

# The Capacity Market (Amendment) (No. 2) Rules 2020

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



# The Capacity Market (Amendment) (No. 2) Rules 2020

## 1. Citation, Commencement and Interpretation

**1.1** These Rules may be cited as the Capacity Market (Amendment) (No. 2) Rules 2020.

**1.2** These Rules come into force on the day after the day on which these Rules are made.

**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;
- (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;
- (o) the Capacity Market (Amendment) (No. 4) Rules 2019;

(p) the Capacity Market (Amendment) (No. 5) Rules 2019; and

(q) the Capacity Market (Amendment) Rules 2020;

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. Application

2.1 The amendments made by paragraph 5.1.2 (substitution of the definition of “Capital Expenditure”) and Part 4 (Fossil Fuel Emissions and Fossil Fuel Yearly Emissions) of the Schedule to these Rules, do not apply in respect of any Capacity Agreement that has been awarded as a result of a Capacity Auction held before these Rules come into force.

2.2 The amendments made by paragraphs 19.1.2 and 19.1.3 in Part 5 of the Schedule to these Rules apply on and from the coming into force of the Electricity Capacity (Amendment etc.) (Coronavirus) Regulations 2020.

## 3. Amendments

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

29. vi. 20

2020



*Kwasi Kwarteng*  
Minister of State for Business, Energy and Clean Growth  
Department for Business, Energy & Industrial Strategy

## SCHEDULE

### Part 1

#### Minimum Capacity Threshold

#### **1. Amendments to Chapter 8 (Obligations of Capacity Providers and System Stress Events)**

##### **1.1** In Rule 8.3.2 (DSR Tests):

1.1.1 in Rule 8.3.2(a), for “2MW”, substitute “1MW”;

1.1.2 in Rule 8.3.2(c), for “2MW”, substitute “1MW”; and

1.1.3 in Rule 8.3.2(d), for “2MW”, substitute “1MW”.

#### **2. Amendments to Chapter 9 (Transfer of Capacity Obligations)**

**2.1** In Rule 9.2.4(a)(ii), for “the Capacity Obligation” substitute “if the transfer is of part of its Capacity Obligation, the part”.

#### **3. Amendments to Chapter 13A (Metering Recovery Faults and Repayment of Capacity Payments)**

##### **3.1** In Rule 13A.2 (Failure to notify a change to the metering configuration):

3.1.1 in Rule 13A.2.10, for “2MW”, substitute “1MW”; and

3.1.2 in Rule 13A.2.11, for “2MW”, substitute “1MW”.

##### **3.2** In Rule 13A.3 (Errors with the submission of data):

3.2.1 in Rule 13A.3.10, for “2MW”, substitute “1MW”; and

3.2.2 in Rule 13A.3.11, for “2MW”, substitute “1MW”.

##### **3.3** In Rule 13A.4 (Faulty Metering Equipment):

3.3.1 in Rule 13A.4.11, for “2MW”, substitute “1MW”; and

3.3.2 in Rule 13A.4.12, for “2MW”, substitute “1MW”.

##### **3.4** In Rule 13A.5 (Submission of incorrect information):

3.4.1 in Rule 13A.5.10, for “2MW”, substitute “1MW”; and

3.4.2 in Rule 13A.5.11, for “2MW”, substitute “1MW”.

**3.5** In Rule 13A.8.6(b), for “2MW”, substitute “1MW”.

## Part 2

### New technologies

#### 4. Amendments to Chapter 2 (Auction Guidelines and De-Rating)

4.1 After Rule 2.3 insert:

##### **“2.4 Annual review of Generating Technology Classes**

- 2.4.1 The Secretary of State must, each calendar year, review whether any class of Generating Unit should be identified as a Generating Technology Class as follows:
- (a) by 1 October of each calendar year, the Secretary of State must consult interested parties as to whether any class of Generating Unit not already identified as a Generating Technology Class is capable of contributing to security of supply; and
  - (b) by 1 December of each calendar year, the Secretary of State must publish the outcome of the review.
- 2.4.2 If, following the review, the Secretary of State determines that a class of Generating Unit should be identified as a Generating Technology Class, the Secretary of State must amend the Rules accordingly as soon as reasonably practicable.”.

## Part 3

### Unproven DSR CMUs and multi-year Capacity Obligations

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

##### 5.1 In Rule 1.2 (Definitions):

##### 5.1.1 after the definition of “DSR CMU Component” insert:

**“DSR Partial Credit Cover Release** has the meaning given in Rule 6.7B”;

##### 5.1.2 for the definition of “Capital Expenditure” substitute:

**“Capital Expenditure** means the capital expenditure (as determined under International Accounting Standard 16) in relation to property, plant and equipment which has the primary purpose of delivering capacity:

- (a) for a Generating CMU or an Unproven DSR CMU, on that CMU; or
- (b) for an Interconnector CMU, on that CMU together with the Non-GB Part;”;

##### 5.1.3 for the definition of “Independent Technical Expert” substitute:

**“Independent Technical Expert** means a person who:

- (a) is Independent of the relevant Capacity Provider;
- (b) is engaged by the relevant Capacity Provider at its expense to prepare the technical assessment, report, certificate or commentary required by Rules 6.6, 6.7, 6.7B, 6.10, 8.3 or 12.2 to the Required Technical Standard; and
- (c) if the person is:
  - (i) engaged in respect of a Prospective Generating CMU, an experienced technical expert with

international experience and expertise in the construction and operation of Generating Units;

(ii) engaged in respect of a Prospective Interconnector CMU, an experienced technical expert with international experience and expertise in the construction and operation of Electricity Interconnectors; and

(iii) engaged in respect of an Unproven DSR CMU, an experienced technical expert with experience and expertise in Demand Side Response”;

5.1.4 after the definition of “Mandatory CMU” insert:

**“Manufacturer Serial Number** in relation to equipment that is or forms part of a DSR CMU Component of an Unproven DSR CMU, means the number given to, and for the purpose of identifying, the equipment by its manufacturer”;

5.1.5 in the definition of “Maximum Obligation Period”:

(a) after paragraph (a) insert:

“(aa) fifteen Delivery Years, including the first Delivery Year for which the Capacity Agreement is awarded, for an Unproven DSR CMU for which an Applicant has stated pursuant to Rule 3.10.1(aa)(i) that Qualifying £/kW Capital Expenditure is expected to equal or exceed the Fifteen Year Minimum £/kW Threshold;”;

(b) in paragraph (b):

(i) after “Prospective Generating CMU” insert “or Unproven DSR CMU”; and

(ii) after “Rule 3.7.2(d)” insert “or Rule 3.10.1(aa)(i) (as the case may be)”; and

(c) in paragraph (c), after “(b)” insert “or Unproven DSR CMUs not included in (aa)”;

5.1.6 in the definition of “Qualifying £/kW Capital Expenditure”:

(a) after “Refurbishing CMU which is a Generating CMU,” insert “or an Unproven DSR CMU,”; and

(b) for “of the Generating CMU” substitute “of the CMU”; and

5.1.7 in the definition of “Total Project Spend”, after “New Build CMU” insert “or an Unproven DSR CMU”.

## **6. Amendments to Chapter 2 (Auction Guidelines and De-rating)**

**6.1** In Rule 2.3.4 (De-rating of CMUs):

6.1.1 in Rule 2.3.4(b) after “DSR CMUs” insert “except those CMUs described in Rule 2.3.4(e);

6.1.2 in Rule 2.3.4(d) for “.” Insert “; and”; and

6.1.3 after Rule 2.3.4(d) insert:

“(e) for Unproven DSR CMUs which are bidding for or are awarded Capacity Agreements of a duration exceeding one Delivery Year, and for which a declaration has been made under Rule 3.10.1(aa)(iv)(aa) that the CMU contains or will contain at least one DSR CMU Component that contains a Storage Facility, the EFC of the Storage Generating Technology Class declared under Rule 3.10.1(aa)(iv)(bb).”.

## **7. Amendments to Chapter 3 (Prequalification Information)**

**7.1** For Rule 3.4.4 (Classification of the CMU) substitute:

“3.4.4. Classification of the CMU

Each Applicant must declare whether the CMU to which the Application relates comprises:

- (a) an Existing CMU, a New Build CMU, a Refurbishing CMU, a Proven DSR CMU or an Unproven DSR CMU;
- (b) if the CMU is a Generating CMU, whether the CMU comprises of at least one Storage Facility; and
- (c) if the CMU is an Unproven DSR CMU in relation to which the Applicant is bidding for a Capacity Agreement of a duration exceeding one Delivery Year, whether the CMU contains or will contain at least one DSR CMU Component that contains at least one Storage Facility.”.

**7.2** In Rule 3.10 (Additional Information for Unproven DSR CMU):

**7.2.1** in Rule 3.10.1 (Business Plan), after Rule 3.10.1(a) insert:

- “(aa) An Applicant for an Unproven DSR CMU (“CMU A”) that is intending to bid for a Capacity Agreement of a duration exceeding one Delivery Year must include in the Application:
- (i) a statement as to whether the expected Qualifying £/kW Capital Expenditure for CMU A will be:
    - (aa) equal to or greater than the Fifteen Year Minimum £kW Threshold; or
    - (bb) equal to or greater than the Three Year Minimum £kW Threshold and less than the Fifteen Year Minimum £kW Threshold;
  - (ii) details of how the Applicant has taken, or will take, steps to acquire DSR CMU Components and/or Contractual DSR Control so the actual Qualifying £/kW Capital Expenditure will be equal to or greater than the expected Qualifying £/kW Capital Expenditure;
  - (iii) an estimate of Capital Expenditure in respect of each DSR CMU Component and the Total Project Spend; and
  - (iv) a declaration stating:
    - (aa) whether CMU A contains or will contain at least one DSR CMU Component that contains a Storage Facility;
    - (bb) that, if a declaration is made that CMU A contains or will contain at least one DSR CMU Component that contains at least one Storage Facility, which Storage Generating Technology Class should be used for the purpose of calculating the De-rating Factor to be applied to CMU A under Rule 2.3.4(e); and
    - (cc) that if all of the following circumstances apply in respect of a DSR CMU Component (“Component X”), the Applicant acknowledges that Capital Expenditure incurred in respect of the Component X will not form part of the Total Project Spend for CMU A:
      - (i) CMU A contains (or will contain) Component X;

- (ii) Component X formed part of another DSR CMU (“CMU B”);
- (iii) CMU B was awarded a Capacity Agreement of a duration exceeding one Delivery Year, which has not been reduced to one Delivery Year under Rule 8.3.6(d); and
- (iv) CMU B incurred Capital Expenditure in respect of Component X, which was certified under Rule 8.3.6 to be part of the Total Project Spend for CMU B.”; and

7.2.2 in Rule 3.10.2 (Required Testing):

- (a) in Rule 3.10.2(a) (DSR Test or Joint DSR Test), after “relates” insert “(or in the case of an Applicant intending to bid for a Capacity Agreement of a duration exceeding one Delivery Year, prior to the date falling one month before the commencement of the second Delivery Year to which the Capacity Auction relates)”;
- (b) in Rule 3.10.2(b) (Metering Assessment), after “relates” insert “(or, in the case of an Applicant intending to bid for a Capacity Agreement of a duration exceeding one Delivery Year, prior to the date falling four months before the commencement of the second Delivery Year to which the Capacity Auction relates)”;
- (c) in Rule 3.10.2(c) (Metering Test), after “relates” insert “(or, in the case of an Applicant intending to bid for a Capacity Agreement of a duration exceeding one Delivery Year, prior to the date falling two weeks before the commencement of the second Delivery Year to which the Capacity Auction relates)”.

**8. Amendments to Chapter 5 (Capacity Auctions)**

8.1 In Rule 5.5 (Capacity Auction format), for Rule 5.5.14(b) substitute:

- “(b) specifies the duration of Capacity Agreement in whole Delivery Years that it requires at the Price Cap:
  - (i) in the case of a New Build CMU or a Refurbishing CMU (other than an Interconnector CMU) with a Maximum Obligation Period of more than one year, not being greater than the Maximum Obligation Period for that CMU; and
  - (ii) in the case of an Unproven DSR CMU with a Maximum Obligation Period of more than one year, being at least two Delivery Years and not being greater than the Maximum Obligation Period for that CMU.”.

## 9. Amendments to Chapter 6 (Capacity Agreements)

### 9.1 After Rule 6.7 insert:

#### **“6.7A Unproven DSR CMUS – when multi-year Capacity Agreements take effect**

6.7A.1 Where an Unproven DSR CMU awarded a Capacity Agreement of a duration exceeding one Delivery Year satisfies the requirements of Rule 8.3.2(a) (DSR Test):

- (a) on or prior to the start of the first Delivery Year of the Capacity Agreement, the Capacity Agreement will take effect on the first day of such Delivery Year; or
- (b) after the start of the first Delivery Year of the Capacity Agreement but before the date falling one month before the commencement of the second Delivery Year of the Capacity Agreement, the Capacity Agreement will take effect on the date that CMU satisfies the requirements of Rule 8.3.2(a) (DSR Test), Rule 8.3.3(b) (Metering Assessment) and, if applicable, Rule 8.3.3(d) (Metering Test).

