

# The Capacity Market (Amendment) Rules 2016

## 1. Citation, commencement and interpretation

- 1.1** These Rules may be cited as the Capacity Market (Amendment) Rules 2016.
- 1.2** These Rules come into force on 21<sup>st</sup> July 2016.
- 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; and
    - (d) the Capacity Market (Amendment) (No. 2) Rules 2015;
  - 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 following provisions of 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:
- 2.1.1 the amendments to Chapters 1, 3, 4, 6 and 7, and the insertion into Chapter 12 of Rule 12.2.1B, made by Part 2 (requirements for New Build CMUs etc.) of the Schedule to these Rules;
  - 2.1.2 the amendment to Rule 6.10 made by paragraph 34.2.1 in Part 7 of the Schedule to these Rules.
- 2.2** The amendments made by Part 4 (obligation trading and volume reallocation) of the Schedule to these Rules, apart from paragraph 25.1, do not apply to a Capacity Agreement awarded as a result of a Transitional Capacity Auction.
- 2.3** The amendments made by the following provisions of Part 4 of the Schedule to these Rules do not apply in respect of a Capacity Auction, or a Capacity Agreement awarded as a result of a Capacity Auction, held before 1st September 2017:
- 2.3.1 paragraph 19;
  - 2.3.2 paragraph 21.1;
  - 2.3.3 paragraph 21.2.3;

2.3.4 paragraph 21.2.5;

2.3.5 paragraph 22.2.

### **3. Amendments**

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

2016

Secretary of State  
Department of Energy and Climate Change

# SCHEDULE

## PART 1

### Agreements awarded in a Supplementary Auction

#### 1. Amendments to Chapter 1

##### 1.1 In Rule 1.2<sup>1</sup>:

###### 1.1.1 In the definition of "Long-Stop Date":

- (a) omit "and" after paragraph (a);
- (b) in paragraph (b), after "New Build CMU," insert "except where paragraph (c) applies,"; and
- (c) after paragraph (b) insert:  
"; and  
(c) where an SA Agreement has been awarded in respect of a New Build CMU, the start of the relevant Delivery Year".

###### 1.1.2 Insert the following definitions in alphabetical order at the appropriate places:

<b>"SA Agreement</b>	means a Capacity Agreement awarded pursuant to a Supplementary Auction".
<b>"Supplementary Auction</b>	has the meaning given to that term in the Regulations".

#### 2. Amendments to Chapter 3

##### 2.1 In Rule 3.6A.2(a), after "entered into" insert "and are in force".

##### 2.2 After Rule 3.10 insert:

###### **"3.10A Applications for a Supplementary Auction: Connection Arrangements**

3.10A.1 This Rule 3.10A applies in the case of an Application to participate in a Supplementary Auction.

3.10A.2 An Applicant that is unable to give the confirmation referred to in:

- (a) Rule 3.6.3(a)(i),
- (b) Rule 3.6A.2(a),
- (c) Rule 3.7.3(a)(i), or
- (d) Rule 3.7.3(aa)(i),

as the case may be, may instead of complying with Rule 3.6.3(a), Rule 3.6A.2, Rule 3.7.3(a) or Rule 3.7.3(aa) declare that it will

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<sup>1</sup> Rule 1.2 is also amended by paragraphs 9.1, 15.1, 18.1, 27.1 and 30.1 of this Schedule.

provide the required copy of the Grid Connection Agreement by the date falling 6 months prior to the commencement of the relevant Delivery Year, with such an agreement being in force by that date.

3.10A.3. An Applicant that is unable to:

- (a) give the confirmation referred to in Rule 3.6.3(c)(i),
- (b) provide a letter with the confirmation referred to in Rule 3.6.3(d), or
- (c) give the confirmation referred to in Rule 3.7.3(b)(i),

as the case may be, may instead of complying with Rule 3.6.3(c), Rule 3.6.3(d) or Rule 3.7.3(b) declare that it will provide the required copy of the Distribution Connection Agreement, written confirmation, letter from the Private Network owner or connection offer by the date falling 6 months prior to the commencement of the relevant Delivery Year, with any corresponding Distribution Connection Agreement or agreement with the relevant Distribution Network Operator being in force by that date.”.

### **3. Amendment to Chapter 4**

**3.1** In Rule 4.5.1,<sup>2</sup> after paragraph (b)(iv) insert:

“(iva) In relation to a Supplementary Auction only, if the Applicant has made a declaration pursuant to Rule 3.10A.2 or 3.10A.3, that its Prequalification is conditional upon the Applicant satisfying the requirement in Rule 4.6 and the amount of Applicant Credit Cover to be provided;”.

**3.2** In Rule 4.6.1,<sup>3</sup> for “(iii) or (iv)” substitute “(iii), (iv) or (iva)”.

### **4. Amendment to Chapter 5**

**4.1** In Rule 5.5.18(c)<sup>4</sup>:

4.1.1 after both occurrences of “T-4 Auction” insert “or a Supplementary Auction”; and

4.1.2 after both occurrences of “T-1 Auction” insert “(other than a Supplementary Auction)”.

### **5. Amendments to Chapter 6**

**5.1** In Rule 6.6.1,<sup>5</sup> after “was awarded” insert “(or, in the case of an SA Agreement, 3 months)”.

**5.2** In Rule 6.7.4:

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<sup>2</sup> Rule 4.5 is also amended by paragraph 32.1 of this Schedule.

<sup>3</sup> Rule 4.6 is also amended by paragraphs 32.5 to 32.8 of this Schedule.

<sup>4</sup> Rule 5.5 is also amended by paragraph 32.1 of this Schedule.

<sup>5</sup> Rule 6.6 is also amended by paragraph 12.1 of this Schedule.

5.2.1 In Rule 6.7.4(a)(i), after “of the Capacity Agreement,” insert “or the Delivery Year of an SA Agreement,”.

5.2.2 In Rule 6.7.4(a)(ii), after “New Build CMU only” insert “(other than in the case of an SA Agreement)”.

**5.3** In Rule 6.8<sup>6</sup>:

5.3.1 In Rule 6.8.2, for “6.8.2D” substitute “6.8.2F”.

5.3.2 After Rule 6.8.2D insert:

“6.8.2E Rule 6.8.2F applies where:

- (a) a New Build CMU has been awarded an SA Agreement; and
- (b) the Delivery Body becomes aware that the CMU has failed to reach its Minimum Completion Requirement in respect of that SA Agreement by the Long Stop Date.

6.8.2F Where this Rule 6.8.2F applies, the Notice of Intention to Terminate issued in respect of that SA Agreement must state that, unless the Minimum Completion Requirement is achieved (as determined in accordance with Rule 6.8.3 or 6.8.3A) within 20 Working Days from the date of that notice, a Termination Notice will be issued in accordance with Rule 6.10.2(a).”.

5.3.3 In Rule 6.8.5, after “of the Capacity Agreement” insert “, or of the Delivery Year of an SA Agreement,”.

**5.4** In Rule 6.10<sup>7</sup>:

5.4.1 At the end of Rule 6.10.1(c) insert “or Rule 6.8.2F”.

5.4.2 After Rule 6.10.1(e) insert:

“(ea) the Capacity Provider has made a declaration in its Application in accordance with Rule 3.10A.3 for a CMU but has not complied with the terms of that declaration as required by Rule 8.3.1(c);”.

