

Part 1

Draft Amendments to the Electricity Capacity (Supplier Payment etc) Regulations 2014

Regulation 2 (interpretation)

1. In regulation 2(1) omit the definition of “net demand” and after the definition of “financial year” insert—

““gross demand” has the meaning given by paragraph 3;”

2. For regulation 2(3) substitute—

“(3) In these Regulations “gross demand”, in relation to an electricity supplier (“S”), means the amount of electricity (expressed in MWh) supplied by S to premises in Great Britain.”.

3. Omit regulation 2(4).

4. In regulation 2(5), omit ““the Balancing and Settlement Code;” and ““GB transmission system;”.

Part 2

Draft Amendments to the Electricity Capacity Regulations 2014

Regulation 2 (interpretation)

1. In regulation 2(1)—
 - (a) omit the definition of “capacity market warning” and after the definition of “the capacity market” insert—

““capacity market notice” has the meaning given in the Rules;”;
 - (b) omit the definition of “DSR bid capacity”; and
 - (c) in the definition of “relevant settlement period”, for “capacity market warning” substitute “capacity market notice”.

Regulation 25 (notification of results)

2. In regulation 25(2)(d)(i), omit the words “, and, in the case of a demand side response CMU, its DSR bid capacity if different”.

Regulation 30 (capacity agreements)

3. In regulation 30(2)(a), omit the words “in the case of a generating CMU or an interconnector CMU, or the DSR bid capacity of the CMU in the case of a demand side response CMU”.

Regulation 32 (termination fee rates)

4. In regulations 32(4) and (5), omit the words “or DSR bid capacity”.

Regulation 60 (credit obligation period)

5. For regulation 60(1)(a), substitute—

“(a) where CMU i is an unproven demand side response CMU, the de-rated capacity for CMU i becomes, in accordance with capacity market rules, less than the product (in MW to three decimal places) of the unproven DSR capacity of CMU i and the de-rating factor;”.
6. In regulation 60(1)(f), for each occurrence of “unproven DSR capacity” substitute “de-rated capacity”.
7. For regulation 60(1)(g), substitute—

“(g) Save where CMU i is an unproven demand side response CMU, A has fully discharged all the requirements against which its applicant credit cover was secured for which a failure otherwise to meet would result in its capacity agreement being terminated under capacity market rules;”.

8. In regulation 60(2), for each occurrence of “DSR bid capacity” substitute “de-rated capacity”.

Regulation 61 (draw down of applicant credit cover)

9. In regulation 61—
 - (a) omit paragraphs (1)(b) and (5); and
 - (b) in paragraph (2)(a) omit the words “or (b)”.

Regulation 73 (consequences of successful review or appeal)

10. In regulation 73—
 - (a) omit sub-paragraph (6)(b)(ii); and
 - (b) for paragraph (6A), substitute—

“(6A) In the case of a demand side response CMU, the applicant may nominate in accordance with capacity market rules the capacity in respect of which it wishes to be offered a capacity agreement and, where it does so—

- (a) that is the capacity which is to be used to determine the de-rated capacity of the CMU for the purposes of paragraph (6)(b), and
- (b) the de-rated capacity so determined is the de-rated capacity which applies for the purposes of regulations 32 and 60.”.

Regulation 87 (transitory provisions: the first T-4 auction)

11. In regulation 87, omit paragraphs (5), (6) and (8).

Regulation 87A (transitory provisions: the second T-4 auction)

12. For regulation 87A(2) substitute—

“(2) Where this paragraph applies, paragraph (7) of regulation 87 has effect as if the reference to the “first T-4 auction” were a reference to the second T-4 auction.”.

Part 3

Draft Amendments to the Capacity Market Rules

Section A

Delivery milestones for T-1 auctions

1. Amendments to Chapter 1

1.1 In Rule 1.2:

1.1.1 In paragraph (c) of the definition of “Long-Stop Date”, after “SA Agreement” insert “or a T-1 Agreement”.

1.1.2 After the entry for “Termination Notice”, insert:

“T-1 Agreement means a Capacity Agreement awarded pursuant to a T-1 Auction”.

