

# The Capacity Market (Amendment) (No. 5) Rules 2019

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



# The Capacity Market (Amendment) (No. 5) Rules 2019

## 1. Citation and commencement

**1.1** These Rules may be cited as the Capacity Market (Amendment) (No. 5) Rules 2019.

**1.2** These Rules come into force on the day on which the Electricity Capacity (No. 2) 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; and
- (k) the Capacity Market (Amendment) (No. 4) Rules 2017;
- (l) the Capacity Market (Amendment) Rules 2019;
- (m) the Capacity Market (Amendment) (No. 2) Rules 2019;
- (n) the Capacity Market (Amendment) (No. 3) Rules 2019; and
- (o) the Capacity Market (Amendment) (No. 4) Rules 2019; and

**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.

## **Amendments**

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

*Lord Henley*

Parliamentary Under Secretary of State

17 July 2019

Department for Business, Energy & Industrial Strategy

## SCHEDULE

### Part 1

#### General Provisions and Interpretation

#### 1. Amendments to Chapter 1 (General Provisions)

1.1 In Rule 1.2 (Definitions);

1.1.1 in the appropriate place insert:

“Subsequent Capacity Auction	means any of the following Capacity Auctions:  (a) the Subsequent T-1 Auction;  (b) the T-3 Auction; or  (c) the Subsequent T-4 Auction”
“Subsequent Credit Cover	means Applicant Credit Cover in respect of a Subsequent Capacity Auction”
“Subsequent T-1 Auction	means the T-1 Auction for the Delivery Year commencing on 1 October 2020”
“Subsequent T-4 Auction	means the T-4 Auction for the Delivery Year commencing on 1 October 2023”
“T-3 Auction	has the meaning given to that term in Regulation 2”

1.1.2 in the definition of “Maximum Obligation Period”, at the end, insert “, and, in relation to where Rule 5.16.2 applies to a CMU, means one Delivery Year”.

1.2 In Rule 1.3 (Interpretation), after Rule 1.3.3(b), insert:

“(c) where a Rule applies in relation to a Subsequent Capacity Auction (including the rights and obligations arising out of, or in relation to, those auctions):

- (ii) references to the Regulations in that Rule are references to the Regulations as modified by Regulation 87C and regulations 64 and 65 of the (No. 2) 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 Regulation 87C and regulations 64 and 65 of the (No. 2) Regulations 2019.”.

## **Part 2**

### **Amendments to Chapter 16 in respect of Applicant Credit Cover**

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

##### 2.1 In Rule 16.2.1:

- 2.1.1 in Rule 16.2.1(a) for “16.2.1(b) to (e)” substitute “16.2.1(b) to (f) and Rule 16.2ZA.1”;
- 2.1.2 in Rule 16.2.1(c), omit “Rule 16.4A.2,”; and
- 2.1.3 after Rule 16.2.1(e), insert:
  - “(f) The modifications made by Rule 16.4A.2<sup>1</sup> apply on and from the coming into force of the Capacity Market (Amendment) (No .5) Rules 2019.”.

##### 2.2 After Rule 16.2, insert:

**“16.2ZA            Application of Chapter 17 in relation to Capacity Agreements that existed on 15 November 2018**

- 16.2ZA.1            The modifications made by Rule 17.6.1(a), Rule 17.6.1(b) and Rule 17.6.1(d) apply on and from the coming into force of the Capacity Market (Amendment) (No. 5) Rules 2019.”.

##### 2.3 For Rule 16.4A.2, substitute:

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<sup>1</sup> As substituted by Rule 2.3 of the Capacity Market (Amendment) (No. 5) Rules 2019.

“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 (Determination of Eligibility) 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 (a “relevant person”).

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 in relation to each CMU subject to a Capacity Agreement held by a relevant person (a “CM Settlement Body notification”).

4.12.3 Within 5 Working Days of the date of a CM Settlement Body notification, the Delivery Body must issue a notice (“Delivery Body notification”) to each relevant person to whom a CM 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:

- (a) Regulation 59(2)(a);
- (b) Regulation 59(4); or
- (c) Regulation 60(2).

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.

4.12.5 Where a request pursuant to Rule 4.12A.2 in respect of the CMU to which a Delivery Body notification under Rule 4.12.3 relates has been accepted by the CM Settlement Body, the CM Settlement Body must give notice to the relevant person (and on the same day provide the Delivery Body with a copy of such notice):

- (a) that the Subsequent Credit Cover to which the Rule 4.12A.2 request relates is now treated as Applicant Credit Cover provided in respect of the obligation to provide Applicant Credit Cover to which the Delivery Body notification under Rule 4.12.3 relates; and
- (b) of the amount of additional Applicant Credit Cover (if any) required to satisfy the obligation to provide Applicant Credit Cover and to which the Delivery Body notification under Rule 4.12.3 relates.”.