5.4.3 After Rule 6.10.1(f) insert:

“(fa) the Capacity Provider has made a declaration in its Application in accordance with Rule 3.10A.2 for a CMU but has not provided a copy of its Grid Connection Agreement evidencing the matters specified in Rule 8.3.1(d) as required by that Rule;”.

5.4.4 In Rule 6.10.2(b)(i), insert at the end “(or, in the case of a Termination Notice given in respect of an SA Agreement, 20 Working Days)”.

## **6. Amendments to Chapter 7**

**6.1** In Rule 7.4<sup>8</sup>:

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<sup>6</sup> Rule 6.8 is also amended by paragraph 34.1 of this Schedule.

<sup>7</sup> Rule 6.10 is also amended by paragraphs 12.3, 16.1, 20.1 and 34.2 of this Schedule.

6.1.1 In Rule 7.4.1, omit “or” after paragraph (d)(vii)(cc) and insert after paragraph (d)(vii)(dd):

- “(ee) in relation to a Supplementary Auction only, a CMU that is a Transmission CMU or an Interconnector CMU and in respect of which the Applicant has made a declaration under Rule 3.10A.2; or
- (ff) in relation to a Supplementary Auction only, a CMU that is a Distribution CMU in respect of which the Applicant has made a declaration under Rule 3.10A.3;”.

6.1.2 In Rule 7.4.5, insert after paragraph (k):

- “(ka) in relation to each Capacity Committed CMU which has been awarded a Capacity Agreement in a Supplementary Auction:
  - (i) whether the Capacity Provider is subject to a requirement to comply with the terms of its declaration under Rule 3.10A.3 in accordance with Rule 8.3.1(c) and, if so, the date by which it must so comply; or
  - (ii) as the case may be, whether the Capacity Provider is subject to a requirement to provide a copy of its Grid Connection Agreement in accordance with Rule 8.3.1(d) and, if so, the date by which it must be provided;”.

## **7. Amendments to Chapter 8**

**7.1** In Rule 8.3<sup>8</sup>:

7.1.1 In Rule 8.3.1, after paragraph (b) insert:

- “(c) Where the Capacity Provider has made a declaration in accordance with Rule 3.10A.3:
  - (i) the Capacity Provider must comply with the terms of that declaration by no later than the date falling six months prior to the commencement of the relevant Delivery Year; and
  - (ii) if it does not comply with Rule 8.3.1(c)(i) then Rule 6.10.1(ea) applies.
- (d) Where the Capacity Provider has made a declaration in its Application in accordance with Rule 3.10A.2:
  - (i) the Capacity Provider must, by no later than the date falling six months prior to the commencement of the relevant Delivery Year, provide to the Delivery Body a copy of its Grid Connection

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<sup>8</sup> Rule 7.4 is also amended by paragraphs 17.1, 21.1, 35.1 and 35.2 of this Schedule.

<sup>9</sup> Rule 8.3 is also amended by paragraphs 21.3, 21.4, 36.1 and 36.2 of this Schedule.

Agreement evidencing that it has secured Transmission Entry Capacity for the relevant Delivery Year for the Generating Units comprised in the CMU (or the Electricity Interconnector comprised in the Interconnector CMU); and

- (ii) if it does not comply with Rule 8.3.1(d)(i) then Rule 6.10.1(fa) applies.”.

## **8. Amendments to Chapter 11**

**8.1** In Rule 11.1.2<sup>10</sup>:

8.1.1 For “T-1 Auctions” substitute “Capacity Auctions under Regulation 29”.

8.1.2 After “being” insert “together, for the purpose of this Chapter,”.

**8.2** At the end of Rule 11.2.1 insert “as if it were a T-1 Auction”.

**8.3** After Rule 11.3.2B<sup>11</sup> insert:

“11.3.2C Eligibility for the Second Transitional Capacity Auction following award of a SA Agreement

If an Application for the Second Transitional Capacity Auction has been submitted in relation to a CMU, and a SA Agreement has been awarded in respect of that CMU, the CMU must be prohibited from participating in that Transitional Capacity Auction.”.

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<sup>10</sup> Rule 11.1 is also amended by paragraph 28.1 of this Schedule.

<sup>11</sup> Rule 11.3 is also amended by paragraphs 25.1, 28.2 (which inserts new Rules 11.3.2A and 11.3.2B) and 28.3 of this Schedule.

## PART 2

### Requirements for New Build CMUs etc.

#### 9. Amendments to Chapter 1<sup>12</sup>

9.1 In Rule 1.2, insert the following definitions in alphabetical order at the appropriate places:

<b>“New Build Capacity Provider</b>	means, for any Capacity Committed CMU that is a New Build CMU, the person who was the Applicant for that CMU at Prequalification; or if a transfer under Rule 9.2.4(b), (c) or (d) of the Capacity Agreement relating to that CMU has been registered on the Capacity Market Register, the Transferee”;
<b>“Own Group Resources</b>	has the meaning given in Rule 6.6.3A”.

#### 10. Amendments to Chapter 3<sup>13</sup>

10.1 In Rule 3.3.3:

10.1.1 Omit “or” after paragraph (c).

10.1.2 In paragraph (d)(ii), after “Rule 6.8.4(a)” insert “, Rule 8.3.6(b) or (c)”.

10.1.3 For the words after sub-paragraph (ii) of paragraph (d) substitute:

“ provided that:

- (aa) this Rule does not prevent an Application in relation to such CMU as an Existing CMU; and
- (bb) if the CMU previously ceased to be Prequalified as a result of this Rule when read with Rule 4.4.3AB, this Rule does not operate to prevent an Application for the CMU in respect of auctions in more than two consecutive Auction Windows as a result of the same circumstances;
- (e) the Application is for a Generating CMU or an Interconnector CMU in respect of which a Capacity Agreement has previously been awarded that has been terminated in consequence of a Termination Event within Rule 6.10.1(g), Rule 6.10.1(ga) or Rule 6.10.1A(a)(iii) at

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<sup>12</sup> The amendments to Chapter 1 made by this Part of this Schedule 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: see Rule 2.1.1.

<sup>13</sup> The amendments to Chapter 3 made by this Part of this Schedule 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: see Rule 2.1.1.



any time during the preceding two years provided that if the CMU previously ceased to be Prequalified as a result of this Rule when read with Rule 4.4.3AC, this Rule does not operate to prevent an Application for the CMU in respect of auctions in more than two consecutive Auction Windows as a result of the same termination; or

- (f) the Application is for a New Build CMU in respect of which, at any time (“t”) during the preceding two years:
  - (i) the Applicant, or a member of the Applicant’s Group, was the New Build Capacity Provider; and
  - (ii) a Capacity Agreement awarded in respect of the CMU was terminated at time t and in consequence of a Termination Event within Rule 6.10.1(b), 6.10.1(ba), 6.10.1(c), 6.10.1(e), 6.10.1(ea), or 6.10.1(fa) or a notice was issued under Rule 6.8.2B;

provided that:

- (aa) this Rule does not prevent an Application in relation to such CMU as an Existing CMU; and
- (bb) if the CMU previously ceased to be Prequalified as a result of this Rule when read with Rule 4.4.3AC, this Rule does not operate to prevent an Application for the CMU in respect of auctions in more than two consecutive Auction Windows as a result of the same termination.”.