6.7A.2 A Capacity Provider is not liable for, or entitled to, any payments in respect of a particular Unproven DSR CMU if the relevant System Stress Event precedes the date on which the CMU satisfies the requirements of Rule 8.3.2(a) (DSR Test), Rule 8.3.3(b) (Metering Assessment) and, if applicable, Rule 8.3.3(d) (Metering Test).

#### **6.7B DSR Partial Credit Cover Release**

6.7B.1 An Applicant, Bidder or Capacity Provider for an Unproven DSR CMU in respect of a Capacity Agreement of a duration exceeding one Delivery Year (“P”) will meet the requirements for DSR Partial Credit Cover Release if, before P gives a notice to the Delivery Body under Rule 8.3.3A specifying the DSR CMU Components comprising the CMU, the Delivery Body is satisfied that P has provided it with:

- (a) information updating the information provided under Rule 3.10.1(aa)(ii);
- (b) a declaration, signed by two directors of P (or two officers in the case of a body other than a company), that:
  - (i) P has reasonable grounds to believe that the Qualifying £/kW Capital Expenditure for the CMU will be equal to or greater than the expected Qualifying £/kW Capital Expenditure declared under Rule 3.10.1(aa)(i);

- (ii) the DSR CMU Components identified in the declaration, which have been acquired and/or in respect of which Contractual DSR Control has been acquired to form the CMU, are expected to provide at least 50 per cent of the CMU's De-rated Capacity; and
  - (iii) from the date P meets the requirements for DSR Partial Credit Cover Release to the date that a DSR Test Certificate is issued in respect of the CMU (both dates inclusive), the CMU will contain the DSR CMU Components identified in the declaration, unless any of these DSR CMU Components fails and another DSR CMU Component or Contractual DSR Control over another DSR Component must be acquired for the CMU to carry out the DSR Test; and
- (c) a report prepared by an Independent Technical Expert at the Capacity Provider's cost confirming that the Independent Technical Expert (either directly or indirectly) is satisfied as to the matters set out in Rule 6.7B.1(b)(i) and Rule 6.7B.1(b)(ii).

6.7B.2 Where the Delivery Body is satisfied that P has met the requirements for DSR Partial Credit Cover Release:

- (a) the Delivery Body must notify P within five Working Days that P is eligible to request a portion of its Applicant Credit Cover to be released in accordance with the Regulations; and
- (b) P may submit a request to the CM Settlement Body for a portion of its Applicant Credit Cover to be released in accordance with the Regulations.”.

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

**10.1** In Rule 8.3.2 (DSR Tests):

10.1.1 at the end of Rule 8.3.2(a) insert “(or in the case of a CMU awarded a Capacity Agreement of a duration exceeding one Delivery Year, prior to the date falling one month before the commencement of the second Delivery Year of the Capacity Agreement)”.

**10.2** For Rule 8.3.2A (DSR Tests during a Delivery Year) substitute:

“8.3.2A Changes to DSR Components - Validity of DSR Test

Where a Capacity Provider has added and/or removed components from a DSR CMU pursuant to Rule 8.3.4, Rule 8.3.4(n) applies and the new DSR

Test Certificate required under Rule 8.3.4(n)(iii) must be obtained subsequent to the final component addition or removal.”.

**10.3** In Rule 8.3.3 (Metering):

10.3.1 at the end of Rule 8.3.3(e)(i) (Metering Test Certificate) insert “(or, if the Capacity Agreement is of a duration exceeding one Delivery Year, by the date falling two weeks before the commencement of the second Delivery Year of the Capacity Agreement)”.

**10.4** In Rule 8.3.3A (Notifying DSR Components):

10.4.1 in Rule 8.3.3A(a)(ii), at the end, for “.” insert “; and”; and

10.4.2 after Rule 8.3.3A(a)(ii), insert:

“(iii) in the case of a CMU that has been awarded a Capacity Agreement of a duration exceeding one Delivery Year, for each DSR CMU Component comprising the CMU, the Manufacturer Serial Number for the equipment in the component in respect of which the highest Capital Expenditure forming part of the Total Project Spend has been incurred for that component.”.

**10.5** In Rule 8.3.4 (Changing DSR Components):

10.5.1 in Rule 8.3.4(b), after “Capacity Committed CMU” insert “(except if the CMU has been awarded a Capacity Agreement of a duration exceeding one Delivery Year and has not yet met the requirements of Rule 8.3.2 (DSR Test) and Rule 8.3.6 (Evidence of Total Project Spend))”;

10.5.2 in Rule 8.3.4(e), after “Capacity Committed CMU” insert “(except if the CMU has been awarded a Capacity Agreement of a duration exceeding one Delivery Year and has not yet met the requirements of Rule 8.3.2 (DSR Test) and Rule 8.3.6 (Evidence of Total Project Spend))”;

10.5.3 for Rule 8.3.4(n), substitute:

“(n) Where this Rule 8.3.4(n) applies:

(i) the DSR Test Certificate for the relevant DSR CMU remains valid for the duration of the Capacity Agreement in respect of which the CMU carried out the DSR Test;

(ii) the DSR Test Certificate is not valid after the end of that Capacity Agreement; and

- (iii) the CMU must carry out a new DSR Test in accordance with Rule 13.2 or a new Joint DSR Test in accordance with Rule 13.2B to obtain a new DSR Test Certificate for any subsequent Capacity Agreement no later than one month prior to the start of the Delivery Year for that Capacity Agreement.”;

10.5.4 Omit Rule 8.3.4(o) and Rule 8.3.4(p).

10.5.5 after Rule 8.3.4 (Changing DSR Components) insert:

“8.3.4ZA Unproven DSR CMUs – undeclared Storage Facility

The Termination Event specified in Rule 6.10.1(o) will apply to the Capacity Agreement if the Delivery Body identifies that a Storage Facility forms part of a DSR CMU that was awarded a Capacity Agreement of a duration exceeding one Delivery Year and this was not declared under Rule 3.10.1(aa)(iv)(aa) in the Application for the CMU.”.

**10.6** In Rule 8.3.6 (Evidence of Total Project Spend):

10.6.1 in Rule 8.3.6 after “Prospective Generating CMU” insert “or an Unproven DSR CMU”;

10.6.2 in Rule 8.3.6(a), for the words from “three months” to “Rule 6.8.5)” substitute “the date described in Rule 8.3.6(zaa)”;

10.6.3 after Rule 8.3.6(a) insert:

“(zaa) the date referred to in Rule 8.3.6(a) is:

(i) in respect of a Prospective Generating CMU, the latest applicable date of:

(aa) the date that is three months after the start of the first Delivery Year;

(bb) the date that the Capacity Agreement takes effect in accordance with Rule 6.7.4(a)(ii); or

(cc) the date that the Capacity Agreement takes effect in accordance with Rule 6.8.5; and

(ii) in respect of an Unproven DSR CMU, the latest applicable date of:

(aa) the date that is three months after the start of the first Delivery Year; or

(bb) the date that the Capacity Agreement takes effect in accordance with Rule 6.7A.1(b);”;

10.6.4 after Rule 8.3.6(aa) insert:

- “(ab) if the CMU (“CMU A”) is an Unproven DSR CMU:
- (i) the certificate from the Independent Technical Expert as to the Total Project Spend must:
    - (aa) identify each DSR CMU Component comprising CMU A and, for each component, list the Manufacturer Serial Number for the equipment in the component in respect of which the highest Capital Expenditure forming part of the Total Project Spend has been incurred for that component;
    - (bb) in respect of each DSR CMU Component, specify the amount of Capital Expenditure incurred by the Capacity Provider (or another person), but specify an amount of zero in respect of a DSR CMU Component if all of the following circumstances apply (noting this as the reason for specifying an amount of zero):
      - (i) the DSR CMU Component formed part of another CMU (“CMU B”);
      - (ii) CMU B held a Capacity Agreement of a duration exceeding one Delivery Year; and
      - (iii) CMU B incurred Capital Expenditure in respect of the DSR CMU Component, which was certified under Rule 8.3.6 to be part of the Total Project Spend for CMU;
  - (ii) the relevant Capacity Provider must provide the Delivery Body with:
    - (aa) a statement of the amount of Capital Expenditure incurred by the Capacity Provider (or another person) in respect of each DSR CMU Component;
    - (bb) confirmation that the amounts specified in that statement are identical to the amounts specified in the certificate from the Independent Technical Expert under Rule 8.3.6(ab)(i)(bb)); and
    - (cc) confirm that the Manufacturer Serial Numbers listed in the certificate from the Independent Technical Expert under Rule 8.3.6(ab)(i)(aa) are identical to the Manufacturer Serial Numbers provided by the Capacity Provider under Rule 8.3.3A(a)(iii); and

- (iii) the Termination Event specified in Rule 6.10.1(o) will apply to the Capacity Agreement if the Delivery Body identifies that the circumstances described in Rule 8.3.6(ab)(i)(bb)(i), (ii) and (iii) apply to any DSR CMU Component in respect of which the certificate from the Independent Technical Expert as to the Total Project Spend specified a positive amount of Capital Expenditure;”;

10.6.5 in Rule 8.3.6(c) after “Rule 8.3.6(a)” insert “by the date described in Rule 8.3.6(zaa),”;

10.6.6 at the end of Rule 8.3.6(c) for “.” insert “; and”; and

10.6.7 after Rule 8.3.6(c) insert:

- “(d) if the duration of a Capacity Agreement of an Unproven DSR CMU that contains at least one DSR CMU Component which contains a Storage Facility is reduced to one Delivery Year in accordance with Rule 8.3.6(c), the Capacity Provider’s Capacity Obligation will continue to be calculated using the De-rating Factor described in Rule 2.3.4(e).”.

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

**11.1** In Rule 9.2.5 (Transfers of a Capacity Agreement):

11.1.1 at the end of Rule 9.2.5(a)(ii) insert “; and”; and

11.1.2 after Rule 9.2.5(a)(ii) insert:

- “(iii) in the case of an Unproven DSR CMU that has been awarded a Capacity Agreement of a duration exceeding one Delivery Year, the Delivery Body has issued a DSR Test Certificate to the Applicant or Capacity Provider (as applicable) under Rule 13.2.11 and the Capacity Provider has satisfied the requirements of Rule 8.3.6 (Evidence of Total Project Spend).”.

## **12. Amendments to Chapter 13 (Testing Regime)**

**12.1** In Rule 13.2 (DSR Test):

12.1.1 in Rule 13.2.2 omit “either”;

12.1.2 in Rule 13.2.2(c) for “.” insert “; or”;

12.1.3 after Rule 13.2.2(c) insert:

“(d) in the case of an Unproven DSR CMU that has been awarded a Capacity Agreement of a duration exceeding one Delivery Year, up to the date falling one month before the commencement of the second Delivery Year to which the Capacity Auction relates.”;

12.1.4 in Rule 13.2.4 for “or 13.2.2(b)” substitute “13.2.2(b), 13.2.2(c) or 13.2.2(d)”;

12.1.5 in Rule 13.2.12 omit “and 8.3.4(o)”;

12.1.6 at the end of Rule 13.2.12A insert “(in which case Rule 8.3.4(n) applies)”;

12.1.7 for Rule 13.2.12E(a) and (b) substitute:

“(a) remain valid for the duration of the Capacity Agreement in respect of which the CMU carried out the DSR Test; and

(b) not be valid after the end of that Capacity Agreement, and a new DSR Test Certificate will be required for any subsequent Delivery Year no later than six weeks prior to that Delivery Year.”.

**12.2** In Rule 13.2B (Joint DSR Test):

12.2.1 in Rule 13.2B.2 omit “either”;

12.2.2 at the end of Rule 13.2B.2(b), for “.” insert “; or”;

12.2.3 at the end of Rule 13.2B.2(c), for “.” insert “; or”;

12.2.4 after Rule 13.2B.2(c) insert:

“(d) in the case of an Unproven DSR CMU that has been awarded a Capacity Agreement of a duration exceeding one Delivery Year, the date falling one month before the commencement of the second Delivery Year to which the Capacity Auction relates.”;

12.2.5 in Rule 13.2B.4 for “or 13.2B.2(b)” substitute “13.2B.2(b), 13.2B.2(c) or 13.2B.2(d)”;

12.2.6 in Rule 13.2B.18 omit “and 8.3.4(o)”;

12.2.7 in Rule 13.2B.18A after “issued” insert “(in which case Rule 8.3.4(n) applies)”;

12.2.8 in Rule 13.2B.23 for Rule 13.2B.23(a) and (b) substitute:

“(a) remain valid for the duration of the Capacity Agreement in respect of which the CMU carried out the DSR Test; and

- (b) not be valid after the end of that Capacity Agreement, and a new DSR Test Certificate will be required for any subsequent Delivery Year no later than six weeks prior to that Delivery Year.”.