### **Part 3**

#### **Insertion of Chapter 17: Modifications of the Rules in respect of Subsequent Capacity Auctions**

### **3. Insertion of Chapter 17 (Modifications in respect of Subsequent Capacity Auctions)**

3.1 After Chapter 16, insert:

#### **“CHAPTER 17: MODIFICATIONS IN RESPECT OF SUBSEQUENT CAPACITY AUCTIONS**



## **17.1 Purpose of this Chapter**

- 17.1.1 The Rules in this Chapter modify the application of the Rules in respect of Subsequent Capacity Auctions, including the rights and obligations arising out of, or in relation to, those auctions.

## **17.2 Definitions**

- 17.2.1 Rule 1.2 (Definitions) applies as if, in the definition of “Maximum Obligation Period”, after “T-4 Auction” there were inserted “or the T-3 Auction”.

## **17.3 Application of this Chapter in respect of Subsequent Capacity Auctions**

- 17.3.1 The modifications made by the Rules specified in Rule 17.3.2 apply only in respect of Subsequent Capacity Auctions including the rights and obligations arising out of, or in relation to, those auctions.
- 17.3.2 The modifications made by Rule 17.2, Rule 17.4, Rule 17.5, Rule 17.6, Rule 17.7, Rule 17.8, Rule 17.9 and Rule 17.10 apply on and from the coming into force of the Capacity Market (Amendment) (No. 5) Rules 2019.

## **17.4 Modifications to obligations in respect of Capacity Agreements awarded as a result of the T-3 Auction**

- 17.4.1 Modification to Metering Assessment deadline for Existing Generating CMUs

Rule 3.6.4 (Metering Arrangements) applies as if:

- (a) after Rule 3.6.4(b)(i), there were inserted:
- “(ia) no later than the date falling two years prior to the start of the relevant Delivery Year in the case of an Existing Generating CMU that has been awarded a Capacity Agreement in the T-3 Auction; or”;
- (b) in Rule 3.6.4(b)(ii), after “T-4 Auction” there were inserted “or the T-3 Auction”; and
- (c) in Rule 3.6.4(d)(i), after “T-4 Auction” there were inserted “or the T-3 Auction”.

17.4.2 Modification to Metering Assessment deadline for Existing Interconnector CMUs

Rule 3.6A.3 (Metering Arrangements) applies as if:

- (a) after Rule 3.6A.3(aa)(i), there were inserted:
  - “(ia) no later than the date falling two years prior to the start of the relevant Delivery Year in the case of an Existing Interconnector CMU that has been awarded a Capacity Agreement in the T-3 Auction; or”;
- (b) in Rule 3.6A.3(aa)(ii), after “T-4 Auction” there were inserted “or the T-3 Auction”; and
- (c) in Rule 3.6A.3(c)(i), after “T-4 Auction” there were inserted “or the T-3 Auction”.

17.4.3 Modification to Metering Assessment deadline for Proven DSR CMUs

Rule 3.9.4 (Metering Arrangements) applies as if:

- (a) after Rule 3.9.4(b)(i), there were inserted:
  - “(ia) no later than the date falling two years prior to the start of the relevant Delivery Year in the case of a Proven DSR CMU that has been awarded a Capacity Arrangement in the T-3 Auction;”;
- (b) in Rule 3.9.4(b)(ii), after “T-4 Auction” there were inserted “or the T-3 Auction”; and
- (c) in Rule 3.9.4(d)(i), after “T-4 Auction” there were inserted “or the T-3 Auction”.

17.4.4 Modification to the Financial Commitment Milestone

- (a) Rule 6.6.1 (the Financial Commitment Milestone) applies as if, at the end, there were inserted “(except that the reference to “16 months” is to be construed as a reference to “12 months” in respect of a Capacity Provider for a New Build CMU that has been awarded a Capacity Agreement in the T-3 Auction)”.
- (b) Rule 6.6A (Achieving the Financial Commitment Milestone: New Build CMUs) applies as if:

- (i) for Rule 6.6A.1, there were substituted:
  - “6.6A.1 Rule 6.6A.2 applies where in respect of a New Build Capacity Provider (“P”) awarded a Capacity Agreement in the T-3 Auction, the Delivery Body has not, by 8 months after the Auction Results Day (“the 8-month period”), received the Independent Technical Expert’s report referred to in Rule 6.6.1.”;
- (ii) in Rule 6.6A.2, at the end there were inserted “(as modified by Regulation 87C(2)(c)(i))”; and
- (iii) in Rule 6.6A.3, for “the 11 month-period” there were substituted “the 8-month period”.