**10.2** In Rule 3.7.2(b), omit “and” after sub-paragraph (ii) and after sub-paragraph (iii) insert:

- “(iv) Major Contract Date;
- (v) Completion of Main Foundations;
- (vi) First Delivery Date (or, in the case of an Interconnector CMU, Commencement of Cable Laying); and
- (vii) First Firing Date (or, in the case of an Interconnector CMU, First Test Connection Date),

where for that purpose:

**“Major Contract Date”** means the date on which a Major Contract (or, where applicable, Relevant Contract) is to be entered into that will be legal, valid and binding and in full force and effect in accordance with its terms, with counterparties who will be able to perform their obligations under the contract;

**“Completion of Main Foundations”** means the completion of foundations and floor slabs to an extent that will enable the start of structural construction work;

**“First Delivery Date”** means the date that a turbine or generator comprised in the Core Generating Plant is first delivered to the construction site;

**“Commencement of Cable Laying”** means the date on which the first section of cable is laid in its final position;

**“First Firing Date”** means the date that a turbine or generator comprised in the Core Generating Plant is first started during the commissioning of a Generating Unit;

**“First Test Connection Date”** means the date on which electricity is first transmitted over the Electricity Interconnector at the operational voltage.”.

## 11. Amendments to Chapter 4<sup>14</sup>

### 11.1 In Rule 4.4:

11.1.1 In Rule 4.4.3, after “Rule 4.4.3A” insert “, Rule 4.4.3AB and Rule 4.4.3AC”.

11.1.2 After Rule 4.4.3A insert:

“4.4.3AB Following the Prequalification Results Day but prior to the commencement of the first Bidding Window for the relevant Capacity Auction, where the Delivery Body becomes aware that an Application in respect of a Prequalified CMU would be rejected on the grounds that it did not comply with Rule 3.3.3(d) if the Application was being considered afresh, the Delivery Body must:

- (a) notify the relevant Applicant as soon as reasonably practicable that:
  - (i) the CMU is no longer Prequalified; or
  - (ii) if the Application complied with Rule 3.6 or 3.6A, the CMU is now Prequalified as the Existing CMU that will remain in the absence of any improvement works being carried out; and
- (b) send a copy of that notice to the Authority.

4.4.3AC Following the Prequalification Results Day but prior to the commencement of the first Bidding Window for the relevant Capacity Auction, where the Delivery Body becomes aware that an Application in respect of a Prequalified CMU would be rejected on the grounds that it did not comply with Rule 3.3.3(e) or Rule 3.3.3(f) if the Application was being considered afresh, the Delivery Body must:

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<sup>14</sup> The amendments to Chapter 4 made by this Part of this Schedule 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: see Rule 2.1.1.

- (a) notify the relevant Applicant as soon as reasonably practicable that the CMU is no longer Prequalified; and
- (b) send a copy of that notice to the Authority.”.

11.1.3 In Rule 4.4.3B:

- (a) after “Rule 4.4.3A” insert “, Rule 4.4.3AB or Rule 4.4.3AC”; and
- (b) after “Prequalified” insert “or that a CMU is now Prequalified as an Existing CMU under Rule 4.4.3AB”.

11.1.4 In Rule 4.4.3C:

- (a) after “Rule 4.4.3A” insert “, Rule 4.4.3AB or Rule 4.4.3AC”; and
- (b) after “Prequalified” insert “, or a decision by the Delivery Body to notify an Applicant under Rule 4.4.3AB that a CMU is now Prequalified as an Existing CMU under Rule 4.4.3AB,”.

## 12. Amendments to Chapter 6<sup>15</sup>

### 12.1 In Rule 6.6:

12.1.1 In Rule 6.6.1, for “18 months” substitute “16 months” and for the words from “either of” to the end substitute “both of the matters set out in Rule 6.6.2”.

12.1.2 In Rule 6.6.2:

- (a) in paragraph (a), after “CMU” insert “(and, where relevant, Non-GB Part)” and, after that paragraph, for “or” substitute “and”;
- (b) for paragraph (b) substitute:
  - “(b) at least two directors of the Capacity Provider (or officers, in the case of a Capacity Provider other than a company) have certified that:
    - (i) a Final Investment Decision has been taken for the full value of the Total Project Spend; and
    - (ii) where financed from sources other than Own Group Resources, that Financial Close has also occurred,
 (such certificate to be annexed to the report).

12.1.3 Omit Rule 6.6.3 and insert:

“6.6.3A For the purposes of Rule 6.6.2:

“**Financial Close**” means the legal, valid and binding decision point to progress with the project, achieved where all relevant project and financing documentation has been signed and all conditions precedent contained within them have been satisfied;

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<sup>15</sup> The amendments to Chapter 6 made by this Part of 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: see Rule 2.1.1.

**“Final Investment Decision”** means a decision by the board of directors (or equivalent body in the case other than a company) of the Capacity Provider, and (where relevant) of each other Joint Owner, to fully proceed with the investment for the project, including the decision that sufficient financial resources are available to meet the Total Project Spend;

**“Own Group Resources”** means the existing assets and reserves of the Applicant or of any member of the Applicant’s Group.”.

**12.2** After Rule 6.6 insert:

**“6.6A Achieving the Financial Commitment Milestone: New Build CMUs**

6.6A.1 Other than in the case of a SA Agreement, Rule 6.6A.2 applies where in respect of a New Build Capacity Provider (“P”) the Delivery Body has not, by 11 months after the Auction Results Day (“the 11-month period”), received the Independent Technical Expert’s report referred to in Rule 6.6.1.

6.6A.2 Where this Rule 6.6A.2 applies, the Delivery Body must notify P and the Settlement Body that P must provide an increased amount of Applicant Credit Cover in accordance with Regulation 59(4) and (5).

6.6A.3 The notices under Rule 6.6A.2 must be given within 10 Working Days after the end of the 11-month period.”.

**12.3** In Rule 6.10.1, after paragraph (b) insert:

“(ba) where the Capacity Agreement is in respect of a New Build CMU and:

(i) Rule 6.6A.2 applies, and the New Build Capacity Provider has failed to lodge credit cover in accordance with Regulation 59(4) and (5); or

(ii) the New Build Capacity Provider has lodged that credit cover, but failed to maintain it in accordance with Regulation 60(1);”.

**13. Amendments to Chapter 7<sup>16</sup>**

**13.1** In Rule 7.5.1(ta)<sup>17</sup>:

13.1.1 after “Rule 4.4.3A” insert “, Rule 4.4.3AB or Rule 4.4.3AC”; and

13.1.2 after “Prequalified” insert “or a notification by the Delivery Body under Rule 4.4.3AB that a CMU is now Prequalified as an Existing CMU”.

**14. Amendments to Chapter 12**

**14.1** In Rule 12.2:

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<sup>16</sup> The amendments to Chapter 7 made by this Part of this Schedule 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: see Rule 2.1.1.

<sup>17</sup> Rule 7.5 is also amended by paragraph 21.2 of this Schedule.

14.1.1 In Rule 12.2.1:

- (a) in paragraph (a):
  - (i) after “achieved,” insert “and in each case the most likely date within the specified range”; and
  - (ii) insert at the end “(where for that purpose a change in date is “material” when the new date is at least two months earlier or later than the date stated under Rule 3.7.2(b), and an explanation which gives more than one reason for the change must include an estimate of how much of the change is attributable to each reason)”;
- (b) after paragraph (a) insert:
  - “(aa) an overarching non-technical summary of progress in relation to each such Generating Unit or Electricity Interconnector; and”.
- (c) in paragraph (c), after “Expert” insert “which includes the matters specified in Rule 12.2.1A”.