2. Amendments to Chapter 6

2.1 In Rule 6.6.1, after “SA Agreement” insert “or a T-1 Agreement”.

2.2 In Rule 6.6A.1, after “SA Agreement” insert “or a T-1 Agreement”.

2.3 In Rule 6.7.4:

2.3.1 In Rule 6.7.4(a)(i), after “an SA Agreement” insert “or a T-1 Agreement”.

2.3.2 In Rule 6.7.4(a)(ii), after “SA Agreement” insert “or a T-1 Agreement”.

2.4 In Rule 6.8:

2.4.1 In Rule 6.8.2E:

(a) in Rule 6.8.2E(a), after “SA Agreement” insert “or a T-1 Agreement”, and

(b) in Rule 6.8.2E(b), after “SA Agreement” insert “or a T-1 Agreement”.

2.4.2 In Rule 6.8.2F, after “SA Agreement” insert “or a T-1 Agreement”.

2.4.3 In Rule 6.8.5, after “SA Agreement” insert “or a T-1 Agreement”.

2.5 In Rule 6.10.2(b)(i), after “SA Agreement” insert “or a T-1 Agreement”.

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Section B

Total spend declaration

3. Amendments to Chapter 1

3.1. In Rule 1.2:

3.1.1. In the definition of "Maximum Obligation Period", for paragraph (a) substitute:

- "(a) fifteen Delivery Years, including the first Delivery Year for which the Capacity Agreement is awarded, for a Prospective Generating CMU:
- (i) for which an Applicant has stated pursuant to Rule 3.7.2(a), that to the best of its knowledge and belief the CMU will meet the Extended Years Criteria when completed;
 - (ii) for which an Applicant has stated pursuant to Rule 3.7.2(d), that Qualifying £/kW Capital Expenditure is expected to equal or exceed the Fifteen Year Minimum £/kW Threshold; and
 - (iii) in respect of which none of the Generating Units comprising the Prospective Generating CMU are already the subject of a Capacity Agreement which has not been terminated;"

3.1.2. For the definition of "Qualifying £/kW Capital Expenditure substitute:

"Qualifying £/kW Capital Expenditure

means, with respect to a New Build CMU which is a Generating CMU or a Refurbishing CMU which is a Generating CMU, the Total Project Spend divided by the De-rated Capacity of the Generating CMU that is expected in the reasonable opinion of the Applicant to result from such Capital Expenditure".

3.1.3. For the definition of “Total Project Spend” substitute:

“Total Project Spend means, with respect to a New Build CMU which is a Generating CMU, the total amount of Capital Expenditure (excluding contingency) incurred, or expected in the reasonable opinion of the Applicant to be incurred (either by the Applicant or another person) with respect to the CMU (or, in the case of an Interconnector CMU, the CMU together with the Non-GB Part) between the date which is 77 months prior to the commencement of the first Delivery Year to which the Application relates and the commencement of the first Delivery Year to which the Application relates; or

means, with respect to a Refurbishing CMU which is a Generating CMU, the total amount of Capital Expenditure (excluding contingency) incurred, or expected in the reasonable opinion of the Applicant to be incurred (either by the Applicant or another person) with respect to the CMU (or, in the case of an Interconnector CMU, the CMU together with the Non-GB Part) between the date which is the Auction Results Day prior to the commencement of the first Delivery Year to which the Application relates, and the commencement of the first Delivery Year to which the Application relates and which:

- (a) has not previously been declared under Rule 3.7.2(c) in respect of any application for prequalification by a CMU which subsequently gained a Capacity Agreement (of any duration);

- (b) if that Capacity Agreement was for a duration exceeding one year, has previously been so declared but which a certificate required by Rule 8.3.6 demonstrates was not incurred; or
- (c) has previously been so declared but in respect of a Capacity Agreement which has been terminated in accordance with Rule 6.10.2(e)".