17.4.5 Modification to the Metering Assessment deadlines for Existing CMUs and Proven DSR CMUs

Rule 8.3.3 (Metering) applies as if:

- (a) after Rule 8.3.3(a)(i), there were inserted:
  - "(ia) no later than the date falling two years prior to the start of the relevant Delivery Year in the case of an Existing CMU or a Proven DSR CMU that has been awarded a Capacity Agreement in the T-3 Auction;"
- (b) in Rule 8.3.3(a)(ii), after “T-4 Auction” there were inserted “or the T-3 Auction”;
- (c) in Rule 8.3.3(e)(ii), after “T-4 Auction” there were inserted “or the T-3 Auction”; and
- (d) in Rule 8.3.3(h)(i), after “T-4 Auction” there were inserted “or the T-3 Auction”.

**17.5 Modifications to Chapter 2 (Auction Guidelines and De-rating)**

17.5.1 Rule 2.2 (Capacity Auction Timetable and Guidelines) applies as if:

- (a) in Rule 2.2.2, after “T-4 Auction” there were inserted “or the T-3 Auction”; and
- (b) in Rule 2.2.4, after “within 5 Working Days of receiving such notification” there were inserted “(and in any event by no later than the date on which the Delivery Body is

required under Regulation 21(3) to publish the final version of the Auction Guidelines for the Subsequent T-4 Auction)".

## **17.6 Modifications to Chapter 4 (Determination of Eligibility) in respect of Applicant Credit Cover for a Subsequent Capacity Auction**

- 17.6.1 Modification in relation to Capacity Agreements awarded as a result of a Subsequent Capacity Auction in respect of provision of Applicant Credit Cover after the Deferred Capacity Payment Trigger Event occurs.

Chapter 4 applies as if:

- (a) in Rule 4.5A.1, after "Regulation 59(1B)," there were inserted "a person to which a confirmation notification under Rule 4.12A.3 has been issued,";
- (b) in Rule 4.5B.1(b), after "Capacity Auction is" there were inserted "a person to which a confirmation notification under Rule 4.12A.3 was issued or";
- (c) after Rule 4.11A, there were inserted:

**“4.12 Provision of Applicant Credit Cover after Deferred Capacity Payment Trigger Event in respect of Subsequent Capacity Auctions**

4.12.1 This Rule 4.12 applies in respect of an Applicant:

- (a) in respect of a CMU which has Conditionally Prequalified (a "relevant CMU") for a Subsequent Capacity Auction; and
- (b) to which Regulation 59(5A) (which is read into the Regulations as modifications to the application of the Regulations by regulation 64 of the (No. 1) Regulations 2019) applies ("the relevant person").

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 in respect of each relevant CMU (a “CM Settlement Body notification”).

4.12.3 Within 5 Working Days of the date of a CM Settlement Body notification, the Delivery Body must issue a notice (“Delivery Body notification”) to each relevant person, specifying that the relevant person must, within 15 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:

- (a) Regulation 59(2)(a);
- (b) Regulation 59(2B) (when read into Regulation 59 as a modification to the application of that Regulation by Regulation 87C(2)(c)(ii));
- (c) Regulation 59(4);
- (d) Regulation 60(1A) (when read into Regulation 60 as a modification to the application of that Regulation by Regulation 87C(2)(d)(ii)); or
- (e) Regulation 60(2).

4.12.4 If the CM Settlement Body gives notice to the relevant 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.”; and

(d) after Rule 4.12, there were inserted:

**“4.12A Request to CM Settlement Body in respect of Subsequent Capacity Auction Credit Cover**

4.12A.1 If Regulation 59(1BA) (which is read into the Regulations as modifications to the application of those Regulations by regulation 65 of the (No. 2) Regulations 2019) applies to a person (“the relevant person”), the relevant person may submit a request pursuant to Rule 4.12A.2 to the CM Settlement Body and must on the same day provide a copy of that request to the Delivery Body.

