule 7.5.1(p)(i), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
 - (ii) in Rule 7.5.1(p)(i), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and

- (iii) in Rule 7.5.1(p)(iv), after “Capacity Agreement”, in each place it occurs, there were inserted “or the Conditional Capacity Agreement”;
- (g) after Rule 7.5.1(y), there were inserted:
 - “(z) to record, within 5 Working Days of the last day of the Auction Withdrawal Window, that an Applicant in respect of the Conditional Agreement Auction who is prequalified subject to satisfaction of a further requirement is fully Prequalified;
 - (za) to record that an Applicant with respect to a Prequalified CMU (or a CMU that prequalified subject to satisfaction of a further requirement) is no longer Prequalified (or prequalified subject to satisfaction of a further requirement) as soon as reasonably practicable after the Delivery Body receives an Auction Withdrawal Notice from the Applicant pursuant to Rule 4.13.2;
 - (zb) to reflect that the matters included on the Capacity Market Register in respect of a Conditional Capacity Agreement (including any amendments) apply to the Capacity Agreement it has become, if a Conditional Capacity Agreement becomes a Capacity Agreement under Regulation 30(2A) (which is read into the Regulations as modifications to the application of those Regulations made by Regulation 33 of the (No. 1) Regulations 2019);”;
- (h) after Rule 7.5.1(zb), there were inserted:
 - (zc) where a Capacity Agreement or a Conditional Capacity Agreement is terminated by virtue of Regulation 6(3) of the (No. 1) Regulations 2019, to record such termination as soon as reasonably practicable after the Delivery Body receives a notification from the Secretary of State in respect of that agreement under Regulation 6(1) of those regulations.”.

16.4D.5 Rule 7.8.1 applies as if, after “the Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.4E Modifications to Chapter 8 (Obligations of Capacity Providers and System Stress Events)

16.4E.1 Rule 8.2.1(b) applies as if after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.4E.2 Rule 8.3 (specific obligations and consequences) applies as if:

- (a) in Rule 8.3.2, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (b) in Rule 8.3.3(a), after “Capacity Agreement”, in each place it occurs, there were inserted “or a Conditional Capacity Agreement”;
- (c) in Rule 8.3.3(b), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (d) in Rule 8.3.3(ba), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (e) in Rule 8.3.3(d)(i), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (f) in Rule 8.3.3(d)(ii), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (g) in Rule 8.3.3(ea), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (h) in Rule 8.3.3(h):
 - (i) in the first paragraph numbered (ii), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
 - (ii) in Rule 8.3.3(h)(ii)(bb), “the date falling two weeks” were omitted; and
 - (iii) in Rule 8.3.3(h)(iii)(bb), “the date falling two weeks” were omitted; and
- (i) in Rule 8.3.8:
 - (i) for “Capacity Provider is required by Rule 6.6.1(b)”, there were substituted “Capacity

Provider awarded a 2019 T-1 Agreement in respect of a Prospective CMU is required by Rule 6.6.1"; and

- (ii) after "Capacity Agreement" there were inserted "or a Conditional Capacity Agreement".

16.4E.3 Rule 8.7 (Requirement to provide general assistance) applies as if after "Capacity Agreements" there were inserted "or its Conditional Capacity Agreements".

2.10 After Rule 16.5.2 insert:

"16.5.3 Rule 9.2 (Restrictions on transfer and eligibility to trade) applies as if:

- (a) in Rule 9.2.1(a), "or" were omitted;
- (b) after Rule 9.2.1(a), there were inserted:

"(aa) Conditional Capacity Agreement; or";
- (c) in Rule 9.2.2 after "Capacity Agreement" there were inserted ", the Conditional Capacity Agreement";
- (d) in Rule 9.2.4:
 - (i) after "a Capacity Agreement" there were inserted "or a Conditional Capacity Agreement";
 - (ii) in Rule 9.2.4(b), after "Capacity Agreements" there were inserted "or all Conditional Capacity Agreements";
 - (iii) in Rule 9.2.4(c), after "Capacity Agreements" there were inserted "or all Conditional Capacity Agreements"; and
 - (iv) in Rule 9.2.4(d), after "Capacity Agreements" there were inserted "or all Conditional Capacity Agreements";
- (e) in Rule 9.2.5(a)(ii):
 - (i) after "Capacity Agreement" there were inserted "or a Conditional Capacity Agreement"; and