**12.3** In Rule 13.3 (Metering Test):

12.3.1 in Rule 13.3.2A(a), at the end, insert “or, if the CMU has been awarded a Capacity Agreement of a duration exceeding one Delivery Year, the date falling four months prior to the start of the second Delivery Year to which the Capacity Auction relates”.

**12.4** In Rule 13.4A (Demonstrating Extended Performance):

12.4.1 for Rule 13.4A.1 substitute:

“13.4A.1 This Rule 13.4A applies to a Capacity Committed CMU in its capacity as a Registered Holder, a Transferor or a Transferee (as the case may be) which is:

- (a) in a Storage Generating Technology Class; or
- (b) an Unproven DSR CMU that has been awarded a Capacity Agreement of a duration exceeding one Delivery Year and in relation to which a declaration was made under Rule 3.10.1(aa)(iv)(aa) that the CMU contains or will contain at least one DSR CMU component that contains a Storage Facility, regardless of whether the duration of the Capacity Agreement has been reduced to one Delivery Year in accordance with Rule 8.3.6(c).”;

12.4.2 for Rule 13.4A.2(a) substitute:

- “(a) during at least one Satisfactory Performance Day:
  - (i) in the Winter of the first Delivery Year in which this Rule 13.4A applies to the Capacity Committed CMU;
  - (ii) in the case of a New Build CMU, by the date on which it achieves the Substantial Completion Milestone, if that date is later than 30 April in that Delivery Year; or
  - (iii) in the case of an Unproven DSR CMU described in Rule 13.4A.1(b), by the date on which the CMU has satisfied the requirements of Rule 8.3.2(a) (DSR Test), Rule 8.3.3(b) (Metering Assessment) and, if applicable, Rule 8.3.3(d) (Metering Test), if that date is later than 30 April in that Delivery Year; and”;

12.4.3 in Rule 13.4A.3:

- (a) in Rule 13.4A.3(a), after “Duration Limited” insert “(or a Capacity Committed CMU that is an Unproven DSR CMU to which Rule 13.4A.3A applies)”; and
- (b) in Rule 13.4A.3(b), after “Duration Limited” insert “(or a Capacity Committed CMU that is an Unproven DSR CMU to which Rule 13.4A.3B applies)”; and

12.4.4 after Rule 13.4A.3 insert:

“13.4A.3A This Rule 13.4A.3A applies to an Unproven DSR CMU if:

- (a) the CMU has been awarded a Capacity Agreement of a duration exceeding one Delivery Year, regardless of whether the duration of the Capacity Agreement was reduced under Rule 8.3.6(d);
- (b) a declaration was made under Rule 3.10.1(aa)(iv)(aa) that the CMU would contain at least one DSR CMU Component that contains a Storage Facility; and
- (c) the Storage Generating Technology Class specified in the declaration made under Rule 3.10.1(aa)(iv)(bb) is Duration Limited.

13.4A.3B This Rule 13.4A.3B applies to an Unproven DSR CMU if:

- (a) the CMU has been awarded a Capacity Agreement of a duration exceeding one Delivery Year, regardless of whether the duration of the Capacity Agreement was reduced under Rule 8.3.6(d);
- (b) a declaration was made under Rule 3.10.1(aa)(iv)(aa) that the CMU would contain at least one DSR CMU Component that contains a Storage Facility); and
- (c) the Generating Technology Class specified in the declaration made under Rule 3.10.1(aa)(iv)(bb) is not Duration Limited.”.

12.4.5 in Rule 13.4A.4(a), after “Technology Class Weighted Average Availability” insert “(TCWAA)”; and

12.4.6 after Rule 13.4A.4(a), insert:

- “(aa) if a Capacity Committed CMU is an Unproven DSR CMU that has been awarded a Capacity Agreement of a duration exceeding one Delivery Year and a declaration has been made under Rule 3.10.1(aa)(iii)(aa) that the CMU was a Storage Facility or would comprise of at least one

Storage Facility, the product of the DSR Capacity for the CMU and the TCWAA of the Storage Generating Technology Class declared under Rule 3.10.1(aa)(iv)(bb) for the CMU, where the TCWAA is calculated using the method set out in Rule 2.3.5(a); or”.

## Part 4

### Fossil Fuel Emissions and Fossil Fuel Yearly Emissions

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

13.1 In Rule 1.2 (Definitions):

1.1.1 after the definition of “Approved Metering Solution”, insert:

**“Associated Fossil Fuel Component** means a Fossil Fuel Component which supplies electricity to a Storage Facility:

(a) via a Private Network; or

(b) as an Electricity Supplier in respect of that Storage Facility”;

1.1.2 after the definition of “De-rating Factor”, insert:

**“Design Efficiency** has the meaning given to that term in Schedule 8”;

1.1.3 in the definition of “Director”, for “Exhibit A to I”, substitute “Exhibits ZA to J”;

1.1.4 after the definition of “Electricity Interconnector”, insert:

**“Electricity Production** has the meaning given to that term in Schedule 8

**Electricity Supplier** has the meaning given to that term in Regulation 2”;

1.1.5 after the definition of “Emergency Manual Disconnection Instruction”, insert:

**“Emissions Related Material Change**

(a) in respect of a CMU, means adding at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component; and

(b) in respect of a Fossil Fuel Component, means any change which alters its Fossil Fuel Emissions or Fossil Fuel Yearly Emissions

## Emissions Year

- (a) in respect of the Fossil Fuel Yearly Emissions declared in a Fossil Fuel Emissions Declaration which is provided with an Application, means a continuous period of 12 months starting no earlier than the date which is 14 months before the commencement of the Prequalification Window in which the Application is made and ending no later than the commencement of that Prequalification Window; and
- (b) in respect of the Fossil Fuel Yearly Emissions declared in a Fossil Fuel Emissions Declaration which is provided other than with an Application, means a continuous period of 12 months starting no earlier than the date which is 14 months before the date on which the Fossil Fuel Emissions Declaration is provided to the Delivery Body and ending no later than the date on which the Fossil Fuel Emissions Declaration is provided to the Delivery Body”;

1.1.6 in the definition of “Fossil Fuel Component”, for “which is a Permitted On-site Generating Unit” substitute “where that component comprises of a Generating Unit”;

1.1.7 after the definition of “Fossil Fuel Component”, insert:

**“Fossil Fuel Emissions** means, in respect of a Fossil Fuel Component, the value (expressed in gCO<sub>2</sub> per kWh<sub>e</sub>) determined in accordance with the formula in Part 1 of Schedule 8

**Fossil Fuel Emissions Commitment** means a declaration in the form set out in Exhibit ZB”;

1.1.8 in the definition of “Fossil Fuel Emissions Declaration”, at the end, insert “, which complies with the requirements in Rule 3.15”;

1.1.9 after the definition of “Fossil Fuel Emissions Declaration”, insert:

**“Fossil Fuel Removal Declaration** means a declaration in the form set out in Exhibit ZC

**Fossil Fuel Yearly Emissions** means, in respect of a Fossil Fuel Component, the value (expressed in kg CO<sub>2</sub> per kWh<sub>e</sub>) determined in accordance with the formula in Part 2 of Schedule 8

**Fossil Fuel Yearly Emissions Limit** means 350 kg CO<sub>2</sub> of Fossil Fuel origin on average per year per installed kWe”;

1.1.10 after the definition of “Generating Unit”, insert:

**“Generating Unit Fuel Type** means the fuel used by a Generating Unit which produces electricity using a fuel”;

1.1.11 after the definition of “Group”, insert:

**“GWh** means gigawatt hours”;

1.1.12 for the definition of “Independent”, substitute:

**“Independent** means, for any technical expert or emissions verifier engaged by an Applicant or Capacity Provider, that the technical expert or emission verifier is:

- (a) not in the same Group as the Applicant or Capacity Provider (as the case may be); and
- (b) neither engaged on terms, nor party to any other arrangements, which could allow the Applicant or Capacity Provider or any member of the Applicant’s or Capacity Provider’s Group to exercise undue influence on any report, assessment, certificate or commentary prepared by that technical expert or emissions verifier or otherwise compromise the objectivity of any such report, assessment, certificate or commentary”;

1.1.13 after the definition of “Independent”, insert:

**“Independent Emissions Verifier** means a person who:

- (a) is Independent of the relevant Applicant or Capacity Provider;
- (b) is engaged by the relevant Applicant or Capacity Provider at its expense to verify calculations of Fossil Fuel Emissions (and, where relevant, Fossil Fuel Yearly Emissions) required for its Fossil Fuel Emissions Declaration;
- (c) is accredited to verify the combustion of fuels in installations that result in the emission of carbon dioxide;

- (d) is accredited under the International Organisation for Standardisation standard ISO 14065;
- (e) if established in the United Kingdom, is accredited by the United Kingdom national accreditation body (the United Kingdom Accreditation Service (UKAS)), appointed under the Accreditation Regulations 2009 (S.I. 2009/3155); and
- (f) if established outside the United Kingdom, is accredited by an accreditation body that is a member and signatory of one or more of the following:
  - (i) the European Cooperation of Accreditation (EA);
  - (ii) the International Laboratory Accreditation Cooperation (ILAC); or
  - (iii) the International Accreditation Forum (IAF);

1.1.14 after the definition of “Insolvency Termination Event”, insert:

**“Installed Capacity** means the nominal capacity of a Generating Unit or DSR CMU Component, expressed in MW”;

1.1.15 after the definition of “Joint Owner Declaration”, insert:

**“K** means Kelvin”;

1.1.16 after the definition of “kW”, insert:

**“kWe** means kilowatt of electricity generated”;

1.1.17 after the definition of “kWh”, insert:

**“kWh<sub>e</sub>** means kilowatt-hour of electricity generated”;

1.1.18 after the definition of “Power Transformer Losses”, insert:

**“Pre-2024 T-1 Auction** means any of the following Capacity Auctions:

- (a) the T-1 Auction for the Delivery Year commencing on 1 October 2021;
- (b) the T-1 Auction for the Delivery Year commencing on 1 October 2022; or
- (c) the T-1 Auction for the Delivery Year commencing on 1 October 2023

**Pre-2024 T-1 Fossil Fuel Emissions Declaration** means a Fossil Fuel Emissions Declaration provided with an Application or during the Delivery Year in respect of a Pre-2024 T-1 Auction”;

1.1.19 after the definition of “Transitional Capacity Auction” insert:

**“Transitional Fossil Fuel Emissions Declaration** means a Fossil Fuel Emissions Declaration which is provided after the coming into force of the Capacity Market (Amendment) (No. 2) Rules 2020 and before the commencement of the Prequalification Window in 2021”;

and

1.1.20 after the definition of “Unproven DSR CMU” insert:

**“Updating Fossil Fuel Emissions Declaration** has the meaning given in Rule 8.3.13(a)”.

## **2. Amendments to Chapter 3 (Prequalification Information)**

**2.1** In Rule 3.4 (Information to be provided in all Applications):

2.1.1 after Rule 3.4.5A, insert:

**“3.4.5B** In the case of an Existing Generating CMU, Proven DSR CMU, or associated Pre-Refurbishment CMU of a Refurbishing CMU, which comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, each Application must state whether the Commercial Production Start Date of the Fossil Fuel Component or the Associated Fossil Fuel Component is before or on or after 4 July 2019.”; and

2.1.2 omit Rule 3.4.10.

2.2 In Rule 3.6 (Additional Information for an Existing Generating CMU), after Rule 3.6.4, insert:

- “3.6.5 Fossil Fuel Emissions Declaration
- (a) Subject to Rule 3.6.5(b) and Rule 3.6.5(d), an Applicant for an Existing Generating CMU must provide to the Delivery Body a Fossil Fuel Emissions Declaration if the CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component (each a “relevant Fossil Fuel Component”).
  - (b) The Applicant is not required to provide a Fossil Fuel Emissions Declaration under this Rule 3.6.5 if the Applicant confirms in the Application that:
    - (i) after the coming into force of the Capacity Market (Amendment) (No. 2) Rules 2020, a Fossil Fuel Emissions Declaration has been provided to the Delivery Body in respect of the CMU (a “previous Fossil Fuel Emissions Declaration”), and it is not a Fossil Fuel Emissions Declaration specified in Rule 3.6.5(c);
    - (ii) the previous Fossil Fuel Emissions Declaration remains accurate because:
      - (aa) there has been no Emissions Related Material Change to the CMU or a relevant Fossil Fuel Component since the previous Fossil Fuel Emissions Declaration was provided; and
      - (bb) the previous Fossil Fuel Emissions Declaration did not specify the Fossil Fuel Yearly Emissions of any relevant Fossil Fuel Component.
  - (c) A Fossil Fuel Emissions Declaration specified in this Rule 3.6.5(c) is:
    - (i) a Transitional Fossil Fuel Emissions Declaration; or
    - (ii) where the Application is in respect of the Delivery Year commencing on 1 October 2024 or any subsequent Delivery Year, a Pre-2024 T-1 Fossil Fuel Emissions Declaration.
  - (d) The Applicant is not required to provide a Fossil Fuel Emissions Declaration under this Rule 3.6.5 if the Applicant confirms in the Application that:
    - (i) the Application is in respect of a Pre-2024 T-1 Auction; and
    - (ii) each relevant Fossil Fuel Component comprised in the CMU has a Commercial Production Start Date which is before 4 July 2019.
- 3.6.6 An Applicant for an Existing Generating CMU which does not comprise of any Fossil Fuel Component or Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component must declare that if, after the Capacity Auction to which the Application relates, there is an Emissions Related Material Change to the CMU, it will, as soon as

reasonably practicable following that Emissions Related Material Change, and in any case by no later than two months following that Emissions Related Material Change, provide a Fossil Fuel Emissions Declaration to the Delivery Body.