4. Amendments to Chapter 3

4.1. For Rule 3.7.2(c) substitute:

“(c) the Total Project Spend;”.

4.2. In Rule 3.8.1, omit “And except that” and paragraph (c).

5. Amendments to Chapter 5

5.1. In Rule 5.5.14(b), after “New Build CMU” insert “with a Maximum Obligation Period of fifteen years”.

6. Amendments to Chapter 8

6.1. In Rule 8.3.6:

6.1.1. In paragraph (a), after “Independent Technical Expert” insert “stating the Total Project Spend incurred, the Total Project Spend incurred divided by the Derated Capacity of the CMU and”.

6.1.2. In paragraph (aa):

- (a) at the beginning, insert “if the CMU is a refurbishing CMU,”; and
- (b) for the words after “Total Project Spend” substitute “incurred:
 - (i) was not declared under Rule 3.7.2(c) in respect of any application for prequalification by a CMU which subsequently gained a Capacity

Agreement (of any duration) prior to the current Capacity Agreement;

- (ii) was previously so declared but which a certificate required by this Rule 8.3.6 demonstrates was not incurred; or
- (iii) was previously so declared but in respect of a Capacity Agreement which has been terminated in accordance with Rule 6.10.2(e);”.

6.1.3. In paragraph (c), after “Rule 8.3.6(a)” insert “or (aa)”.

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Section C
Metering requirements

7. Amendments to Chapter 1

7.1 In Rule 1.2, at the end of the definition of “Metering Test Certificate” insert “or Rule 13.3.6B(a)”.

8. Amendments to Chapter 3

8.1 In Rule 3.6.4(b):

8.1.1 In sub-paragraph (ii), for “eight months” substitute “six months”.

8.1.2 For sub-paragraph (iii), substitute:

“(iii) no later than the date falling four months prior to the start of the relevant Delivery Year where the time period between the Delivery Year and the Auction Results Day is less than eight months.”.

8.2 In Rule 3.6A.3(aa):

8.2.1 Renumber sub-paragraphs (iii), (iv) and (v) as sub-paragraphs (i), (ii) and (iii) respectively.

8.2.2 In renumbered sub-paragraph (ii), for “eight months” substitute “six months”.

8.2.3 For renumbered sub-paragraph (iii), substitute:

“(iii) no later than the date falling four months prior to the start of the relevant Delivery Year where the time period between the Delivery Year and the Auction Results Day is less than eight months.”

8.3 In Rule 3.9.4(b):

8.3.1 In sub-paragraph (ii), for “eight months” substitute “six months”.

8.3.2 For sub-paragraph (iii), substitute:

“(iii) no later than the date falling four months prior to the start of the relevant Delivery Year where the time period between the Delivery Year and the Auction Results Day is less than eight months.”.

8.4 For Rule 3.10.2, substitute:

“3.10.2 Required Testing

Each Applicant for an Unproven DSR CMU must confirm that it will complete in relation to that CMU:

- (a) a DSR Test or Joint DSR Test no later than the date falling one month before the commencement of the Delivery Year to which the Capacity Auction relates; and
- (b)
 - (i) a Metering Assessment (including providing line diagrams as described in Rule 3.9.4(a)(i)); and
 - (ii) if required, a Metering Test,

prior to the date falling four months before the commencement of the Delivery Year to which the Capacity Auction relates.

9. Amendments to Chapter 8

9.1 In Rule 8.3.3:

9.1.1 In sub-paragraph 8.3.3(a)(ii), for “eight months” substitute “six months”.

9.1.2 In sub-paragraph 8.3.3(a)(iii), for “one month” substitute “four months”.

9.1.3 In sub-paragraph 8.3.3(e)(i), for “1 month” substitute “two weeks”.

9.1.4 In sub-paragraph 8.3.3(e)(iii), for “1 month” substitute “two weeks” and omit “or” from the end of the sub-paragraph.