14.1.2 Insert after Rule 12.2.1:

“12.2.1A The matters specified in this Rule 12.2.1A are the following:

- (a) details of the scope of the work done by the Independent Technical Expert in making the assessment;
- (b) a description of the experience (both national and international) and technical expertise of all individuals involved in preparing or approving the assessment, including any relevant qualifications obtained by those individuals and their membership of any relevant professional bodies; and
- (c) a declaration that the Independent Technical Expert satisfies the requirements contained in the definition of that term in Rule 1.2.

12.2.1B<sup>18</sup> A report under Rule 12.2.1 must also be delivered 3 months and 9 months after the date of the Capacity Auction; but in relation to those additional reports there shall be no requirement for:

- (a) an assessment under Rule 12.2.1(c); or
- (b) a remedial plan under Rule 12.2.4.

12.2.1C The Delivery Body must provide a copy of each report under Rule 12.2.1 to the Secretary of State and the Authority within 5 Working Days of its receipt.”.

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<sup>18</sup> The insertion of Rule 12.2.1B does 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: see Rule 2.1.1.

## PART 3

### Termination fees etc.

#### 15. Amendments of Chapter 1

15.1 In Rule 1.2.1, omit the definitions of “TF1<sub>rate</sub>” and “TF2<sub>rate</sub>”.

#### 16. Amendments of Chapter 6

16.1 In Rule 6.10:

16.1.1 In Rule 6.10.3(a), after “Agreement”, insert “awarded as a result of a Capacity Auction held before the coming into force of the Capacity Market (Amendment) Rules 2016”.

16.1.2 After Rule 6.10.3(b) insert:

“(c) Where a Capacity Agreement awarded as a result of a Capacity Auction held after the coming into force of the Capacity Market (Amendment) Rules 2016, or a Transferred Part in respect of such a Capacity Agreement, is terminated on one of the grounds specified in paragraph (b), (ba), (c), (e), (ea), (f), (fa), (g), (ga), (h), (l) or (n) of Rule 6.10.1 or Rule 6.10.1A(b)(i), the Capacity Provider is liable to pay a termination fee in accordance with Regulation 43”.

(d) The amount of a termination fee payable under Rule 6.10.3(c) is:

(i) TF3, as determined in accordance with Regulation 43(3), where the Capacity Agreement or Transferred Part is terminated on one of the grounds specified in Rule 6.10.1(ba)(i), 6.10.1(h), 6.10.1(l) or 6.10.1(n);

(ii) TF4, as determined in accordance with Regulation 43(3), where the Capacity Agreement is terminated on one of the grounds specified in Rule 6.10.1(b), 6.10.1(ba)(ii) or 6.10.1(e); and

(iii) TF5, as determined in accordance with Regulation 43(3), where the Capacity Agreement or Transferred Part is terminated on one of the grounds specified in Rule 6.10.1(c), 6.10.1(ea), 6.10.1(fa), 6.10.1(g), 6.10.1(ga), or Rule 6.10.1A(b)(i).

(e) Where a Capacity Agreement has been awarded as a result of a Capacity Auction held before the coming into force of the Capacity Market (Amendment) Rules 2016 and:

(i) either:

(aa) that Capacity Agreement is transferred in its entirety under Rule 9.2.4(a) after those Rules came into force; or

(bb) a Transferred Part is created from that Capacity Agreement after those Rules came into force; and

- (ii) the Capacity Agreement or Transferred Part is terminated on one of the grounds specified in paragraph (ga) or (n) of Rule 6.10.1 or Rule 6.10.1A(b)(i),

the Capacity Provider is liable to pay a termination fee in accordance with Regulation 43.

- (f) The amount of the termination fee payable under Rule 6.10.3(e) is:
  - (i) TF1, as determined in accordance with Regulation 43(3), where the Capacity Agreement or Transferred Part is terminated on the grounds specified in Rule 6.10.1(n); and
  - (ii) TF2, as determined in accordance with Regulation 43(4), where the Capacity Agreement or Transferred Part is terminated on one of the grounds specified in Rule 6.10.1(ga) or Rule 6.10.1A(b)(i).”.

16.1.3 In Rule 6.10.3A:

- (a) in paragraph (a),

after “Agreement” insert “or Transferred Part” and for “(g), (k), (l) or (n)” substitute “(g), (h) (in respect of a Capacity Provider failing to provide a Metering Test Certificate in accordance with Rule 8.3.3(e)(i) or Rule 8.3.3(e)(iii)), (i), (k), (l) or (n)”;
- (b) after paragraph (a) insert:
  - “(aa) Where a Capacity Agreement has been awarded as a result of a Capacity Auction held after the coming into force of the Capacity Market (Amendment) Rules 2016, or a Transferred Part in respect of such a Capacity Agreement, is terminated on one of the grounds specified in Rule 6.10.1(o) or in Rule 6.10.1A(b)(ii) or following a direction made under Rule 6.10.2(a)(ii), the Capacity Provider is liable to repay Capacity Payments in accordance with Regulation 43B.
  - (ab) Where a Capacity Agreement has been awarded as a result of a Capacity Auction held before the coming into force of the Capacity Market (Amendment) Rules 2016 and:
    - (i) either:
      - (aa) that Capacity Agreement is transferred in its entirety under Rule 9.2.4(a) after those Rules came into force; or
      - (bb) a Transferred Part is created from that Capacity Agreement after those Rules came into force; and
    - (ii) the Capacity Agreement or Transferred Part is terminated on one of the grounds specified in Rule 6.10.1(ga) or Rule 6.10.1A(b)(i),

the Capacity Provider is liable to repay Capacity Payments in accordance with Regulation 43B.”;

- (c) in paragraph (b), after “Agreement” insert “or Transferred Part”;
- (d) in paragraph (c):
  - (i) after “Agreement” insert “or Transferred Part”;
  - (ii) for “(g) or (l)” substitute “(g), (ga) or (l)”;
  - (iii) insert at the end “or Rule 6.10.1A(b)(i)”;
- (e) after paragraph (c) insert:
  - “(ca) 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 grounds specified in paragraphs (h) (in respect of a Capacity Provider failing to provide a Metering Test Certificate in accordance with Rule 8.3.3(e)(i) or Rule 8.3.3(e)(iii)), (i) or (o) of Rule 6.10.1 or Rule 6.10.1A(b)(ii).”;
- (f) in paragraph (d):
  - (i) after “Agreement” insert “or Transferred Part”;
  - (ii) for “ground” substitute “grounds”;
  - (iii) after “Rule 6.10.1(g)” insert “, Rule 6.10.1(ga) or Rule 6.10.1A(b)(i)”.

**16.2** In Rule 6.11.5<sup>19</sup>, for the words after “is” substitute “TF4, as determined in accordance with Regulation 43(3), unless the Non-Completion Fee relates to a Capacity Agreement awarded as a result of a Capacity Auction held before the coming into force of the Capacity Market (Amendment) Rules 2016, in which case the amount is TF1 as determined in accordance with Regulation 43(3)”.

## **17. Amendment of Chapter 7**

**17.1** In Rule 7.4.5(m), for “the TF<sub>1,rate</sub> and TF<sub>2,rate</sub>” substitute “for each value of x from x = 1 to x = 5, the TF<sub>x,rate</sub>”.