- 3.6.7 An Applicant which gives a confirmation under Rule 3.6.5(d) must declare that if, after the Capacity Auction to which the Application relates, there is an Emissions Related Material Change that results in the CMU comprising of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, which has a Commercial Production Start Date after 4 July 2019, it will, as soon as reasonably practicable following that Emissions Related Material Change, and in any case by no later than two months following that Emissions Related Material Change, provide a Fossil Fuel Emissions Declaration to the Delivery Body.”

**2.3** In Rule 3.7 (Additional Information for a New Build CMU), after Rule 3.7.3, insert:

“3.7.4 Fossil Fuel Emissions Commitment

Each Applicant for a New Build CMU must provide to the Delivery Body a Fossil Fuel Emissions Commitment signed by two directors (or two officers, in the case of a body other than a company).”.

**2.4** In Rule 3.8 (Additional Information for a Refurbishing CMU), after Rule 3.8.2, insert:

“3.8.3 Fossil Fuel Emissions Commitment

Each Applicant for a Refurbishing CMU must provide to the Delivery Body a Fossil Fuel Emissions Commitment signed by two directors (or two officers, in the case of a body other than a company).”.

**2.5** In Rule 3.9 (Additional Information for a Proven DSR CMU), after Rule 3.9.4, insert:

“3.9.5 Fossil Fuel Emissions Declaration

- (a) Subject to Rule 3.9.5(b) and Rule 3.9.5(d) an Applicant for a Proven DSR CMU must provide to the Delivery Body a Fossil Fuel Emissions Declaration if the CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component (each a “relevant Fossil Fuel Component”).
- (b) The Applicant is not required to provide a Fossil Fuel Emissions Declaration under this Rule 3.9.5 if the Applicant confirms in the Application that:
  - (i) after the coming into force of the Capacity Market (Amendment) (No. 2) Rules 2020, a Fossil Fuel Emissions Declaration has been provided to the Delivery Body in respect of the CMU (a “previous Fossil Fuel Emissions Declaration”), which is not a Fossil Fuel Emissions Declaration specified in Rule 3.9.5(c);

- (ii) the previous Fossil Fuel Emissions Declaration remains accurate because:
  - (aa) there has been no Emissions Related Material Change to the CMU or a relevant Fossil Fuel Component since the previous Fossil Fuel Emissions Declaration was provided; and
  - (bb) the previous Fossil Fuel Emissions Declaration did not specify the Fossil Fuel Yearly Emissions of any relevant Fossil Fuel Component.
- (c) A Fossil Fuel Emissions Declaration specified in this Rule 3.9.5(c) is:
  - (i) a Transitional Fossil Fuel Emissions Declaration; or
  - (ii) in the event the Application is in respect of the Delivery Year commencing on 1 October 2024 or any subsequent Delivery Year, a Pre-2024 T-1 Fossil Fuel Emissions Declaration.
- (d) An Applicant is not required to provide a Fossil Fuel Emissions Declaration under this Rule 3.6.5 if the Applicant confirms in the Application that:
  - (i) the Application is in respect of a Pre-2024 T-1 Auction; and
  - (ii) each relevant Fossil Fuel Component comprised in the CMU has a Commercial Production Start Date which is before 4 July 2019.

3.9.6 An Applicant for a Proven DSR CMU which does not comprise of any Fossil Fuel Component or Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component must declare that if, after the Capacity Auction to which the Application relates, there is an Emissions Related Material Change to the CMU, it will, as soon as reasonably practicable following that Emissions Related Material Change, and in any case by no later than two months following that Emissions Related Material Change, provide a Fossil Fuel Emissions Declaration to the Delivery Body.

3.9.7 An Applicant which gives a confirmation under Rule 3.9.5(d) must declare that if, after the Capacity Auction to which the Application relates, there is an Emissions Related Material Change that results in the CMU comprising of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, which has a Commercial Production Start Date after 4 July 2019, it will, as soon as reasonably practicable following that Emissions Related Material Change, and in any case by no later than two months following that Emissions Related Material Change, provide a Fossil Fuel Emissions Declaration to the Delivery Body.”

**2.6** In Rule 3.10 (Additional Information for an Unproven DSR CMU), after Rule 3.10.3, insert:

“3.10.4 Fossil Fuel Emissions Commitment

An Applicant for an Unproven DSR CMU must provide to the Delivery Body a Fossil Fuel Emissions Commitment signed by two directors (or two officers, in the case of a body other than a company).”.

2.7 In Rule 3.11 (Opt-out Notifications), after Rule 3.11.2, insert:

“3.11.2A If an Opt-out Notification states, pursuant to Rule 3.11.2(f)(iii), that the CMU will remain operational during the Delivery Year, the summary of the reasons for that statement must explain if a reason for the statement is that the CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, any of which would exceed the Fossil Fuel Emissions Limit if a Fossil Fuel Emissions Declaration in respect of the CMU were made as part of an Application for Prequalification.”.

2.8 After Rule 3.14, insert:

### **“3.15 Requirements for a Fossil Fuel Emissions Declaration**

3.15.1 A Fossil Fuel Emissions Declaration must:

- (a) subject to Rule 3.15.2, be signed by an Independent Emissions Verifier if the Fossil Fuel Emissions Declaration contains values for Fossil Fuel Emissions and, where applicable, Fossil Fuel Yearly Emissions; and
- (b) subject to Rule 3.15.3, specify the Fossil Fuel Emissions of each relevant Fossil Fuel Component with an Installed Capacity equal to or greater than 1MW with a Commercial Production Start Date before 4 July 2019 and, if the Fossil Fuel Emissions of that relevant Fossil Fuel Component exceeds the Fossil Fuel Emissions Limit, specify the Fossil Fuel Yearly Emissions of that Fossil Fuel Component.

3.15.2 The requirement in Rule 3.15.1(a) does not apply if the Fossil Fuel Emissions Declaration is a Transitional Fossil Fuel Emissions Declaration.

3.15.3 The requirement in Rule 3.15.1(b) does not apply if the Fossil Fuel Emissions Declaration is a Pre-2024 T-1 Fossil Fuel Emissions Declaration.”.

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

3.1 In Rule 4.4 (Decisions to be made by the Delivery Body):

3.1.1 for Rule 4.4.2(i), substitute:

- “(i) the Applicant is required to provide a Fossil Fuel Emissions Commitment under Rule 3.7.4, Rule 3.8.3 or Rule 3.10.4, but has not done so or has provided a Fossil Fuel Emissions Commitment which the Delivery Body considers does not fully address the matters set out in Exhibit ZB;
- (j) the Applicant is required to provide a Fossil Fuel Emissions Declaration under Rule 3.6.5 or Rule 3.9.5, but has not done so or has provided a Fossil Fuel Emissions

Declaration which the Delivery Body considers does not fully address the matters set out in Exhibit ZA; or

- (k) the Applicant has provided a Fossil Fuel Emissions Declaration under Rule 3.6.5 or Rule 3.9.5 in which the Applicant declares that in respect of a Fossil Fuel Component or Associated Fossil Fuel Component specified in the declaration (a “relevant Fossil Fuel Component”):
  - (i) the relevant Fossil Fuel Component exceeds the Fossil Fuel Emissions Limit (and, in the case of a relevant Fossil Fuel Component with a Commercial Production Start Date before 4 July 2019, no value for the Fossil Fuel Yearly Emissions has been provided); or
  - (ii) in the case of a relevant Fossil Fuel Component with a Commercial Production Start Date before 4 July 2019, the relevant Fossil Fuel Component exceeds both the Fossil Fuel Emissions Limit and the Fossil Fuel Yearly Emissions Limit.”;

3.1.2 in Rule 4.4.3, omit “or a failure to provide a Fossil Fuel Emissions Declaration as required by Rule 3.4.10(b),”.

3.2 In Rule 4.5 (Notification of Prequalification decision to Applicants), omit Rule 4.5.1(b)(va).

3.3 Omit Rule 4.7A (Conditional Prequalification – Fossil Fuel Emissions Declaration).

#### **4. Amendments to Chapter 6 (Capacity Agreements)**

4.1 In Rule 6.10 (Termination):

4.1.1 after Rule 6.10.1A, insert:

“6.10.1B Termination Event: concurrent Termination Notices in respect of provision of a Fossil Fuel Emissions Declaration

- (a) Where Rule 6.10.1B(b) applies, Rule 6.10.1B(c) and Rule 6.10.1B(d) apply.
- (b) This Rule 6.10.1B(b) applies if:
  - (i) the Delivery Body gives a Capacity Provider for a New Build CMU or Unproven DSR CMU more than one Termination Notice in respect of a Capacity Agreement and the notice periods specified in the Termination Notices cover one or more of the same days (“concurrent Termination Notices”);
  - (ii) in the case of a Capacity Agreement in respect of a New Build CMU, the concurrent Termination Notices separately specify:
    - (aa) the Termination Event specified in Rule 6.10.1(c) (Minimum Completion Requirement); and
    - (bb) the Termination Event specified in Rule 6.10.1(o) where the Termination Notice is given because a declaration in a Fossil

Fuel Emissions Commitment in respect of the CMU submitted with the Application relating to the Capacity Agreement does not comply with the requirements in Rule 3.12.1; or

- (ii) in the case of a Capacity Agreement in respect of an Unproven DSR CMU, the concurrent Termination Notices separately specify:
  - (aa) the Termination Event specified in Rule 6.10.1(i) (DSR Test Certificate); and
  - (bb) the Termination Event specified in Rule 6.10.1(o) where the Termination Notice is given because a declaration in a Fossil Fuel Emissions Commitment in respect of the CMU submitted with the Application relating to the Capacity Agreement does not comply with the requirements in Rule 3.12.1.
- (c) The Delivery Body must terminate the Capacity 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 relevant ground specified in Rule 6.10.1B(d) if more than one of the concurrent Termination Notices reaches the date on which the agreement is automatically terminated on the same day.
- (d) Where the Capacity Agreement must be terminated on a ground specified in this Rule 6.10.1B(d), the relevant ground is:
  - (i) in the case of a New Build CMU, the Termination Event specified in Rule 6.10.1(c); and
  - (iii) in the case of an Unproven DSR CMU, the Termination Event specified in Rule 6.10.1(i).”.

4.1.2 after Rule 6.10.2(c) insert:

- “(zd) If Rule 6.10.1B (Termination Event: concurrent Termination Notices in respect of provision of Fossil Fuel Emissions Declaration) 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) or Rule 6.10.2(c) must specify for each Termination Notice in respect of the 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.”; and

4.1.3 at the beginning of Rule 6.10.2(e), insert “Subject to Rule 6.10.1B (if applicable),”.

## 5. Amendments to Chapter 8 (obligations of Capacity Providers and System Stress Events)

5.1 In Rule 8.3 (Specific obligations and consequences):

5.1.1 in Rule 8.3.3(c), for “8.3.4(h)(i)(b)” substitute “8.3.4(h)(i)(bb)”;

5.1.2 in Rule 8.3.3A:

(b) at the end of Rule 8.3.3A(a)(i), omit “and”;

(c) after Rule 8.3.3A(a)(i), insert:

“(ia) for each DSR CMU which is comprised of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, whether the Commercial Production Start Date of the Fossil Fuel Component or the Associated Fossil Fuel Component is before or on or after 4 July 2019.”;

5.1.3 in Rule 8.3.4(h)(i), renumber paragraphs (a) and (b), as “(aa)” and “(bb)” respectively;

5.1.4 after Rule 8.3.4(h)(i)(bb), insert:

“(cc) if the DSR CMU Component comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, provide an Updating Fossil Fuel Emissions Declaration to the Delivery Body in accordance with Rule 8.3.13.”;

5.1.5 after Rule 8.3.10, insert:

“8.3.11 Fossil Fuel Emissions Declaration: New Build, Refurbishing and Unproven DSR CMUs

(a) Subject to Rule 8.3.11(c), a Capacity Provider must provide to the Delivery Body a Fossil Fuel Emissions Declaration by the deadline specified in Rule 8.3.11(b) if the CMU is a New Build CMU, Refurbishing CMU or an Unproven DSR CMU and the CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component.