4.12A.2 To make a request pursuant to this Rule 4.12A.2, the relevant person must:

(a) submit the request on or after the day the relevant person provides the Subsequent Credit Cover to which the request relates, and by no later than 40 Working Days after the date of a Delivery Body notification provided under Rule 4.12.3 (when that Rule is read into the Rules as a modification by Rule 16.4A.2); and

(b) confirm in the request:

(i) that the request relates to a CMU in respect of which the relevant person has provided:

(aa) Subsequent Credit Cover; and

(bb) has received a Delivery Body notification under Rule 4.12.3 (when that Rule is read into the Rules as a modification by Rule 16.4A.2);

(ii) any unique CMU identifier for this CMU;

(iii) that the Subsequent Credit Cover to which the

request relates has not been drawn down, and is not required to be drawn down, under Regulation 61 (as modified by by regulation 64(1) of the (No. 1) Regulations 2019) and has not been released under Regulation 58(1)(a); and

- (iv) that the relevant person wishes for the Subsequent Credit Cover to be dealt with thereafter in accordance with Regulation 59(1BB)(a) and (b) (which are read into the Regulations as modifications to the application of those Regulations by regulation 65 of the (No. 2) Regulations 2019).

4.12A.3 If the CM Settlement Body receives a request pursuant to Rule 4.12A.2, the CM Settlement Body must give notice to the relevant person confirming whether or not it accepts this request (“confirmation notification”) in accordance with Rule 4.12A.4, and must on the same day provide the Delivery Body with a copy of the confirmation notification.

4.12A.4

- (a) Subject to paragraph (b), the CM Settlement Body must give a confirmation notification as soon as reasonably practicable after the receipt of a request pursuant to Rule 4.12A.2;
- (b) The CM Settlement Body may not give a confirmation notification before it has given the notice referred to in Rule 4.12.4 (when that Rule is read

into the Rules as a modification by Rule 17.6.1(c) (“approval notification”) in respect of the Subsequent Credit Cover to which the Rule 4.12A.2 request relates (but may include an approval notification and confirmation notification in the same notice).”.

## **17.7 Modifications to Chapter 6 (Capacity Agreements)**

17.7.1 Rule 6.4.1 (Indexation) applies as if after “T-4 auction” there were inserted “or the T-3 Auction”.

17.7.2 Rule 6.10.1(ba) applies as if:

- (a) in Rule 6.10.1(ba)(i), at the end there were inserted “(as modified by Regulation 87C(2)(c)(i))”; and
- (b) in Rule 6.10.1(ba)(ii), at the end there were inserted “(as modified by Regulation 87C(2)(d))”.

## **17.8 Modifications to Chapter 9 (Transfer of Capacity Obligations)**

17.8.1 Rule 9.2.6(a) applies as if after “T-4 Auction” there were inserted “or the T-3 Auction”.

## **17.9 Modifications to Chapter 13 (Testing Regime)**

17.9.1 Rule 13.3.2A(b) applies as if after “T-4 Auction” there were inserted “or the T-3 Auction”.

## **17.10 Modifications to Schedule 1 (Template Capacity Agreement Notice)**

17.10.1 Schedule 1 applies as if, in Part B, in the row of the table marked “(iii)”, for “(T-4 or T-1)” there were substituted “(T-4, T-1 or T-3)”.



## Part 4

### Amendments in respect of eligibility to participate in Subsequent Capacity Auctions

#### 4. Amendments to Chapter 4 (Determination of Eligibility)

4.1 In Rule 4.4 (decisions to be made by the Delivery Body):

4.1.1 in Rule 4.4.3, for “and Rule 4.4.3AC” substitute “, Rule 4.4.3AC and Rule 5.15.1(b)”; and

4.1.2 in Rule 4.4.3B, for “or Rule 4.4.3AC” substitute “, Rule 4.4.3AC or Rule 5.15.1(b)”.

#### 5. Amendments to Chapter 5 (Capacity Auctions)

5.1 After Rule 5.14, insert:

**“5.15           Prequalification for the Subsequent T-4 Auction where a Capacity Agreement is awarded in the T-3 Auction**

5.15.1

- (a) Rule 5.15.1(b) applies where:
- (i) a CMU is a Prequalified CMU for the Subsequent T-4 Auction (“the relevant CMU”); and
  - (ii) the relevant CMU (or any Generating Unit or DSR CMU Component comprised in the relevant CMU) is awarded a Capacity Agreement in the T-3 Auction that is in respect of the Delivery Year commencing on 1 October 2023.
- (b) Following the Auctions Results Day for the T-3 Auction, the Delivery Body must as soon as reasonably practicable notify the Applicant in respect of the relevant CMU that the relevant CMU is no longer prequalified for the Subsequent T-4 Auction.