9.1.5 At the end of sub-paragraph 8.3.3(e)(iv) insert:

“ ;

- (v) in the case of an Existing CMU or a Proven DSR CMU where the time period between the Delivery Year and the auction is less than eight months, the date falling two weeks prior to the start of the relevant Delivery Year”.

10. Amendments to Chapter 13

10.1 For Rule 13.3.2(a) substitute:

“(a) notify the CM Settlement Body that it requires a Metering Test to be carried out with respect to that CMU no later than:

- (i) in the case of an Unproven DSR CMU, the date falling four months prior to the start of the relevant Delivery Year;
- (ii) in the case of an Existing CMU or a Proven DSR CMU that has been awarded a Capacity Agreement in a T-4 Auction held in the Auction Window commencing on 1 September 2015 or any subsequent Auction Window, the date falling twenty one months prior to the start of the first Delivery Year;
- (iii) in the case of an Existing CMU or a Proven DSR CMU that has been awarded a Capacity Agreement in a T-1 Auction, the date falling five months prior to the start of the relevant Delivery Year;
- (iv) in the case of an Existing CMU or a Proven DSR CMU where the time period between the Delivery Year and the auction is less than eight months, the date falling four months prior to the start of the relevant Delivery Year; or
- (v) in the case of a Prospective CMU, as soon as reasonably practicable after the date on which the Capacity Provider receives notification under Rule 8.3.3 (d)(i), and in any event not later than the Long Stop Date; and”.

10.2 In Rule 13.3.6, omit “Following” and insert “Except where Rule 13.3.6B applies, following”.

10.3 After Rule 13.3.6 insert:

“13.3.6A Rule 13.3.6B applies where a Capacity Committed CMU arising from a Capacity Auction or a Supplementary Auction is subject to a Metering Test and the CM Settlement Body conducts the Metering Test on a sample of the Generating Units or DSR CMU Components comprised in the CMU.

13.3.6B Following the completion of the Metering Test in relation to a sample of Generating Units or DSR CMU Components comprised in a CMU, the CM Settlement Body must either:

- (a) issue a Metering Test Certificate to the relevant Capacity Provider with respect to that CMU:
 - (i) confirming that the Metering Test has been conducted on a sample basis;

- (ii) detailing the metering configuration for each Generating Unit or DSR CMU Component comprised in the sample;
 - (iii) confirming that the metering arrangements for each Generating Unit or DSR CMU Component comprised in the sample constitutes an Approved Metering Solution; and
 - (iv) listing the remaining Generating Units or DSR CMU Components comprised in the CMU and confirming that those Generating Units or DSR CMU Components have not been subject to a Metering Test; or
- (b) notify the Capacity Provider that one or more Generating Units or DSR CMU Components comprised in the sample has failed a Metering Test.

13.3.6C Where a notice is given pursuant to Rule 13.3.6B(b):

- (a) it is to be treated as if it were a notice given under Rule 13.3.6(b); and
- (b) when the CM Settlement Body conducts a further Metering Test pursuant to Rule 13.3.8, the test may cover additional Generating Units or DSR CMU Components.

10.4 In Rule 13.3.8, for “to 13.3.6”, substitute “to 13.3.6B”.

10.5 In Rule 13.3.11, after “Rule 13.3.6”, insert “or Rule 13.3.6C”.

11. Amendments to Chapter 14

11.1 After Rule 14.2.6, insert:

- “14.2.7 In respect of the Supplementary Auction, a Capacity Provider using either the Balancing Services Metering Configuration Solution; or the Bespoke Metering Configuration Solution, is permitted to either:
- (a) submit meter data directly to the CM Settlement Body; or
 - (b) arrange for the data to be collected and submitted to the CM Settlement Body.

Data submitted using either of the methods set out at paragraphs (a) and (b) must be submitted via secure file transfer protocol in a comma separated value format.”.