(b) The deadline referred to in Rule 8.3.11(a) is:

(i) in respect of a New Build CMU:

- (aa) the start of the first Delivery Year of the relevant Capacity Agreement (or the date the Capacity Agreement takes effect in accordance with Rule 6.7.4(a)(ii) or Rule 6.8.5); or
    - (bb) the date on which a Notice of Intention to Terminate issued by the Delivery Body to the Capacity Provider in respect of the CMU (in accordance with Rule 6.8.2 or Rule 6.8.2F) states that a Termination Notice will be issued in accordance with Rule 6.10.2(a);
  - (ii) in respect of a Refurbishing CMU:
    - (aa) where the CMU is Prequalified as an Existing CMU following a notification under Rule 4.4.3AB(a)(ii), and is awarded a Capacity Agreement in respect of that CMU, two months after the Auction Results Day;
    - (bb) where, following the submission of a notice under Rule 5.5.14, a Capacity Agreement is awarded to the Pre-Refurbishment CMU in relation to the Refurbishing CMU, two months after the Auction Results Day; or
    - (cc) in any other case, the Long-Stop Date.
  - (iii) in respect of an Unproven DSR CMU, the date the Capacity Provider provides a DSR Test Certificate under Rule 8.3.2(a).
- (c) A Capacity Provider in respect of a Refurbishing CMU is not required to provide a Fossil Fuel Emissions Declaration under this Rule 8.3.11 if the Capacity Provider confirms to the Delivery Body by the deadline specified in Rule 8.3.11(b) that:
  - (i) the associated Pre-Refurbishment CMU is the subject of a Capacity Agreement for a previous Delivery Year;
  - (ii) after the coming into force of the Capacity Market (Amendment) (No. 2) Rules 2020, a Fossil Fuel Emissions Declaration has been provided to the Delivery Body in respect of the Pre-Refurbishment CMU (a "previous Fossil Fuel Emissions Declaration"), and it is not a Fossil Fuel Emissions Declaration specified in Rule 8.3.11(d); and
  - (iii) the previous Fossil Fuel Emissions Declaration remains accurate because:
    - (aa) there has been no Emissions Related Material Change to the CMU or a relevant Fossil Fuel Component since the previous Fossil Fuel Emissions Declaration was provided; and
    - (bb) the previous Fossil Fuel Emissions Declaration did not specify the Fossil Fuel Yearly Emissions of a relevant Fossil Fuel Component.
- (d) A Fossil Fuel Emissions Declaration specified in this Rule 8.3.11(d) is:
  - (i) a Transitional Fossil Fuel Emissions Declaration; or

- (ii) where the first scheduled Delivery Year for the Capacity Agreement commences on 1 October 2024 or any subsequent Delivery Year, a Pre-2024 T-1 Fossil Fuel Emissions Declaration.

8.3.12 Fossil Fuel Emissions Declaration: Existing Generating and Proven DSR CMUs

- (a) Rule 8.3.12(b) applies to a Capacity Provider for a CMU that Prequalified as an Existing Generating CMU or a Proven DSR CMU if:
  - (i) a Fossil Fuel Emissions Declaration has not previously been provided to the Delivery Body in respect of the CMU; and
  - (ii) after Prequalifying, there has been an Emissions Related Material Change to the CMU and as a result:
    - (aa) the CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, which has a Commercial Production Start Date which is on or after 4 July 2019; and/or
    - (bb) where the CMU has its first scheduled Delivery Year on 1 October 2024 or any subsequent Delivery Year, the CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, which has a Commercial Production Start Date which is before 4 July 2019.
- (b) Where this Rule 8.3.12(b) applies to a Capacity Provider, the Capacity Provider must:
  - (i) confirm to the Delivery Body within two months following the Emissions Related Material Change whether the Commercial Production Start Date of each Fossil Fuel Component or Associated Fossil Fuel Component is before or on or after 4 July 2019; and
  - (ii) provide a Fossil Fuel Emissions Declaration to the Delivery Body as soon as reasonably practicable after, and in any case by no later than two months following, the Emissions Related Material Change.

8.3.13 Updating Fossil Fuel Emissions Declarations

- (a) Where a Capacity Provider has previously provided a Fossil Fuel Emissions Declaration (a “previous Fossil Fuel Emissions Declaration”) in respect of a CMU and one or more Fossil Fuel Components or Associated Fossil Fuel Component (each a “relevant Fossil Fuel Component”) comprised in that CMU, the Capacity Provider must provide the Delivery Body with a new Fossil Fuel Emissions Declaration (an “Updating Fossil Fuel Emissions Declaration”) by the deadline specified in Rule 8.3.13(c) if Rule 8.3.13(b) applies.

- (b) This Rule 8.3.13(b) applies if there has been an Emissions Related Material Change to the CMU or a relevant Fossil Fuel Component; and
  - (i) the CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, which has a Commercial Production Start Date which is on or after 4 July 2019; and/or
  - (ii) the CMU:
    - (aa) has its first scheduled Delivery Year on 1 October 2024 or any subsequent Delivery Year; and
    - (bb) comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, which has a Commercial Production Start Date which is before 4 July 2019.
- (c) An Updating Fossil Fuel Emissions Declaration must be provided to the Delivery Body:
  - (i) where a DSR CMU adds one or more DSR CMU Components to the CMU, by the date described in Rule 8.3.4(h);
  - (ii) where there has been an Emissions Related Material Change in respect of a relevant Fossil Fuel Component in relation to which the previous Fossil Fuel Emissions Declaration specified Fossil Fuel Yearly Emissions, by the date which is 14 months after the date of the Emissions Related Material Change; or
  - (iii) in any other case, as soon as reasonably practicable, and no later than the date which is two months after an Emissions Related Material Change.

#### 8.3.14 Failure to provide a Fossil Fuel Emissions Declaration

The Termination Event specified in Rule 6.10.1(o) will apply to a Capacity Agreement if:

- (a) a Capacity Provider has previously provided a Fossil Fuel Emissions Commitment, a Fossil Fuel Emissions Declaration, or made a declaration under Rule 3.6.6, Rule 3.6.7, Rule 3.9.6 or Rule 3.9.7; and
- (b) the Capacity Provider:
  - (i) fails to provide a Fossil Fuel Emissions Declaration where required under Rule 8.3.11, Rule 8.3.12, and Rule 8.3.13; or
  - (ii) provides a Fossil Fuel Emissions Declaration in which the Applicant declares that in respect of a Fossil Fuel Component

or Associated Fossil Fuel Component specified in the declaration (a “relevant Fossil Fuel Component”):

- (aa) the relevant Fossil Fuel Component exceeds the Fossil Fuel Emissions Limit (and, in the case of a relevant Fossil Fuel Component with a Commercial Production Start Date before 4 July 2019, no value for the Fossil Fuel Yearly Emissions has been provided); or
- (bb) in the case of a relevant Fossil Fuel Component with a Commercial Production Start Date before 4 July 2019, the relevant Fossil Fuel Component exceeds both the Fossil Fuel Emissions Limit and the Fossil Fuel Yearly Emissions Limit.

#### 8.3.15 Fossil Fuel Removal Declaration

Where, as a result of an Emissions Related Material Change, the CMU no longer comprises of any Fossil Fuel Component or Storage Facility which has its electricity requirements met in part or in full by an Associated Fossil Fuel Component, the Capacity Provider must, as soon as reasonably practicable, provide the Delivery Body with a Fossil Fuel Removal Declaration signed by two Directors (or two officers, in the case of a body other than a company).”.

## 6. Amendments to Chapter 9 (Transfer of Capacity Obligations)

**6.1** In Rule 9.2.6, for “Rule 9.2.6(e)(i) to (ix)” substitute “Rule 9.2.6(e)(i) to (xii)”.

**6.2** After Rule 9.2.6(e)(ix), insert:

- “(x) if the Capacity Obligation transferred is for the Delivery Year commencing on 1 October 2021, 1 October 2022, or 1 October 2023, and the CMU Transferee comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, which has a Commercial Production Start Date on or after 4 July 2019, a person is not an Acceptable Transferee in respect of the CMU Transferee unless a Fossil Fuel Emissions Declaration has been provided to the Delivery Body in respect of the CMU Transferee.
- (xi) if the Capacity Obligation transferred is for the Delivery Year commencing on 1 October 2024 or a subsequent Delivery Year, and the CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, a person is not an Acceptable Transferee in respect of the CMU Transferee unless a Fossil Fuel Emissions Declaration (other than a Pre 2024 T-1 Fossil Fuel Emissions Declaration) has been provided to the Delivery Body in respect of the CMU Transferee.

- (xii) if the CMU Transferee comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, a person is not an Acceptable Transferee in respect of that CMU for the purposes of paragraphs (a), (b), and (c) unless the person has confirmed to the Delivery Body whether the Commercial Production Start Date of each Fossil Fuel Component or Associated Fossil Fuel Component is before or on or after 4 July 2019.”.

**7. Insertion of Schedule 8 (Calculation of Fossil Fuel Emissions and Fossil Fuel Yearly Emissions) and Schedule 9 (Standard Emission Factors and Net Calorific Values)**

7.1 After Schedule 7, insert:

**“SCHEDULE 8: CALCULATION OF FOSSIL FUEL EMISSIONS AND FOSSIL FUEL YEARLY EMISSIONS**

**Part 1: Formula to determine the Fossil Fuel Emissions of a Generating Unit**

The Fossil Fuel Emissions (“FFE”) of a Generating Unit is a value expressed in grams of carbon dioxide per kWh<sub>e</sub>, determined in accordance with the following formula:

$$FFE = \frac{0.0036 \times EF_{f,CO_2}}{\eta_{des}} = \left[ \frac{gCO_2}{kWh_e} \right]$$

where:

- f* is the fuel used by the Generating Unit;
- η<sub>des</sub>* is the Design Efficiency of the Generating Unit, which is the value determined by applying the relevant formula in Part 3 of this Schedule;
- EF<sub>f,CO<sub>2</sub></sub>* is the Emission Factor specified in Schedule 9 corresponding to the fuel used by the Generating Unit.

**Part 2: Formula to determine the Fossil Fuel Yearly Emissions of a Generating Unit**

The Fossil Fuel Yearly Emissions (“FFYE”) of a Generating Unit is a value expressed in kilograms of carbon dioxide per kWe, determined in accordance with the following formula:

$$FFYE = \frac{FFE \times Electricity\ Production}{Installed\ Capacity} = \left[ \frac{kg\ CO_2}{kWe} \right]$$

where:

- FFE* is the Fossil Fuel Emissions of the Generating Unit;

*Electricity Production* is the electricity Exported into the Total System by the Generating Unit in an Emissions Year, expressed in GWh.

**Part 3: Formulae to determine Design Efficiency of a Generating Unit**

**1. Formula for a Generating Unit which is not in the Combined Heat and Power (CHP) Generating Technology Class**

The Design Efficiency (" $\eta_{des}$ ") of a Generating Unit which is not in the Combined Heat and Power (CHP) Generating Technology Class is a value expressed as a percentage, determined in accordance with the following formula:

$$\eta_{des} = \frac{W_E}{\text{Consumption Rate} \times NCV} = [\%]$$

**2. Formula for a Generating Unit which is in the Combined Heat and Power (CHP) Generating Technology Class**

The Design Efficiency (" $\eta_{des}$ ") of a Generating Unit in the Combined Heat and Power (CHP) Generating Technology Class is a value expressed as a percentage, determined in accordance with the following formula:

$$\eta_{des} = \frac{W_E + Q W_T}{\text{Consumption Rate} \times NCV} = [\%]$$

**3. Interpretation**

In paragraphs 1 and 2 of this Part:

$W_E$	is the maximum electrical output of the Generating Unit, expressed in MW;
$Q$	is the efficiency of the turbine (comprised in the Generating Unit) that is outputting steam, expressed as a percentage;
$W_T$	is the power extracted by expanding the output steam, determined under Part 4 of this Schedule, expressed in MW;
<i>Consumption Rate</i>	is the consumption rate of fuel used by the Generating Unit at maximum electrical output, in kilograms per second;
$NCV$	is the Net Calorific Value specified in Schedule 9 which corresponds to the fuel used by the Generating Unit.

**Part 4: Formula to determine power extracted by expanding steam in a Generating Unit in the Combined Heat and Power (CHP) Generating Technology Class**

A person applying the formula under paragraph 2 of Part 3 of this Schedule must determine the power extracted by expanding steam (“ $W_T$ ”) by a Generating Unit in the Combined Heat and Power Generating Technology Class to be:

- (a) taken to be zero; or
- (b) determined in accordance with the following formula:

$$W_T = M RT \ln\left(\frac{P_1}{P_0}\right) \left(\frac{1}{1000}\right) = [MW]$$

where:

- $M$  is the rate of release of steam, expressed in kilograms per second;
- $T$  is the temperature of the steam at release from the Generating Unit at maximum electrical output, expressed in K;
- $P_1$  is the pressure of the steam at release from the Generating Unit at maximum electrical output;
- $P_0$  is the atmospheric pressure;
- $R$  is the constant for air as ideal gas, specified for the purposes of this formula as 0.287 kJ kg<sup>-1</sup>K<sup>-1</sup>.