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<sup>19</sup> Rule 6.11 is also amended by paragraph 34.3 of this Schedule.



## PART 4<sup>20</sup>

### Obligation trading and volume reallocation

#### 18. Amendments of Chapter 1

##### 18.1 In Rule 1.2:

18.1.1 Insert the following definitions in alphabetical order at the appropriate places:

<b>“CMU Transferee</b>	has the meaning given in Rule 9.2.4”;
<b>“CMVR Registered CMU</b>	has the meaning given in Rule 10.1A.2”;
<b>“CMVR Registered Participant</b>	means a person who has been registered under Rule 10.1A.2”;
<b>“Primary Fuel Type</b>	means the primary fuel for a Generating CMU; and in a case where a Generating CMU comprises Generating Units which will use different primary fuels, means the fuel which will be used by the majority of the Generating Units on a MW basis”;
<b>“TEC Register</b>	means the Transmission Entry Capacity Register and the Interconnector Register maintained by the national system operator”; <sup>21</sup>
<b>“Transfer Period</b>	has the meaning given in Regulation 30A(1)”;
<b>“Transferred Part</b>	has the meaning given in Regulation 30A(3)”.

18.1.2 In the definition of “Secondary Trading Entrant”, omit “or” at the end of paragraph (aa) and insert at the end of paragraph (b):

“; or

(c) a CMU:

- (i) which is an Existing CMU;
- (ii) to which the prohibition in Rule 3.3.3(f) applied at the time of the T-1 Auction for the relevant Delivery Year; and
- (iii) for which an Application could not be made for that T-1 Auction as an Existing CMU because the CMU was not an Existing CMU”.

18.1.3 In the definition of “Termination Event” insert at the end “or Rule 6.10.1A”.

<sup>20</sup> The amendments made by this Part of this Schedule, apart from paragraph 25.1, do not apply to a Capacity Agreement awarded as a result of a Transitional Capacity Auction: see Rule 2.2.

<sup>21</sup> See <http://www2.nationalgrid.com/UK/Services/Electricity-connections/Industry-products/TEC-Register/>

## 19. Amendments of Chapter 3<sup>22</sup>

19.1 For Rule 3.4.1(c) substitute:

- “(c) contact details, including registered address of the Applicant and:
  - (i) name of the authorised contact person at the Applicant or Agent who is responsible for liaising with the Delivery Body in relation to the Application and any resulting Capacity Agreement; and
  - (ii) an email address and telephone number that can be used by a person wishing to discuss secondary trading in relation to the CMU which is the subject of the Application;
- (ca) where the Applicant is a member of a Group, the name of the direct Holding Company for the Applicant;”.

19.2 After Rule 3.4.5 insert:

### “3.4.5A Primary Fuel Type

In the case of a Generating CMU, each Application must state the Primary Fuel Type which it is intended at the time the Application is made will be used for the CMU at the beginning of the Delivery Year.”.

## 20. Amendments of Chapter 6

20.1 In Rule 6.10:

20.1.1 In Rule 6.10.1, after “with respect to a Capacity Agreement” insert “(other than a Capacity Agreement that has been transferred under Rule 9.2.4(a))”.

20.1.2 After Rule 6.10.1(g) insert:

- “(ga) where the Capacity Agreement relates to a Generating CMU or an Interconnector CMU, the Capacity Provider reduces the Transmission Entry Capacity secured by its Grid Connection Agreement for a relevant Delivery Year so that it is no longer at least equal to the aggregate of all Capacity Obligations applying at any time in that Delivery Year in respect of:
  - (i) the CMU to which the Capacity Agreement applies, and
  - (ii) any other CMUs to which the Grid Connection Agreement applies;”.

20.1.3 After Rule 6.10.1 insert:

“6.10.1A Termination Events: Transfers under Rule 9.2.4(a)

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<sup>22</sup> The amendments to Chapter 3 made by paragraph 19 of this Schedule do not apply in respect of a Capacity Auction, or a Capacity Agreement awarded as a result of a Capacity Auction, held before 1st September 2017: see Rule 2.3.

- (a) Each of the events specified in the following paragraphs of Rule 6.10.1 is a Termination Event with respect to a Capacity Agreement that has been transferred in its entirety under Rule 9.2.4(a), or with respect to a Transferred Part:
  - (i) paragraph (a) (insolvency);
  - (ii) paragraph (d) (General Eligibility Criteria);
  - (iii) paragraph (ga) (Transmission Entry Capacity);
  - (iii) paragraph (j) (providing electricity after an Opt-out Notification); and
  - (iv) paragraph (n) (transfer etc. of a Generating Unit);

and for that purpose, any reference to a “Capacity Agreement” in those paragraphs shall be construed as including a reference to a Transferred Part, and any reference to a “Capacity Provider” shall be construed as a reference to the Transferee.
- (b) Each of the following events is a Termination Event with respect to a Capacity Agreement that has been transferred in its entirety under Rule 9.2.4(a) or with respect to a Transferred Part:
  - (i) where the CMU Transferee is a Generating CMU or an Interconnector CMU, immediately following the transfer the Transferee does not have a Grid Connection Agreement which secures Transmission Entry Capacity at least equal to the aggregate of the Capacity Obligations applying to:
    - (aa) that CMU Transferee, and
    - (bb) any other CMUs to which the Grid Connection Agreement applies;
  - (ii) the event specified in 6.10.1(o) in so far as it applies in respect of any Capacity Agreement that has been awarded in relation to the CMU Transferee.
- (c) The Capacity Provider must notify the Delivery Body if an event mentioned in paragraph (a) or (b) occurs and is continuing during the period in which the transferred Capacity Obligation applies to the CMU Transferee.”.

20.1.4 In Rule 6.10.2(a)(i), after “Rule 6.10.1” insert “or as the case may be Rule 6.10.1A”.

20.1.5 After Rule 6.10.2(f) insert:

- “(g) Paragraph (f) applies notwithstanding that the period mentioned in paragraph (e) expires after the expiry of the Capacity Agreement.”.

20.1.6 After Rule 6.10.2 insert:

“6.10.2A Termination procedure: Transferred Part

The provisions of Rule 6.10.2 apply to the termination of a Transferred Part as they apply to the termination of a Capacity Agreement, but with the following modifications:

- (a) in paragraph (a):
  - (i) in sub-paragraph (i), for “Rule 6.10.1” substitute “Rule 6.10.1A”;
  - (ii) for the words from “Capacity Agreement of the relevant CMU” to the end substitute “Transferred Part applying in respect of the relevant CMU will terminate in 60 Working Days and specifying which of the grounds referred to in Rule 6.10.1A will apply”;
- (b) in paragraph (b), omit “or Rule 6.10.1(k)”;
- (c) in paragraphs (e) and (f), for each occurrence of “Capacity Agreement” substitute “Transferred Part”; and
- (d) in paragraph (g), for “Capacity Agreement” substitute “Transfer Period”.

## 21. Amendments of Chapter 7

### 21.1 In Rule 7.4.1(a)<sup>23</sup>:

#### 21.1.1 After sub-paragraph (i) insert:

- “(ia) an email address and telephone number that can be used by a person wishing to discuss secondary trading in relation to the CMU;
- (ib) where the Applicant is a member of a Group, the name of the direct Holding Company for the Applicant;”.