Section D

Definition of De-rated Capacity

12. Amendments to Chapter 1

12.1. In Rule 1.2:

12.1.1. For the definition of “Bidding Capacity” substitute:

“Bidding Capacity means, for a Bidding CMU, its De-rated Capacity”.

12.1.2. In the definition of “De-rated Capacity”, for paragraph (b) substitute:

“(b) for a DSR CMU:

(i) its DSR Capacity, or, if any,

(ii) the capacity nominated under rule 5.5.11;”.

12.1.3. Omit the entry for “DSR Bidding Capacity”.

13. Amendments to Chapter 5

13.1. In Rule 5.5.11, for “the De-rated Capacity of such DSR CMU” substitute “the product (in MW to three decimal places) of the DSR Capacity of such DSR CMU and the De-rating Factor (“the original de-rated capacity)”.

13.2. Omit Rule 5.5.12.

13.3. In Rule 5.5.13, for “a DSR Bidding Capacity which is lower than the De-rated Capacity” substitute “under Rule 5.5.11 a capacity which is lower than the original de-rated capacity”.

Section E

Termination

14. Amendments to Chapter 6

14.1 After Rule 6.10.1(h) insert:

“(ha) where the Capacity Agreement relates to an Existing CMU, a Proven DSR CMU or an Unproven DSR CMU and, in any such case, the Capacity Provider has made a declaration in its Application in accordance with Rule 3.6.4(b), 3.6A.3(aa), 3.9.4(b) or 3.10.2(b) that it will complete a Metering Assessment for that CMU, the Capacity Provider has failed to complete a Metering Assessment in accordance with Rule 8.3.3(a) or 8.3.3(b);”.

14.2 At the end of Rule 6.10.3 insert:

- “(g) Where a Capacity Agreement awarded as a result of a Capacity Auction held after the coming into force of the Capacity Market (Amendment) Rules 2017, or a Transferred Part in respect of such a Capacity Agreement, is terminated on one of the grounds specified in paragraph (d) or (ha) of Rule 6.10.1, the Capacity Provider is liable to pay a termination fee in accordance with Regulation 43.
- (h) The amount of a termination fee payable under Rule 6.10.3(g) is TF3, as determined in accordance with Regulation 43(3).”.

Section F

Transparency publications

15. Amendments to Chapter 3

15.1 At end of rule 3.4.1(f) insert:

“;

- (g) the value added tax identification number of the Applicant;
- (h) confirmation that the Applicant is a “SME”, which has the meaning given in Annex I to Commission Regulation (EU) No 651/2014¹, or if it is not a SME, that it is a “Large Enterprise”.

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¹ OJ No L 187, 26.6.2014, p1

Section G

Capacity Market Notices

16. Amendments to Chapter 1

16.1 In Rule 1.2, for the definition of “Capacity Market Warning” substitute:

“Capacity Market Notice means a notice issued in accordance with Rule 8.4.6”.

17. Amendments to Chapter 8

17.1 In Rule 8.1.1, for “Capacity Market Warning” substitute “Capacity Market Notice”.

17.2 In Rule 8.4.6, for each occurrence of “Capacity Market Warning” and “warning” substitute “Capacity Market Notice”.

17.3 In Rule 8.5.1, for each occurrence of “Capacity Market Warning” substitute “Capacity Market Notice”.

17.4 In Rule 8.6.2, for “Capacity Market Warning” substitute “Capacity Market Notice”.

18. Amendments to Chapter 11

18.1 In Rule 11.3.5, for “Capacity Market Warnings” substitute “Capacity Market Notices” and for “Capacity Market Warning” substitute “Capacity Market Notice”.

19. Amendments to Chapter 14

19.1 In Rule 14.4.3(a)(i), for “Capacity Market Warning” substitute “Capacity Market Notice”.

20. Amendments to Schedule 2

20.1 In Schedule 2, for each occurrence of “Capacity Market Warning” substitute “Capacity Market Notice”.