**SCHEDULE 9: STANDARD EMISSION FACTORS AND NET CALORIFIC VALUES**

For each fuel used by a Generating Unit (“ $F$ ”) specified in the first column of the table:

- (a) the corresponding Emission Factor (“ $EF_{f,CO_2}$ ”) is specified in the second column of the table; and
- (b) the corresponding Net Calorific Value (“ $NCV$ ”) is specified in the third column of the table.

<b>Fuel</b>	<b>Emission Factor (tonnes CO<sub>2</sub> per terajoule)</b>	<b>Net Calorific Value (tera joule per gigagram )</b>
Crude Oil	73.3	42.3
Orimulsion	77.000	27.5

Natural gas liquids	64.200	44.2	
Motor gasoline	69.300	44.3	
Kerosene (other than jet kerosene)	71.900	43.8	
Shale oil	73.300	38.1	
Gas/diesel oil	74.100	43.0	
Residual fuel oil	77.400	40.4	
Liquefied petroleum gases	63.100	47.3	
Ethane	61.600	46.4	
Naphtha	73.300	44.5	
Bitumen	80.700	40.2	
Lubricants	73.300	40.2	
Petroleum coke	97.500	32.5	
Refinery feedstocks	73.300	43.0	
Other Oil	Refinery gas	57.600	49.5
	Paraffin waxes	73.300	40.2
	White spirit and SBP	73.300	40.2
	Other petroleum products	73.300	40.2
Anthracite	98.300	26.7	
Coking coal	94.600	28.2	
Other bituminous coal	94.600	25.8	
Sub-bituminous	99.610	18.9	
Lignite	101.000	11.9	
Oil shale and tar sands	107.000	8.9	
Brown Coal Briquettes	97.500	20.7	
Patent fuel	97.500	20.7	

Coke	Coke, oven coke and lignite coke	107.000	28.2
	Gas coke	107.000	28.2
Coal tar		80.700	28.0
Derived Gases	Gas works gas	44.400	38.7
	Coke oven gas	44.400	38.7
	Blast furnace gas	260.000	2.47
	Oxygen steel furnace gas	182.000	7.06
Natural gas		56.100	48.0".

”.

## 8. Substitution of Exhibit ZA (Fossil Fuel Emissions Declaration)

8.1 For Exhibit ZA (Form of Fossil Fuel Emissions Declaration), substitute:

### “EXHIBIT ZA: FORM OF FOSSIL FUEL EMISSIONS DECLARATION<sup>1</sup>

[NAME OF APPLICANT OR CAPACITY PROVIDER]

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

[ADDRESS OF REGISTERED OFFICE]

The following confirmations and declarations are made by Directors<sup>2</sup> of [NAME OF APPLICANT] or [CAPACITY PROVIDER] (the “**Relevant Person**”)<sup>3</sup>, and

where required<sup>4</sup>, this Declaration is signed by an authorised signatory on behalf of [NAME OF INDEPENDENT EMISSIONS VERIFIER] (the “**Independent Emissions Verifier**”), and with respect to [Description of CMU to be inserted] (the “**Relevant CMU**”) and each Fossil Fuel Component comprising the Relevant CMU or Associated Fossil Fuel Component by which a Storage Facility comprising the Relevant CMU has part or all of its electricity requirements met (each a “**relevant Fossil Fuel Component**”),

[and where this Declaration is provided with an Application, in respect of the Application for Prequalification in respect of the Auction to be held on [insert date of Capacity Auction];]

and in respect of any Delivery Year in respect of which a Capacity Obligation awarded to the Relevant CMU applies (a “**Relevant Delivery Year**”);

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<sup>1</sup> Exhibit ZA was updated by the Capacity Market (Amendment) (No. 2) Rules 2020.

<sup>2</sup> Or officers, in the case of a body other than a company.

<sup>3</sup> For sole director companies, substitute “The following confirmations and declarations are made by the director of [NAME OF APPLICANT] or [CAPACITY PROVIDER] (the “Relevant Person”)”.

<sup>4</sup> Not required if this Declaration is a Transitional Fossil Fuel Emissions Declaration.

*Contents of this declaration:*

- **Part 1:** The Relevant CMU
- **Part 2:** Declaration in respect of relevant Fossil Fuel Components
- **Part 3:** Declarations in respect of relevant Fossil Fuel Components with an Installed Capacity equal to or greater than 1MW
- **Part 4:** Fossil Fuel Emissions (and Fossil Fuel Yearly Emissions)
- **Part 5:** Declarations in respect of relevant Fossil Fuel Components with an installed Capacity below 1MW
- **Part 6:** Declaration in respect of information provided with this Fossil Fuel Emissions Declaration
- **Part 7:** Declaration in respect of Emissions Related Material Changes
- **Part 8:** Director signatures
- **Part 9:** Independent Emissions Verifier certification
- **Annex A:** Assurance work conducted by an Independent Emissions Verifier

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

*When completing, omit content in “[ ]” where not applicable*

### **Part 1: The Relevant CMU**

The Relevant Person hereby confirms that the Relevant CMU is:

- [(a) a New Build CMU.]
- [(b) a Refurbishing CMU (where this declaration is not provided in respect of the Pre-Refurbishment CMU and is provided in respect of the Relevant CMU once improvement works have been completed).]
- [(c) an Existing Generating CMU (including where this declaration is provided in respect of the Pre-Refurbishment CMU in relation to a Refurbishing CMU).]
- [(d) a DSR CMU.]

### **Part 2: Declaration in respect of relevant Fossil Fuel Components**

[The Relevant Person hereby declares that the Relevant CMU does not comprise of any relevant Fossil Fuel Component which has an Installed Capacity of equal to or greater than 1MW.]

### **Part 3: Declarations in respect of relevant Fossil Fuel Components with an Installed Capacity equal to or greater than 1MW**

[The Relevant Person hereby declares that, in respect of each relevant Fossil Fuel Component, which has an Installed Capacity of equal to or greater than 1MW, and which is described in the first column of the table in **Part 4**:

- [(a) in respect of each relevant Fossil Fuel Component which has a Commercial Production Start Date which is on or after 4 July 2019, the Fossil Fuel Emissions are as specified in the fourth column of the table in **Part 4**]; [and]
- [(b) where the Relevant Delivery Year is the Delivery Year that commences on 1 October 2024 or is a subsequent Delivery Year;
  - (i) in respect of each relevant Fossil Fuel Component which has a Commercial Production Start Date which is before 4 July 2019:
    - (aa) the Fossil Fuel Emissions are as specified in the fourth column of the table in **Part 4**;
    - [(bb) the Fossil Fuel Yearly Emissions of each relevant Fossil Fuel Component with Fossil Fuel Emissions equal to or greater than the Fossil Fuel Emissions Limit are as specified in the fifth column of the table in **Part 4**.] ]

**Part 4: Fossil Fuel Emissions (and, where relevant, Fossil Fuel Yearly Emissions)**

<b>Fossil Fuel Component descriptor</b>	<b>Commercial Production Start Date</b>	<b>Generating Unit Fuel Type</b>	<b>Fossil Fuel Emissions (in gCO<sub>2</sub> per kWh<sub>e</sub>)</b>	<b>[Fossil Fuel Yearly Emissions (in kg CO<sub>2</sub> per kWh)]</b>
.....	[Before 4 July 2019] or [On or after 4 July 2019]	.....	.....	[.....]
.....	[Before 4 July 2019] or [On or after 4 July 2019]	.....	.....	[.....]
.....	[Before 4 July 2019] or [On or after 4 July 2019]	.....	.....	[.....]
.....	[Before 4 July 2019] or [On or after 4 July 2019]	.....	.....	[.....]
.....	[Before 4 July 2019] or [On or after 4 July 2019]	.....	.....	[.....]

..... <sup>5</sup>	[Before 4 July 2019] or [On or after 4 July 2019]	.....	.....	[.....]
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**Part 5: Declarations in respect of relevant Fossil Fuel Components with an installed Capacity below 1MW**

[The Relevant Person hereby confirms that:

- [(a) where the Relevant Delivery Year is the Delivery Year that commences on 1 October 2021 or 1 October 2022, or 1 October 2023:
  - (i) the Relevant CMU comprises of at least one relevant Fossil Fuel Component with a Commercial Production Start Date on or after 4 July 2019 which has an Installed Capacity of less than 1MW and each relevant Fossil Fuel Component does not exceed the Fossil Fuel Emissions Limit; and
  - (ii) in the event that the Relevant CMU will, after making this Declaration, comprise of any further relevant Fossil Fuel Component with a Commercial Production Start Date on or after 4 July 2019 which has an Installed Capacity of less than 1MW, each relevant Fossil Fuel Component will not exceed the Fossil Fuel Emissions Limit.]
  
- [(b) where the Relevant Delivery Year is the Delivery Year that commences on 1 October 2021, or 1 October 2022, or 1 October 2023:
  - (i) the Relevant CMU does not comprise of any relevant Fossil Fuel Component with a Commercial Production Start Date on or after 4 July 2019 which has an Installed Capacity of less than 1MW; and
  - (ii) in the event the Relevant CMU will, after making this Declaration, comprise of at least one relevant Fossil Fuel Component with a Commercial Production Start Date on or after 4 July 2019 which has an Installed Capacity of less than 1MW, each relevant Fossil Fuel Component will not exceed the Fossil Fuel Emissions Limit.]
  
- [(c) where the Relevant Delivery Year is the Delivery Year that commences on 1 October 2024 or is a subsequent Delivery Year:
  - (i) the Relevant CMU comprises of at least one relevant Fossil Fuel Component which has an Installed Capacity of less than 1MW and:
    - [(aa) each relevant Fossil Fuel Component does not exceed the Fossil Fuel Emissions Limit;] or
    - [(bb) each relevant Fossil Fuel Component does not exceed the Fossil Fuel Emissions Limit, other than if the relevant Fossil Fuel Component has a Commercial Production Start Date which is before 4 July 2019, in which case,

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<sup>5</sup> Additional rows must be added for each additional relevant Fossil Fuel Component.

where the relevant Fossil Fuel Component exceeds the Fossil Fuel Emission Limit, it does not exceed the Fossil Fuel Yearly Limit] ]

- (ii) in the event that the Relevant CMU will, after making this Declaration, comprise of any further relevant Fossil Fuel Component with a Commercial Production Start Date on or after 4 July 2019 which has an Installed Capacity of less than 1MW, each relevant Fossil Fuel Component will not exceed the Fossil Fuel Emissions Limit; and
- (iii) in the event that the Relevant CMU will, after making this Declaration, comprise of any further relevant Fossil Fuel Component with a Commercial Production Start Date which is before 4 July 2019 which has an Installed Capacity of less than 1MW, each relevant Fossil Fuel Component will not exceed both the Fossil Fuel Emissions Limit and the Fossil Fuel Yearly Limit.] ]

[(d) where the Relevant Delivery Year is the Delivery Year that commences on 1 October 2024 or is a subsequent Delivery Year:

- (i) the Relevant CMU does not comprise of any relevant Fossil Fuel Component which has an Installed Capacity of less than 1MW;
- (ii) in the event that the Relevant CMU will, after making this Declaration, comprise of at least one relevant Fossil Fuel Component with a Commercial Production Start Date on or after 4 July 2019 which has an Installed Capacity of less than 1MW, each relevant Fossil Fuel Component will not exceed the Fossil Fuel Emissions Limit; and
- (iii) in the event that the Relevant CMU will, after making this Declaration, comprise of at least one relevant Fossil Fuel Component with a Commercial Production Start Date which is before 4 July 2019 which has an Installed Capacity of less than 1MW, each relevant Fossil Fuel Component will not exceed both the Fossil Fuel Emissions Limit and the Fossil Fuel Yearly Limit.] ]

## **Part 6: Declaration in respect of information provided with this Fossil Fuel Emissions Declaration**

[The Relevant Person hereby confirms that:

- (a) in respect of the Fossil Fuel Emissions specified in the fourth column of the table in **Part 4**, attached to this Declaration is the following information for each relevant Fossil Fuel Component:
  - (i) the data used to calculate the Design Efficiency of the Fossil Fuel Component;
  - (ii) a description (including title and year) of the ISO (International Organisation for Standardisation) or EN (European Standards) standard/s applied by the Relevant Person;
  - (ii) the data used to determine the appropriate Emission Factor; and
  - (iv) details of any assumptions made in calculations of Fossil Fuel Emissions [and, where applicable, Fossil Fuel Yearly Emissions].

and

[(b) in respect of the Fossil Fuel Yearly Emissions specified in the fifth column of the table in **Part 4**, attached to this Declaration is the data used to calculate Electricity Production for each relevant Fossil Fuel Component.] ]

**Part 7: Declaration in respect of Emissions Related Material Changes**

The Relevant Person hereby confirms that an Updating Fossil Fuel Emissions Declaration will be provided if there is an Emissions Related Material Change to the Relevant CMU and/or to a relevant Fossil Fuel Component which has an Installed Capacity of equal to or greater than 1MW.