- (ii) after “Capacity Agreements” there were inserted “or Conditional Capacity Agreements”;
- (f) in Rule 9.2.6(a), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (g) in Rule 9.2.6(c), after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (h) in Rule 9.2.6, in the third place it occurs, after “Capacity Agreement” there were inserted “, a Conditional Capacity Agreement”;
- (i) in Rule 9.2.9, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”;
- (j) in Rule 9.2.10, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and
- (k) in Rule 9.2.11, in both places it occurs, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.5.4 Rule 9.3 (Registration of transfers) applies as if:

- (a) in Rule 9.3.1, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (b) in Rule 9.3.3, after “Capacity Agreement” there were inserted “, the Conditional Capacity Agreement”; and
- (c) in Rule 9.3.4, after “Capacity Agreement” there were inserted “, a Conditional Capacity Agreement”.

16.5.5 Rule 9.4 (Effect of transfer) applies as if:

- (a) in Rule 9.4.1, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”;
- (b) in Rule 9.4.2, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and
- (c) in Rule 9.4.3, after “Capacity Agreement” there were inserted “or a Conditional Capacity Agreement”.

16.5.6 Rule 9.5 (Transfers and testing) applies as if:

- (a) in Rule 9.5.7 after “Capacity Agreements” there were inserted “or all Conditional Capacity Agreements”; and
- (b) in Rule 9.5.11 after “Capacity Agreements” there were inserted “or all Conditional Capacity Agreements”.

2.11 After Rule 16.5 insert:

“16.5A Modifications to Chapter 10 (Volume Reallocation)

16.5A.1 Rule 10.2.5 applies as if after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

2.12 After Rule 16.6.2 insert:

“16.6.3 Rule 13.4 (Demonstrating satisfactory performance) applies as if:

- (a) in Rule 13.4.1ZB, after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and
- (b) in Rule 13.4.1ZC(a), after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

16.6.4 Rule 13.4A (demonstrating extended performance) applies as if:

- (a) in Rule 13.4A.8 after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”; and
- (b) in Rule 13.4A.9(a) after “Capacity Agreement” there were inserted “or the Conditional Capacity Agreement”.

2.13 After Rule 16.6 insert:

“16.7 Modifications to Chapter 14 (Data Provision)

16.7.1 Rule 14.4 (System Operator and Delivery Body: Data Provision) applies as if for Rule 14.4.3(d) there were substituted:

- “(d) the identity of any Capacity Provider who would be ineligible to receive Capacity Payments (in whole or in part) if it were in accordance with the law relating to state aid for Capacity Payments to be made during the Standstill Period;”

“16.8 Modifications to Schedule 1 (Template Capacity Agreement Notice)”

16.8.1 Schedule 1 applies as if, before “Part A: Capacity Obligations” there were inserted:

“Conditional Capacity Agreements”

If this Capacity Agreement Notice has been issued as a result of the Conditional Agreement Auction, all references to “Capacity Agreement” in this Capacity Agreement Notice are to be construed as “Conditional Capacity Agreement” unless:

- (a) the T-1 Agreement Trigger Event occurs before the Auction Results Day; or
- (b) at any point, Conditional Capacity Agreements have become Capacity Agreements in accordance with Regulation 30(2A) of the Electricity Capacity Regulations 2014 (which is read into the Regulations as modifications to the application of those Regulations by Regulation 31(c) of the Electricity Capacity (No. 1) Regulations 2019).”.

PART 3

Prequalification Applications

3. Amendments to Chapter 3 (Submitting an Application for Prequalification)

3.1 In Rule 3.3.3(e), at the beginning, insert “subject to Rule 3.3.3A(a),”.

3.2 In Rule 3.3.3(f), at the beginning, insert “subject to Rule 3.3.3A(b),”.

3.3 After Rule 3.3.3 insert:

“3.3.3A

- (a) Rule 3.3.3(e) does not prevent an Application being submitted to prequalify a Generating CMU or an Interconnector CMU in respect of either of the Delivery Years commencing on 1 October 2020 or 1 October 2021 if the CMU had a Conditional Capacity Agreement which was terminated in accordance with Rule 6.10.2(e) prior to the T-1 Termination Trigger Event occurring.
- (b) Rule 3.3.3(f) does not prevent an Application being submitted to Prequalify a New Build CMU (or the Existing CMU that it becomes) in respect of either of the Delivery Years commencing on 1 October 2020 or 1 October 2021 if the CMU had a Conditional Capacity Agreement which was terminated in accordance with Rule 6.10.2(e) prior to the T-1 Termination Trigger Event occurring.”.