#### 21.1.2 In sub-paragraph (ii), after the third place “CMU” appears insert “and in the case of a Generating CMU, the Primary Fuel Type for the CMU”.

### 21.2 In Rule 7.5:

#### 21.2.1 In Rule 7.5.1(p)(i), after “transferred part” insert “of the Capacity Obligation”.

#### 21.2.2 In Rule 7.5.1(p)(iv)(aa) and (bb), after “transferred part” insert “of the Capacity Obligation”.

#### 21.2.3 In Rule 7.5.1<sup>24</sup>, after paragraph (r) insert:

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<sup>23</sup> The amendments to Rule 7.4.1(a) made by paragraph 21.1 of this Schedule do not apply in respect of a Capacity Auction, or a Capacity Agreement awarded as a result of a Capacity Auction, held before 1st September 2017: see Rule 2.3.

<sup>24</sup> The insertion of Rule 7.5.1(ra) by paragraph 21.2.3 of this Schedule does not apply in respect of a Capacity Auction, or a Capacity Agreement awarded as a result of a Capacity Auction, held before 1st September 2017: see Rule 2.3.

“(ra) to record any change in the Primary Fuel Type for a Generating CMU notified to the Delivery Body;”.

21.2.4 In Rule 7.5.1(u), omit “and”.

21.2.5 In Rule 7.5.1<sup>25</sup>, insert after paragraph (v):

“; and

(w) in a case where the Capacity Provider is the person who was the Applicant for that CMU at Prequalification:

- (i) to record any change notified to the Delivery Body in the information recorded on the Capacity Market Register pursuant to Rule 7.4.1(a)(ia) as a result of a change in the legal ownership of the Capacity Provider;
- (ii) to record, where applicable, any change notified to the Delivery Body in the name of the direct Holding Company for the Capacity Provider; and
- (iii) to record a company becoming the direct Holding Company for the Capacity Provider where that is notified to the Delivery Body”.

## **22. Amendments of Chapter 8**

**22.1** In Rule 8.3.3(f), after “Capacity Provider” insert “or CMVR Registered Participant”.

**22.2** After Rule 8.3.4<sup>26</sup>, insert:

“8.3.4A Primary Fuel Type

A Capacity Provider must notify the Delivery Body of a change in the Primary Fuel Type for a Generating CMU.”.

**22.3** In Rule 8.5.3, in the definition of “ $\Sigma_i$ ”, insert at the end “together with any CMU in respect of which an Acceptable Transferee is a CMVR Registered Participant”.

**22.4** In Rule 8.6:

22.4.1 for the heading substitute “Determining the output of a Capacity Committed CMU or CMVR Registered CMU ( $E_{ij}$ )”; and

22.4.2 after “delivered by a Capacity Committed CMU” insert “(or CMVR Registered CMU)”.

## **23. Amendments of Chapter 9**

**23.1** In Rule 9.2:<sup>27</sup>

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<sup>25</sup> The insertion of Rule 7.5.1(w) by paragraph 21.2.5 of this Schedule does not apply in respect of a Capacity Auction, or a Capacity Agreement awarded as a result of a Capacity Auction, held before 1st September 2017: see Rule 2.3.

<sup>26</sup> The insertion of Rule 8.3.4 by paragraph 22.2 of this Schedule does not apply in respect of a Capacity Auction, or a Capacity Agreement awarded as a result of a Capacity Auction, held before 1st September 2017: see Rule 2.3.

23.1.1 For Rules 9.2.1 to 9.2.3 substitute:

“9.2.1 No Capacity Obligation may be transferred other than by way of the transfer, under Regulation 30A and in accordance with this Chapter, of:

- (a) a Capacity Agreement; or
- (b) a Transferred Part.

9.2.2 Rule 9.2.3 applies where a Termination Notice has been issued by the Delivery Body under Rule 6.10.2(a) with respect to the Capacity Agreement or Transferred Part in which the Capacity Obligation to be transferred is comprised.

9.2.3 Where this Rule 9.2.3 applies:

- (a) if the request under Rule 9.3.1(a) has been submitted before the Termination Notice is received by the Registered Holder or the Transferee, and the Transfer Period commences before the expiry of the period specified in Rule 6.10.2(e) (“the relevant period”), the transfer shall have effect for a period ending with the expiry of the relevant period (or if sooner, the Transfer Period);
- (b) if the request under Rule 9.3.1(a) has been submitted before the Termination Notice is received by the Registered Holder or the Transferee, but the period for which the Capacity Obligation is to be transferred commences after the expiry of the relevant period, the transfer shall not have effect; and
- (c) if the request under Rule 9.3.1(a) is submitted after the Termination Notice is received by the Registered Holder or the Transferee, the transfer shall not have effect.”.

23.1.2 In Rule 9.2.5(a), for the words from “concluded” to the end substitute:

“concluded (or, in the case of an SA Agreement, after 30th May 2017) and provided that:

- (i) in the case of a Prospective Generating CMU and its second or third Delivery Year, it has achieved the Substantial Completion Milestone by the Prequalification Results Day for the T-1 Auction for that Delivery Year; and
- (ii) in the case of a Prospective Interconnector CMU in relation to which a Capacity Agreement has been awarded for a Delivery Year (“Y”) as well as for either or both of the two immediately following Delivery Years Y+1 and Y+2, and in respect of either of the latter two Capacity Agreements, it

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<sup>27</sup> Rule 9.2 is also amended by paragraph 37.1 of this Schedule.

has achieved the Substantial Completion Milestone by the Prequalification Results Day for the T-1 Auction for Delivery Year Y+1 or Y+2 as the case may be”.

23.1.3 In Rule 9.2.5(b)(iii) and (iv), for “which are not in” substitute “in respect of which there is not a”.

23.1.4 In Rule 9.2.5(c), for “and 9.2.4(c)” substitute “, 9.2.4(c) and 9.2.4(d)”.

23.1.5 In Rule 9.2.6:

(a) in proviso (i), for the words from “exceed” to the end substitute:

“at any time exceed:

(aa) the aggregate De-rated Capacity of the CMU Transferee (as recorded on the Capacity Market Register); or

(bb) where there is a Grid Connection Agreement relating to the CMU Transferee, the Transmission Entry Capacity recorded on the TEC Register in respect of that CMU Transferee;”;

(b) for paragraph (bb) of proviso (ii) substitute:

“(bb) has delivered a capacity at least equal to its De-rated Capacity or DSR Bidding Capacity in any settlement period falling within the six months prior to the first date in the relevant Delivery Year on which a request was submitted to the Delivery Body under Rule 9.3.1;”;

(c) omit “and” after proviso (iii); and

(d) insert at the end of proviso (iv):

“ ;

(v) if the CMU Transferee is a New Build CMU in relation to which the Applicant made a declaration or provided a letter in accordance with Rule 3.7.3(c), a person (“P”) is not an Acceptable Transferee in respect of that CMU for the purposes of paragraph (a) or (b) of this Rule 9.2.6 unless P has provided to the Delivery Body a copy of its Distribution Connection Agreement or connection offer;

(vi) if the CMU Transferee is a CMU in relation to which the Applicant made a declaration in accordance with Rule 3.10A.2 or 3.10A.3, a person (“Q”) is not an Acceptable Transferee in respect of that CMU for the purposes of this Rule 9.2.6 unless Q has

provided to the Delivery Body a copy of its Grid Connection Agreement, Distribution Connection Agreement, written confirmation, letter from the Private Network Owner or connection offer;

- (vii) if the CMU Transferee is a Prospective CMU, a person is not an Acceptable Transferee in respect of that CMU for the purposes of paragraph (a) unless that CMU has met its Substantial Completion Milestone;
- (viii) if the CMU Transferee is a DSR CMU, a person (“R”) is not an Acceptable Transferee in respect of that CMU for the purposes of paragraph (a) unless:
  - (aa) a DSR Test Certificate has been issued in relation to that CMU; and
  - (bb) that certificate evidences a Proven DSR Capacity at least equal to the Capacity Obligation that is to be transferred to R, aggregated with all other Capacity Obligations in respect of that CMU that apply on any day to which the transfer relates”; and
- (ix) the CMU Transferee is not a CMU in respect of which a Capacity Agreement or Transferred Part has been previously terminated in consequence of a Termination Event within Rule 6.10.1(g), Rule 6.10.1(ga) or Rule 6.10.1A(a)(iii) at any time during the preceding two years”.