**Part 8: Director Signatures**

DATED: [dd/mm/yyyy]<sup>6</sup>

DATED: [dd/mm/yyyy]<sup>6</sup>

Signed

.....

.....

Director<sup>7</sup>

Director<sup>7</sup>

Print Name:

Print Name:

To be executed by the signature of two Directors, (unless Rule 1.3A applies)

**Part 9: Independent Emissions Verifier certification of declaration(s) made in Part 3:**

1. (Choose either (a) or (b))

(a) [We have conducted a verification of the information provided in the table in **Part 4** and the data provided pursuant to **Part 6** and, on the basis of the Assurance Work described in **Annex A** to this Declaration, we confirm with reasonable assurance that the declaration[s] in **Part 3** [is]/[are] true and correct in all material aspects.]

or

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<sup>6</sup> Signatures need to be dated: The date for each signature is to be provided on the day in which the relevant person signs, in the format: day, month, year (dd/mm/yyyy).

<sup>7</sup> or officer, in the case of a body other than a company.

(b) [We have conducted a verification of the information provided in the table in **Part 4** and the data provided pursuant to **Part 6** and, on the basis of the Assurance Work described in **Annex A** to this Declaration, we confirm with reasonable assurance that the declaration[s] in **Part 3** [is]/[are] true and correct, with the exception of [.....]].

2. (Complete all of the following)

We have applied the following standard/s when conducting the verification of the information provided in the table in **Part 4** and the data provided pursuant to **Part 6**:

[ Include a description (including title and year) of the ISO (International Organisation for Standardisation) or EN (European Standards) standard/s applied ]

DATED: [dd/mm/yyyy]<sup>8</sup>

Signed.....

Authorised signatory (Print Name).....

Position.....

Authorised signatory for and on behalf of.....

Name of Independent Emissions Verifier.....

Accreditation body: .....

Accreditation number of Independent Emissions Verifier: .....

### **Annex A: Assurance Work Conducted by the Independent Emissions Verifier**

**Responsibilities:**

The Relevant Person is responsible for the preparation and reporting of data in this Fossil Fuel Emissions Declaration (“Declaration”) and for its submission to the Delivery Body in accordance with the Rules.

The Independent Emissions Verifier is responsible (in accordance with its contract with the Relevant Person and its accreditation obligations) for carrying out verification of the Declaration and data submitted with the Declaration.

**Assurance Work Conducted:**

The Independent Emissions Verifier has conducted its examination having regard to the criteria used for

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<sup>8</sup> Signatures need to be dated: The date for each signature is to be provided on the day in which the authorised signatory signs, in the format: day, month, year (dd/mm/yyyy).

verification outlined below. This involved examining, based on the verifier’s own assessment of risk, evidence provided by the Relevant Person, to assess whether the verifier is able to give reasonable assurance that the declaration(s) in **Part 3** of this Declaration is/are true and correct in all material respects.

**Criteria used for verification:** The Capacity Market Rules, the Electricity Capacity Regulations 2014 (SI 2014/ 2043); relevant ISO and EN standards.”.

**9. Insertion of Exhibit ZB (Fossil Fuel Emissions Commitment)**

**9.1** After Exhibit ZA, insert:

**“EXHIBIT ZB: FORM OF FOSSIL FUEL EMISSIONS COMMITMENT**

**[APPLICATION YEAR] Fossil Fuel Emissions Commitment**

[NAME OF APPLICANT OR CAPACITY PROVIDER]

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

[ADDRESS OF REGISTERED OFFICE]

The following declarations are made by Directors<sup>1</sup> of [NAME OF APPLICANT] (the “**Relevant Person**”) <sup>2</sup> with respect to:

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

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

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**”);

**Part 1: The Relevant CMU**

The Relevant Person hereby confirms that the Relevant CMU is:

- [(a) a New Build CMU.]
- [(b) a Refurbishing CMU.]
- [(c) an Unproven DSR CMU.]

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<sup>1</sup> or officers, in the case of a body other than a company

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

**Part 2: Declarations in respect of the Relevant CMU**

The Relevant Person hereby declares that:

- [(a) the Relevant CMU will not comprise of any Fossil Fuel Component.]
  
- [(b) in the event that the Relevant CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component:
  - (i) the Relevant Person will make a Fossil Fuel Emissions Declaration;
  
  - (ii) in the event the Relevant CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, with a Commercial Production Start date on or after 4 July 2019, the Fossil Fuel Emissions of each Fossil Fuel Component or Associated Fossil Fuel Component will not exceed the Fossil Fuel Emissions Limit.]; and
  
  - (iii) in the event the Relevant CMU comprises of at least one Fossil Fuel Component or at least one Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component, with a Commercial Production Start Date which is before 4 July 2019, and the Relevant Delivery Year commences on 1 October 2024 or is a subsequent Delivery Year, the Fossil Fuel Emissions of each Fossil Fuel Component or Associated Fossil Fuel Component will not exceed both the Fossil Fuel Emissions Limit and the Fossil Fuel Yearly Emissions Limit.]
  
- (c) if a Fossil Fuel Emissions Declaration is made in respect of the Relevant CMU, an Updating Fossil Fuel Emissions Declaration will be provided if there is an Emissions Related Material Change to the Relevant CMU or to a future Fossil Fuel Component.

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

**Director Signatures**

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

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

Signed

.....

.....

---

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

Director<sup>4</sup>

Director<sup>4</sup>

Print Name:

Print Name:

To be executed by the signature of two directors, unless Rule 1.3A applies.”.

**10. Insertion of Exhibit ZC (Fossil Fuel Removal Declaration)**

**“EXHIBIT ZC: FORM OF FOSSIL FUEL REMOVAL DECLARATION**

**Fossil Fuel Removal Declaration**

[NAME OF APPLICANT OR CAPACITY PROVIDER]

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

[ADDRESS OF REGISTERED OFFICE]

The following declaration is made by Directors<sup>1</sup> of [NAME OF APPLICANT] (the “**Relevant Person**”)<sup>2</sup> with respect to [Description of CMU to be inserted] (the “**Relevant CMU**”).

The Applicant hereby declares that the Relevant CMU no longer comprises of any Fossil Fuel Component or any Storage Facility which has part or all of electricity requirements met by an Associated Fossil Fuel Component.

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

Director Signatures

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

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

Signed

.....

.....

<sup>4</sup> Or officer, in the case of a body other than a company.

<sup>1</sup> Or officers, in the case of a body other than a company.

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

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

Director<sup>4</sup>

Director<sup>4</sup>

Print Name:

Print Name:

To be executed by the signature of two directors, unless Rule 1.3A applies.”.

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<sup>4</sup> Or officers, in the case of a body other than a company.

## **Part 5**

### **Short Term Operating Reserve**

#### **14. Amendments to Rule 1.2 (Definitions)**

**14.1** In Rule 1.2.1:

14.1.1 in the definition of “Mandatory CMU”, for “16 to 18”, substitute “16 and 17”; and

14.1.2 omit the definition of “Relevant STOR contract”.

#### **15. Amendments to Rule 3.4 (Information to be provided in all Applications)**

**15.1** Omit Rule 3.4.8 (STOR status).

#### **16. Amendments to Rule 8.3 (Specific obligations and consequences)**

**16.1** Omit Rule 8.3.7(g).

**Part 6**  
**Miscellaneous**

**17. Amendments to Rule 5.5 (Capacity Auction format)**

17.1.1 In Rule 5.5.16, omit the words “, Refurbishing CMU” in each place in which they appear.

**18. Amendments to Exhibit D (Form of Applicant Declaration)**

**18.1** In Exhibit D:

(a) before “Signed for and on behalf of the Despatch Controller”, insert:

“DATED: [dd/mm/yyyy]<sup>2</sup>                      DATED: [dd/mm/yyyy]<sup>2</sup>”; and

(b) for the footnoted text substitute:

“<sup>1</sup> No second signature is required for sole director companies, see Rule 1.3A.

<sup>2</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).”.

## Part 7

### Amendments and modifications in respect of the effects of Coronavirus

#### 19. Revocation of modifications made by Chapter 16 and Chapter 17

19.1.1 Omit Rule 16.3.5.

19.1.2 Omit Rule 16.4C.11(a)(i).

19.1.3 Omit Rules 16.4C.13(a), 16.4C.13(b), 16.4C.13(c) and 16.4C.13(d).

19.1.4 Omit Rule 17.4.4.

#### 20. Insertion of Chapter 18 (Modifications in respect of the effects of Coronavirus)

20.1 After Chapter 17 insert:

### **“CHAPTER 18: MODIFICATIONS IN RESPECT OF THE EFFECTS OF CORONAVIRUS**

#### **18. Modifications in respect of the effects of Coronavirus**

##### **18.1 Purpose of this Chapter**

18.1.1 The Rules in this Chapter modify the application of the Rules to take into account the effects of Coronavirus on Capacity Providers’ ability to comply with certain requirements in the Rules.

##### **18.2 Application**

18.2.1 The modifications made by this Chapter apply on and from the date the Capacity Market (Amendment) (No. 2) Rules 2020 come into force, except for Rules 18.9 and 18.11.

18.2.2 The modifications made by Rules 18.9 and 18.11 apply on and from the coming into force of the Electricity Capacity (Amendment etc.) (Coronavirus) Regulations 2020.

##### **18.3 Definitions**

18.3.1 In this Chapter:

“Coronavirus” means severe acute respiratory syndrome coronavirus 2.

##### **18.4 Modifications to Rule 1.2.1 (Definitions)**

18.4.1 Rule 1.2.1 (Definitions) applies as if:

(a) after the definition of “Core Winter Period” there were inserted:

**“Coronavirus** means severe acute respiratory syndrome coronavirus 2”;

(b) after the definition of “Export” there were inserted:

**“Extended Long-Stop Date** means 30 September 2021”; and

(c) in the definition of “Long-Stop Date”:

(i) at the end of paragraph (a), there were inserted “, or, if the CMU meets the eligibility requirements in Rule 6.7.4A, the Extended Long-Stop Date”;

(ii) in paragraph (b), after “(c)” there were inserted “or (d)”;

(iii) at the end of paragraph (b), the “and” were omitted.

(iv) in paragraph (c), at the beginning, there were inserted “subject to paragraph (d)”;

(v) at the end of paragraph (c), there were inserted “; and”; and

(vi) after paragraph (c), there were inserted:

“(d) in the case of a New Build CMU which meets the eligibility requirements in Rule 6.7.4A, the Extended Long-Stop Date”; and

(d) in the definition of “Total Project Spend”:

(i) in the first paragraph, after “and the commencement of the first Delivery Year to which the Application relates” there were inserted “(or on the date that the Capacity Agreement takes effect in accordance with Rule 6.7.4(a)(ii) or Rule 6.8.5)”;

(ii) in the second paragraph, after “and the commencement of the first Delivery Year to which the Application relates” there were inserted “(or on the date that the Capacity Agreement takes effect in accordance with Rule 6.7.4(a)(ii))”.

## **18.5 Modifications in respect of the Long Stop Date**

18.5.1 Rule 6.7 (Achieving the Substantial Completion Milestone) applies as if:

- (a) in Rule 6.7.4(a)(ii):
  - (i) for the words from “in the case” to “T-1 Agreement)” there were substituted “in the case of a New Build CMU (other than in the case of a T-1 Agreement, unless the CMU meets the eligibility requirements in Rule 6.7.4A) or a Refurbishing CMU that meets the eligibility requirements in Rule 6.7.4A”; and
  - (ii) before “Rule 6.8.5” there were inserted “the CMU is a New Build CMU to which”;
- (b) after Rule 6.7.4, there were inserted:

“6.7.4A Extended Long-Stop Date – eligibility requirements

A CMU meets the eligibility requirements in this Rule 6.7.4A if:

- (a) the CMU is:
  - (i) a New Build CMU that has a T-4 Agreement for which the CMU’s first scheduled Delivery Year started on 1 October 2019 or a T-1 Agreement for the Delivery Year starting on 1 October 2020; or
  - (ii) a Refurbishing CMU that has a T-4 Agreement for which the CMU’s first scheduled Delivery Year starts on 1 October 2020 or a T-1 Agreement for the Delivery Year starting on 1 October 2020; and
- (b) the CMU has, by 30 September 2020, provided the Delivery Body with a report by an Independent Technical Expert which:
  - (i) explains the progress made by the CMU against the Construction Plan provided in accordance with Rule 3.7 (in the case of a New Build CMU) or Rule 3.8.1 (in the case of a Refurbishing CMU) or any remedial plan provided in accordance with Rule 12.2.4 and confirms that, as of 12 March 2020, the CMU had made the expected progress against the Construction Plan and any remedial plan; and
  - (ii) explains how the effects of Coronavirus caused delays in the CMU achieving the Substantial Completion Milestone.”.