**5.16           Maximum Obligation Period of one Delivery Year for Prospective CMUs entering the Subsequent T-4 Auction where a Capacity Agreement is awarded in the T-3 Auction**

- 5.16.1 If Rule 5.16.2 applies to a CMU, the Delivery Body must as soon as reasonably practicable following the Auction Results Day for the T-3 Auction notify the Applicant in respect of that CMU that the Maximum Obligation Period which applies in respect of the Subsequent T-4 Auction is one Delivery Year.
- 5.16.2 This Rule 5.16.2 applies to a CMU where that CMU is a Prospective CMU that is a Prequalified CMU for the Subsequent T-4 Auction and:
- (a) in the case of a New Build CMU, the CMU is awarded a Capacity Agreement in the T-3 Auction; or
  - (b) in the case of a Refurbishing CMU, the CMU (or any Generating Unit or DSR CMU Component comprised in the CMU) is awarded a Capacity Agreement in the T-3 Auction except where that Capacity Agreement is awarded in respect of the associated Pre-Refurbishment CMU and has a duration of one Delivery Year.”.

## **6. Amendments to Chapter 7 (Capacity Market Register)**

6.1 After Rule 7.5.1(a), insert:

“(aa) to record a change made to the Maximum Obligation Period for a CMU where Rule 5.16.2 applies;”.

6.2 In Rule 7.5.1(ta), for “or Rule 4.4.3AC” substitute “, Rule 4.4.3AC or Rule 5.15.1(b)”.

## Part 5

### Fossil Fuel Emissions Limit in respect of New Build CMUs and Unproven DSR CMUs

#### 7. Amendments to Chapter 1 (General Provisions)

7.1 In Rule 1.2.1 (Definitions), in the appropriate place insert:

“Commercial Production Start Date means the date on which a Generating Unit, when commissioned (within the meaning of Regulation 2):

(a) first starts providing electricity (within the meaning of Regulation 3); and

(b) is capable of being controlled independently from any other Generating Unit”

“Fossil Fuel

means:

(a) coal;

(b) lignite;

(c) peat;

(d) natural gas (within the meaning of section 21 of the Energy Act 1976);

(e) crude liquid petroleum;

(f) bitumen;

(g) any substance which—

(i) is produced directly or indirectly from a substance mentioned in paragraphs (a) to (f) for use as a fuel for a Generating Unit; and

(ii) when burned, produces a greenhouse gas (within the meaning of section 92 of the Climate Change Act 2008)”

"Fossil Fuel Emissions Limit	means 550g of carbon dioxide of Fossil Fuel origin per kWh of electricity generated"
"Fossil Fuel Component	means any Generating Unit or DSR CMU Component (which is a Permitted On-site Generating Unit) which produces electricity using a Fossil Fuel"
"Fossil Fuel Emissions Declaration	means a declaration in the form set out in Exhibit ZA"

## 8. Amendments to Chapter 3 (Prequalification Information)

8.1 After Rule 3.4.9, insert:

- "3.4.10 Provision of Fossil Fuel Emissions Declaration
- (a) This Rule 3.4.10 applies to an Applicant in respect of a New Build CMU which comprises or will comprise of one or more Fossil Fuel Components or an Unproven DSR CMU (a "relevant Applicant").
  - (b) A relevant Applicant must provide to the Delivery Body a Fossil Fuel Emissions Declaration (that the Delivery Body considers fully addresses the matters set out in Exhibit ZA):
    - (i) in its Application; or
    - (ii) in any case by the date which is 15 Working Days after the Prequalification Results Day.
  - (c) Where a relevant Applicant provides a Fossil Fuel Emissions Declaration in its Application that the Delivery Body considers does not fully address the matters set out in Exhibit ZA, the Delivery Body must, by the last day of the Prequalification Assessment Window, notify the relevant Applicant that they must provide an amended Fossil Fuel Emissions Declaration to satisfy the requirements of Rule 3.4.10(b).".

## 9. Amendments to Chapter 4 (Determination of Eligibility)

9.1 In Rule 4.4.2:

9.1.1 at the end of paragraph (g), omit “or”;

9.1.2 at the end of paragraph (h), for “.” substitute “; or”; and

9.1.3 after paragraph (h) insert:

“(i) Rule 3.4.10 applies to the Applicant for the CMU, and the Applicant has not provided a Fossil Fuel Emissions Declaration in accordance with Rule 3.4.10(b)”.