**23.2** In Rules 9.3.1, 9.3.3 and 9.3.4, after each occurrence of “Capacity Agreement” insert “or Transferred Part”.

**23.3** Omit Rule 9.4.4.

## **24. Amendments of Chapter 10**

**24.1** In Rule 10:1:

24.1.1 In Rule 10.1.1, after “Capacity Providers” insert “or CMVR Registered Participants”.

24.1.2 After Rule 10.1.2 insert:

“10.1.3 In this Chapter a “Contract Trading Party” is a Capacity Provider or CMVR Registered Participant who participates in volume reallocation under this Chapter.”.

**24.2** After Rule 10.1 insert:

### **“10.1A CMVR Registered Participant**

10.1A.1 A person (“P”) who is an Acceptable Transferee in respect of a CMU within the meaning of Rule 9.2.6, 9.2.7 or 9.2.8 may apply to be



registered as a “CMVR Registered Participant” for a Delivery Year or, if it has commenced, so much of the Delivery Year that remains, by giving notice to the Delivery Body:

- (a) stating that P wishes to participate in volume reallocation under this Chapter;
- (b) specifying the Delivery Year for which P wishes to be so registered; and
- (c) specifying the CMU in respect of which the application is made.

10.1A.2 If the Delivery Body is satisfied that the application satisfies the conditions in Rule 10.1A.1:

- (a) P’s registration as a CMVR Registered Participant is to take effect five Working Days after the notice under Rule 10.1A.1 is given to the Delivery Body; and
- (b) the Delivery Body must as soon as possible and in any event no later than 9 working days after the end of the month in which the application was made:
  - (i) notify the Settlement Body of the application; and
  - (ii) publish the following information:
    - (aa) that P is a CMVR Registered Participant for the Delivery Year specified in the application,
    - (bb) the effective date of P’s registration; and
    - (cc) details of the CMU in respect of which P is so registered (the “CMVR Registered CMU”).”.

**24.3** In Rule 10.2:

24.3.1 In Rule 10.2.1, for the words from “Capacity” to the end, substitute “Capacity Provider or CMVR Registered Participant may, in respect of a CMU (“the CMVR Transferor”), allocate any or all of the Volume  $E_{ij}$  of that CMU to another CMU (the “CMVR Transferee”) by way of a CMVRN.”.

24.3.2 In Rule 10.2.2, for “Capacity Provider or its Agent” substitute “Capacity Provider or CMVR Registered Participant, or its Agent,”.

24.3.3 In Rule 10.2.3(a) for “CMVR Transferor and its CMU” substitute “Capacity Provider, or CMVR Registered Participant, and its CMVR Transferor”.

24.3.4 In Rule 10.2.3(b), for “CMVR Transferee and its CMU” substitute “Capacity Provider, or CMVR Registered Participant, and its CMVR Transferee”.

24.3.5 For Rule 10.2.5 substitute:

“10.2.5 A CMVRN must be submitted by:

- (a) the Capacity Provider which is party to the Capacity Agreement relating to that CMU, or the Agent of such Capacity Provider;
- (b) the CMVR Registered Participant who is an Acceptable Transferee within the meaning of Rule 9.2.6, 9.2.7 or 9.2.8 in respect of that CMU or the Agent of such CMVR Registered Participant.”.

## **25. Amendment of Chapter 11**

### **25.1** Insert after Rule 11.3.5:

#### “11.3.5A Restrictions on transfer and eligibility to trade

A Capacity Provider may not transfer a Capacity Agreement awarded in a Transitional Capacity Auction by the method provided for in Rule 9.2.4(a).

#### 11.3.5B CMVR Registered Participant

A person may not apply to be registered as a CMVR Registered Participant in respect of the Transition Period.

#### 11.3.5C Volume reallocation

A Capacity Provider awarded a Capacity Agreement in a Transitional Capacity Auction may not submit a CMVRN in respect of a Settlement Period in the Transition Period.”

## **26. Amendment of Chapter 14**

### **26.1** Insert after Rule 14.3.1:

“14.3.1A The obligation of the BSCCo under Rule 14.3.1 applies in relation to a CMVR Registered CMU as it applies in relation to a Capacity Committed CMU, provided that the Settlement Body has received notification under Rule 10.1A.2(a) within the timescale referred to in Rule 14.3.3.”.

### **26.2** Insert after Rule 14.5.7:

“14.5.8 This Rule 14.5 applies to a CMVR Registered Participant as it applies to a Capacity Provider, and for that purpose any reference to “Capacity Committed CMU” is to be construed as reference to a CMVR Registered CMU.”.

## PART 5

### Transitional Capacity Auctions: eligibility and metering tests

#### 27. Amendments to Chapter 1

27.1 In Rule 1.2:

27.1.1 In the definition of “Minimum Capacity Threshold”, after those words insert “subject to Regulation 29A(2)(a),”.

27.1.2 After the definition of “Second Full Capacity Auction” insert:

<b>“Second Transitional Capacity Auction</b>	means the Transitional Capacity Auction held in the Auction Window commencing on 1 September 2016”.
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#### 28. Amendments to Chapter 11

28.1 In Rule 11.1.2(a), at the beginning insert “Subject to Rule 11.3.2A,”.

28.2 After Rule 11.3.2 insert:

“11.3.2A Prequalification and eligibility for the Second Transitional Capacity Auction

In the Second Transitional Capacity Auction:

- (a) the following CMUs must also be prohibited (and an Applicant must not submit an Application for the Second Transitional Capacity Auction in relation to any such CMU):
  - (i) any Non-CMRS Distribution CMU with a De-rated Capacity of 50MW or less; and
  - (ii) any DSR CMU that provides DSR Capacity by using a Generating Unit;
- (b) any reference in the Rules to “2MW” should be read as “500kW”;
- (c) each Applicant for a Proven DSR CMU must include in the Application with the business model for each DSR CMU Component in accordance with Rule 3.9.3, a declaration that none of the DSR Capacity is achieved by using a Generating Unit; and
- (d) each Applicant for an Unproven DSR CMU must include in the Application with the business plan in accordance with Rule 3.10.1, a declaration that none of the DSR Capacity will be achieved by using a Generating Unit.