4. Amendments to Chapter 9 (Acceptable Transferees)

4.1 In Rule 9.2.6, after the words “provided that:”, at the end of sub-paragraph (ix), insert “(subject to Rule 9.2.6A)”.

4.2 After Rule 9.2.6 insert:

“9.2.6A

- (a) in respect of a CMU Transferee who held a Conditional Capacity Agreement which was terminated in accordance with Rule 6.10.2(e) prior to the T-1 Termination Trigger

Event occurring, Rule 9.2.6 applies with the modifications described in Rule 9.2.6A(b) where the Transfer relates to either of the Delivery Years commencing on 1 October 2020 or 1 October 2021.

- (b) Rule 9.2.6 applies to a person described in Rule 9.2.6A(a) as if the words “the CMU Transferee is not a CMU in respect of which a Capacity Agreement or Transferred Part has been previously terminated in consequence of a Termination Event within Rule 6.10.1(g), Rule 6.10.1(ga) or Rule 6.10.1A(a)(iii) at any time during the preceding two years.” were omitted.

PART 4

Miscellaneous amendments

5. Amendments to Chapter 1 (General Provisions)

5.1 In Rule 1.2.1, in the definition for “Retired”:

- (a) for “3.11.2(f)(i)3.11.2(f)(i)” substitute “3.11.2(f)(i)”; and
- (b) for “3.11.53.11.5” substitute “3.11.5”.

6. Amendments to Chapter 3 (Prequalification Information)

6.1 In Rule 3.6A.3(c)(ii):

- (a) after “Auction Results” insert “Day”; and
- (b) omit “uction”.

7. Amendments to Chapter 4 (Determination of Eligibility)

7.1 In Rule 4.5B.1(b), omit “was an Applicant”.

8. Amendments to Chapter 5 (Capacity Auctions)

8.1 In Rule 5.10 (Capacity Auction results), renumber the second paragraph numbered “5.10.1” as “5.10.1A”.

9. Amendments to Chapter 6 (Capacity Agreements)

9.1 In Rule 6.10.2(f)(i), for “Capacity Register” substitute “Capacity Market Register”.

9.2 In Rule 6.10.3:

- (a) in Rule 6.10.3(b)(ii), for “43(4)” substitute “43(3)”; and
- (b) in Rule 6.10.3(f)(ii) for “43(4)” substitute “43(3)”.

9.3 In Rule 6.11 (non-completion fee):

- (a) omit Rule 6.11.1;
- (b) in Rule 6.11.2, for “Rule 6.11.1” substitute “Regulation 43A(6)”;
- (c) in Rule 6.11.3(a), omit “as applied by Rule 6.11.1”;
- (d) in Rule 6.11.3(b)(i), for “Rule 6.11.1” substitute “Regulation 43A(6)”;
and
- (e) in Rule 6.11.4(a), omit “as applied by Rule 6.11.1”.

10. Amendments to Chapter 8 (Obligations of Capacity Providers and System Stress Events)

10.1 In Rule 8.3.3(h):

- (a) renumber the second sub-paragraph numbered “(ii)” as “(iii)”;
- (b) renumber the sub-paragraph numbered “(iii)” as “(iv)”.

10.2 In Rule 8.5.3, for “13.4.1(b)” substitute “13.4.1ZA(b)”.

11. Amendments to Chapter 9 (Transfer of Capacity Obligations)

11.1 In Rule 9.2.5(b)(ii), for “13.4.1(b)” substitute “13.4.1ZA(b)”.

11.2 In Rule 9.5.3(b)(ii), for “1 May in that Delivery Year until the later of 1 June in that Delivery Year” substitute “1 May in that Delivery Year until the earliest date that applies”.

12. Amendments to Chapter 13 (Testing Regime)

12.1 In Rule 13.2B.12(d):

- (a) omit “13.2B.13”; and
- (b) renumber the words from “Subject to” to the end as a new Rule “13.2B.13”.

12.2 In Rule 13.4.1ZA, renumber the second paragraph “(b)”.