9.2 In Rule 4.4.3, for “Rule 4.6,” substitute “Rule 4.6, or a failure to provide a Fossil Fuel Emissions Declaration as required by Rule 3.4.10(b)”.

9.3 After Rule 4.5.1(b)(v), insert:

“(va) if the CMU is a New Build CMU which comprises or will comprise of one or more Fossil Fuel Components or is an Unproven DSR CMU and either the Applicant in respect of the CMU has not provided a Fossil Fuel Emissions Declaration in accordance with Rule 3.4.10(b)(i) or the Delivery Body has provided a notice to the Applicant under Rule 3.4.10(c), that the Prequalification of the CMU is conditional upon the Applicant complying with Rule 3.4.10(b);”.

9.4 After Rule 4.7, insert:

#### **“4.7A Conditional Prequalification – Fossil Fuel Emissions Declaration**

4.7A.1 By 20 Working Days after Prequalification Results Day, the Delivery Body must give a notice to an Applicant to which Rule 3.4.10 applies that a CMU is fully Prequalified if the Delivery Body has received from the Applicant a Fossil Fuel Emissions Declaration that satisfies the requirements of Rule 3.4.10(b)”.

### **10. Amendments to Chapter 7 (Capacity Market Register)**

10.1 After Rule 7.4.1(d)(xv), insert:

“(xvi) whether the Prequalification of the CMU is conditional upon the Applicant complying with Rule 3.4.10(b);”.

10.2 After Rule 7.5.1(x), insert:

“(xa) to record, on the date that the Delivery Body gives a notice under Rule 4.7A.1, that the CMU is fully Prequalified;”.

**11. Insertion of Exhibit ZA (Fossil Fuel Emissions Declaration)**

11.1 After Schedule 7, insert:

**“EXHIBIT ZA: FORM OF FOSSIL FUEL EMISSIONS DECLARATION**

[NAME OF APPLICANT]

(Incorporated in England and Wales, or Scotland under Registered No. [ ])

[ADDRESS OF REGISTERED OFFICE]

[APPLICATION YEAR] Fossil Fuel Emissions Declaration

The following confirmations and declarations are made by directors of [NAME OF APPLICANT] (the “**Applicant**”)<sup>2</sup>:

with respect to [Description of CMU to be inserted] (the “**Relevant CMU**”);

in relation to the Application for Prequalification in respect of the Auction to be held on [insert date of Capacity Auction] (the “**Relevant Capacity Auction**”);

and in relation to any Delivery Year in respect of which a Capacity Obligation awarded in the Relevant Capacity Auction to the Relevant CMU may apply (a “**Relevant Delivery Year**”):

- (a) The Applicant hereby confirms that there is or will be no Fossil Fuel Component forming part of the Relevant CMU which:
  - (i) has a Commercial Production Start Date which is on or after 4 July 2019; and
  - (ii) will at any time during a Relevant Delivery Year emit more than the Fossil Fuel Emissions Limit.

Capitalised terms used herein have the meaning given in the Capacity Market Rules 2014 unless otherwise indicated.

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<sup>2</sup> For sole director companies, substitute “The following confirmations and declarations are made by the director of [NAME OF APPLICANT] (the “Applicant”)”.

DATED: [dd/mm/yyyy]<sup>3</sup>

DATED: [dd/mm/yyyy]<sup>3</sup>

Signed for and on behalf of

.....

.....

Director

Director

Print Name:

Print Name:

To be executed by the signature of two directors, unless Rule 1.3A (inserted by the Capacity Market (Amendment) Rules 2014) applies.”.

## Part 6

### Miscellaneous Amendments

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

12.1 In Rule 16.2A.1(b), for “Rule 16.4E.2(i)(i)” substitute “Rule 16.4E.2(i)”.

#### 13. Amendments to Exhibit J (Form of Funding Declaration)

13.1 In Exhibit J, for:

“DATED: [x]

Signed for and on behalf of”, substitute

“DATED: [dd/mm/yyyy]<sup>4</sup>

DATED: [dd/mm/yyyy]<sup>4</sup>

Signed for and on behalf of”.

<sup>3</sup> Signatures need to be dated: The date for each signature is to be provided on the day in which the relevant director signs, in the format: day, month, year (dd/mm/yyyy).

<sup>4</sup> Signatures need to be dated: The date for each signature is to be provided on the day in which the relevant director signs, in the format: day, month, year (dd/mm/yyyy).