18.5.2 Rule 8.3 (Specific obligations and consequences) applies as if:

- (a) in Rule 8.3.6(aa) (Evidence of Project Spend), after “first Delivery Year” there were inserted “(or on the date that the Capacity Agreement takes effect in accordance with Rule 6.7.4(a)(ii)”; and
- (b) in Rule 8.3.6A(c)(i) (Meeting the Extended Years Criteria), after “Delivery Year” there were inserted “(or, if the CMU meets the eligibility requirements in Rule 6.7.4A, the Extended Long-Stop Date)”.

**18.6 Modifications in respect of Metering Test Certificate deadlines**

18.6.1 Chapter 8 (Obligations of Capacity Providers and System Stress Events), Rule 8.3.3 (Metering) applies as if:

- (a) in Rule 8.3.3(e), at the beginning, there were inserted “Subject to Rule 8.3.3(eza),”; and
- (b) after Rule 8.3.3(e) there were inserted:
  - “(eza)
    - (i) This Rule 8.3.3(eza) applies to an Existing CMU, Pre-Refurbishment CMU, Proven DSR CMU or an Unproven DSR CMU that has a T-1 Agreement for the Delivery Year starting on 1 October 2020.
    - (ii) In the case of a CMU to which this Rule 8.3.3(eza) applies, the date by which the Capacity Provider must provide a Metering Test Certificate is 30 September 2020.”.

**18.7 Modifications in respect of Unproven DSR CMUs – eligibility for extended DSR Test and Metering Test deadlines**

18.7.1 Chapter 8 ((Obligations of Capacity Providers and System Stress Events), applies as if:

- (a) in Rule 8.3.2(a)(DSR Tests), after “second Delivery Year of the Capacity Agreement)”, there were inserted “or, if Rule 8.3.2ZA applies to the CMU, no later than 31 August 2021”;
- (b) after Rule 8.3.2 there were inserted:

“8.3.2ZA Extended deadlines for Unproven DSR CMUs – eligibility requirements

This Rule 8.3.2ZA applies to a CMU where:

- (a) the CMU is an Unproven DSR CMU that has a Capacity Agreement for the Delivery Year starting on 1 October 2020; and
- (b) the CMU has, by 31 August 2020, provided the Delivery Body with a report by an Independent Technical Expert which:
  - (i) explains the progress made by the Capacity Provider to acquire, and/ or acquire Contractual DSR Control over, DSR CMU Components to form the DSR CMU against the Business Plan provided in accordance with Rule 3.10.1; and
  - (ii) explains how the effects of Coronavirus caused delays in the CMU acquiring, and/or acquiring Contractual DSR Control over, DSR CMU Components to form the DSR CMU.

8.3.2ZB Where Rule 8.3.2ZA applies to a CMU, and the CMU has satisfied the requirements of Rule 8.3.2(a) (DSR Test):

- (a) on or prior to 1 October 2020, the Capacity Agreement in respect of the CMU will take effect on 1 October 2020; or
- (b) after 1 October 2020, the Capacity Agreement in respect of the CMU will take effect on the date on which the CMU has satisfied the requirements of Rule 8.3.2(a) (DSR Test), Rule 8.3.3(b) (Metering Assessment) and, if applicable, Rule 8.3.3(d) (Metering Test).

8.3.2ZC A Capacity Provider is not liable for, or entitled to, any payments in respect of a particular Unproven DSR CMU if the relevant System Stress Event precedes the date on which the CMU satisfies the requirements of Rule 8.3.2(a) (DSR Test), Rule 8.3.3(b) (Metering Assessment) and, if applicable, Rule 8.3.3(d) (Metering Test).”; and

- (c) in Rule 8.3.3(e)(i), at the end, there were inserted “(or, if Rule 8.3.2ZA applies to the CMU, no later than 17 September 2021)”.

18.7.2 Chapter 13 (Testing Regime) applies as if:

- (a) in Rule 13.2.2(d) (DSR Test), at the end, for “.” there were substituted “; or”;

- (b) after Rule 13.2.2(d) (DSR Test) there were inserted:
  - “(e) where Rule 8.3.2ZA applies to the CMU, no later than 31 August 2021.”; and
- (c) in Rule 13.3.2A(a) (Metering Test), after “relates” there were inserted “(or, if Rule 8.3.2ZA applies to the CMU, no later than 30 May 2021)”.

**18.8 Modifications in respect of requirements for Independent Technical Expert reports for monitoring of construction progress of Prospective CMUs**

18.8.1 Chapter 12 (Monitoring), applies as if:

- (a) in Rule 12.2.1 (Monitoring of construction progress of Prospective CMUs), at the beginning, there were inserted “Subject to Rule 12.2A,”;
- (b) in Rule 12.2.4, at the beginning, there were inserted “Subject to Rule 12.2A,”; and
- (c) after Rule 12.2 there were inserted:

**“12.2A Modifications in respect of Independent Technical Expert reports for monitoring of construction progress of Prospective CMUs**

- (a) This Rule 12.2A(a) applies where a report under Rule 12.2.1 is due to be delivered from 1 April 2020 to 31 March 2021 (both dates inclusive) and, if applicable, a remedial plan under Rule 12.2.4 is required in relation to that report.
- (b) This Rule 12.2A(b) applies where a CMU which meets the eligibility requirements in Rule 6.7.4A is required to deliver a report under Rule 12.2.1 and, if applicable, a remedial plan under Rule 12.2.4.
- (c) Where Rule 12.2A(a) applies, Chapter 12 applies as if:
  - (i) in Rule 12.2.1(b), for “, accompanied by” there were inserted “; and”;
  - (ii) Rule 12.2.1(c) and Rule 12.2.1(ca) were omitted;
  - (iii) Rule 12.2.4(a) were omitted; and
  - (iv) in Rule 12.2.5, “commentary and” were omitted.

- (d) Where Rule 12.2A(b) applies, Chapter 12 applies as if Rules 12.2.4 and 12.2.5 were omitted.”.

## **18.9 Modifications in respect of suspension of Capacity Payments for failure to complete additional Satisfactory Performance Days**

18.9.1 In Chapter 13 (Testing Regime), Rule 13.4 (Demonstrating satisfactory performance) applies as if:

- (a) in Rule 13.4.1ZA(b), at the beginning, there were inserted “subject to Rule 13.4.8,”;
- (b) in Rule 13.4.7(b), after “Rule 13.4.1ZC(c)” there were inserted “or Rule 13.4.8”; and
- (c) after Rule 13.4.7 there were inserted:

“13.4.8

- (a) This Rule 13.4.8 applies where:
  - (i) the Capacity Committed CMU is subject to Rule 13.4.1ZA in respect of a Capacity Agreement awarded in a Capacity Auction held on or after 21 December 2017; and
  - (ii) the relevant Delivery Year referred to in Rule 13.4.1ZA is the Delivery Year starting on 1 October 2019.
- (b) Where this Rule 13.4.8 applies:
  - (i) any Capacity Payment suspended under Rule 13.4.1ZA(b)(i) or 13.4.1ZA(b)(ii) must be paid to the Capacity Committed CMU if the third Satisfactory Performance Day required by Rule 13.4.1ZA(a) is demonstrated by the end of July 2020; and
  - (ii) any Capacity Payment suspended under Rule 13.4.1ZA(b)(v) must be paid to the Capacity Committed CMU if the third Satisfactory Performance Day required by Rule 13.4.1ZA(a) is demonstrated by the extended date referred to in Rule 13.4.1ZE(b).”.

## **18.10 Modifications in respect of DSR Baseline Demand**

18.10.1 Schedule 2 (Baseline Methodology) applies as if:

(a) in paragraph 2.1.1, at the beginning, there were inserted “subject to paragraph 2.1.1A,”; and

(b) after paragraph 2.1.1 there were inserted:

“2.1.1A in the case of an Unproven DSR CMU that has a Capacity Agreement for the Delivery Year starting on 1 October 2020, in the same day of the week for two of the last six weeks (provided that where the period for which the baseline is being calculated is on a Working Day and the same day of the week in either of those two weeks is a non-Working Day that these equivalent periods are disregarded); and”.

## **18.11 Modifications in respect of new Termination Event relating to effects of Coronavirus**

18.11.1 Chapter 6 (Capacity Agreements) applies as if:

(a) in Rule 6.10.1A(a), after “specified in” there were inserted “Rule 6.10.1AB and”;

(b) after Rule 6.10.1A, there were inserted:

“6.10.1AB Termination Event: effects of Coronavirus

(a) This Rule 6.10.1AB applies where:

- (i) the Delivery Body has given a Termination Notice in respect of a Capacity Agreement awarded as a result of a Capacity Auction held before 1 April 2020;
- (ii) the Capacity Provider has made representations to the Secretary of State under Rule 6.10.2(c) applying to have the Termination Notice withdrawn and to have the Termination Notice terminated on the ground specified in Rule 6.10.1AB(b) instead of the ground specified in the Termination Notice;
- (iii) those representations specify the reasons for requesting the termination of the Capacity Agreement on the ground specified in Rule 6.10.1AB(b);

- (iv) those representations confirm that the Capacity Provider acknowledges the consequences specified in Rule 6.10.1AB(c) of the termination of the Capacity Agreement on the ground specified in Rule 6.10.1AB(b); and
  - (v) those representations were made before the end of—
    - (aa) the Delivery Year for which the Capacity Provider has the Capacity Agreement in the case of a Capacity Agreement for a one year Capacity Obligation; or
    - (bb) the first Delivery Year for which the Capacity Provider has the Capacity agreement in the case of a Capacity Agreement for a multi-year Capacity Obligation.
- (b) Where this Rule 6.10.1AB applies, the Secretary of State may direct the Delivery Body in accordance with Regulation 33(2)(c) (as modified by paragraph 2 of Schedule 2 to the Electricity Capacity (Amendment etc.) (Coronavirus) Regulations 2020) to withdraw a Termination Notice in respect of a Capacity Agreement and instead terminate the Capacity Agreement on the ground that the Capacity Provider failed to meet a requirement in the Rules owing to the exceptional circumstances of the Capacity Provider’s particular case arising from the effects of Coronavirus.
- (c) If the Capacity Agreement is terminated on the ground specified in Rule 6.10.1AB(b), the Capacity Provider:
  - (i) is not liable to pay a Termination Fee; and
  - (ii) must repay any Capacity Payments paid to the Capacity Provider in respect of the period TP3 as defined in Regulation 43B(3)(c).”;
- (c) in Rule 6.10.2(b) (Procedure for automatic termination):
  - (i) after “20 Working Days” there were inserted “(or, if Rule 6.10.2(cd) applies, 30 Working Days)”; and

- (ii) in Rule 6.10.2(b)(i), after “60 Working Days” there were inserted “or, if Rule 6.10.2(cc) applies, 12 months after the date on which the Termination Notice was given”;
- (d) in Rule 6.10.2(c), after “20 Working Days” there were inserted “(or, if Rule 6.10.2(cd) applies, 30 Working Days)”;
- (e) after Rule 6.10.2(c) there were inserted:
  - “(cc) This Rule 6.10.2(cc) applies where:
    - (i) the Delivery Body has given a Termination Notice in respect of a Capacity Agreement that existed on 1 April 2020;
    - (ii) the Capacity Provider has made representations to the Secretary of State under Rule 6.10.2(b) applying to have the Termination Notice extended; and
    - (iii) those representations were made before the end of—
      - (aa) the Delivery Year for which the Capacity Provider has the Capacity Agreement in the case of a Capacity Agreement for a one year Capacity Obligation; or
      - (bb) the first Delivery Year for which the Capacity Provider has the Capacity agreement in the case of a Capacity Agreement for a multi-year Capacity Obligation.
  - (cd) This Rule 6.10.2(cd) applies where:
    - (i) the Delivery Body has given a Termination Notice in respect of a Capacity Agreement that existed on 1 April 2020; and
    - (ii) the Delivery Body gave that Termination Notice before 1 May 2021.”.
- (f) after Rule 6.10.2(d), there were inserted:
  - “(db) 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 and

instead terminate the Capacity Agreement solely on the ground specified in Rule 6.10.1AB(b) with immediate effect.”;

(g) after Rule 6.10.3(j) (Termination Fees), there were inserted:

“(n) Where a Capacity Agreement or a Transferred Part in respect of such an agreement is terminated on the ground specified in Rule 6.10.1AB(b), the Capacity Provider is not liable to pay a Termination Fee.”; and

(h) in Rule 6.10.3A (Repayment of Capacity Payments), after Rule 6.10.3A(d), there were inserted—

“(f) Capacity Payments are repayable in respect of the period TP3, as defined in Regulation 43B(3)(c), where the Capacity Agreement or Transferred Part is terminated on the ground specified in Rule 6.10.1AB(b).”.