11.3.2B Notifying DSR Components: Second Transitional Capacity Auction

In respect of the Second Transitional Capacity Auction, a Capacity Provider in respect of an Unproven DSR CMU must, when giving a notice to the Delivery

Body in accordance with Rule 8.3.3A(a), also confirm that none of the DSR Capacity for each DSR CMU Component specified under Rule 8.3.3A(a)(i) will be achieved by using a Generating Unit.”.

**28.3** After Rule 11.3.5C<sup>28</sup> insert:

“11.3.5D Metering Test

Where a Capacity Committed CMU arising from a Transitional Capacity Auction is subject to a Metering Test, the CM Settlement Body may conduct the Metering Test on a sample of the Generating Units or DSR CMU Components comprised in the CMU and where it does so:

- (a) Rule 13.3.6 does not apply;
- (b) following the completion of the Metering Test the CM Settlement Body must either:
  - (i) issue a Metering Test Certificate to the relevant Capacity Provider with respect to that CMU:
    - (aa) confirming that the Metering Test has been conducted on a sample basis;
    - (bb) detailing the metering configuration for each Generating Unit or DSR CMU Component comprised in the sample;
    - (cc) confirming that the metering arrangements for each Generating Unit or DSR CMU Component comprised in the sample constitutes an Approved Metering Solution; and
    - (dd) 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
  - (ii) notify the Capacity Provider that one or more Generating Units or DSR CMU Components comprised in the sample has failed a Metering Test;
- (c) where a notice is given pursuant to paragraph (b)(ii):
  - (i) it is to be treated as if it were a notice given under Rule 13.3.6(b); and
  - (ii) when the CM Settlement Body conducts a further Metering Test pursuant to Rule 13.3.8, that test may cover additional Generating Units or DSR CMU Components; and

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<sup>28</sup> Rule 11.3.5C is inserted by paragraph 25.1 of this Schedule.

- (d) the Capacity Provider must comply with Rule 13.2.5(b)(ii) in relation to any DSR CMU Components listed under paragraph (b)(i)(dd).”.

## **PART 6**

### **Review of the Rules**

#### **29. Insertion of new Chapter 15**

**29.1** After Chapter 14 insert:

“CHAPTER 15: REVIEW OF THE RULES

#### **15. Review of the Rules**

##### **15.1 Review by the Secretary of State**

15.1.1 The Secretary of State must from time to time:

- (a) carry out a review of the following provisions of the Rules, namely:
  - (i) any rules that confer functions on the Secretary of State or the Authority; and
  - (ii) any rules made or amended by the Secretary of State after 30 June 2015; and
- (b) publish a report setting out the conclusions of the review.

15.1.2 The report must in particular:

- (a) set out the objectives intended to be achieved by the rules reviewed under this Rule 15.1;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

15.1.3 The first report under this Rule 15.1 must be published with the report by the Secretary of State under Regulation 81.

15.1.4 Reports under this Rule 15.1 are, after the first report, to be published at intervals not exceeding five years.

##### **15.2 Review by the Authority**

15.2.1 The Authority must from time to time:

- (a) carry out a review of the Rules; and
- (b) publish a report setting out the conclusions of the review.

15.2.2 The report must in particular:

- (a) set out the objectives:
  - (i) intended to be achieved by the Rules, or

- (ii) in the case of rules that are not made by the Authority, understood by the Authority to be intended to be achieved;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

15.2.3 The first report under this Rule 15.2 must be published before 1 August 2019.

15.2.4 Reports under this Rule 15.2 are, after the first report, to be published at intervals not exceeding five years.”.

## PART 7

### Miscellaneous and minor amendments

#### 30. Amendments of Chapter 1

##### 30.1 In Rule 1.2:

30.1.1 After the definition of “the Regulations” insert:

**“the Rules** means these Capacity Market Rules 2014”.

30.1.1 Omit the entry for “Adjusted Clearing Price”.

30.1.2 Omit the entry for “Equivalent Actual Price”.

30.1.3 In the definition of “Metering Assessment”, for the words from “an Existing CMU” to “Unproven DSR CMU” substitute “a CMU”.

30.1.4 Omit the entry for “Variable Price-Duration Auction”.

#### 31. Amendments of Chapter 3

##### 31.1 In Rule 3.2:

31.1.1 In Rule 3.2.6(a), for “an Existing” substitute “a”.

31.1.2 In Rule 3.2.6(b), after “is” insert “or, in the case of a Prospective CMU, will be”.

31.1.3 In Rule 3.2.6(c):

(a) omit “Existing” in both places it appears; and

(b) after “rests” insert “or, in the case of a Prospective CMU, will rest”.

31.1.4 In Rule 3.2.7:

(a) for the words before paragraph (a) substitute:

“Where this Rule 3.2.7 applies, the Despatch Controller (or, in the case of a Prospective CMU, the person who will be the Despatch Controller) must be the Applicant with respect to a Generating CMU and the following declarations must be submitted with the relevant Application.”; and

(b) in paragraphs (a) and (b), omit “Existing”.

##### 31.2 After Rule 3.6B insert:

#### **“3.6C Additional Information for a New Build Interconnector CMU**

3.6C.1 Information on existing Applicant Credit Cover

(a) This Rule 3.6C.1 applies to an Applicant for a New Build Interconnector CMU for which that Applicant has an existing Capacity Agreement, who:

(i) has previously provided Applicant Credit Cover in respect of that Interconnector CMU; and



- (ii) wishes to be exempt from the requirement to provide further Applicant Credit Cover in accordance with Regulation 59(1B).
- (b) Such an Applicant must include in the Application confirmation:
  - (i) that its Application is for the same New Build Interconnector CMU as the one to which that existing Capacity Agreement relates; and
  - (ii) that the Applicant Credit Cover previously provided has not been drawn down under Regulation 61.”.

## **32. Amendments of Chapter 4**

### **32.1** In Rule 4.5:

32.1.1 In Rule 4.5.1, for “that the following information is now available on the Capacity Market Register” substitute “, the Secretary of State, the CM Settlement Body and the Authority of the following information”.

32.1.2 In Rule 4.5.1(b)(ii), after “DSR CMU,” insert “and unless the Applicant is a person to whom Rule 3.6C.1 or 3.10.3 applies who has complied with the requirements of Rule 3.6C.1(b) or 3.10.3(b),”.

32.1.3 Omit Rule 4.5.1(c).

32.1.4 After Rule 4.5.1 insert:

“4.5.1A The Delivery Body must make an entry on the Capacity Market Register for each of the items in Rule 4.5.1 on the day on which the Secretary of State is given the notification required by Regulation 23(1), and in accordance with the Rules set out in Chapter 7.”

### **32.2** In Rule 4.5A:

32.2.1 In the heading, insert at the beginning “New Build Interconnector CMU and”.

32.2.2 In Rule 4.5A.1, after “Rule 3.10.3 applies” insert “or an Applicant for a New Build Interconnector CMU to whom Rule 3.6C.1 applies”.

32.2.3 In Rule 4.5A.2, after “Regulation 61 or” insert “(in the case of an Unproven DSR CMU)”.

32.2.4 In Rule 4.5A.3(a), for “five” substitute “fifteen”.

### **32.3** In Rule 4.5B:

32.3.1 In the heading, insert at the beginning “New Build Interconnector CMU and”.

32.3.2 In Rule 4.5B.1(b), for “to whom Rule 3.10.3 applied” substitute “is a person to whom Rule 3.6C.1 or 3.10.3 applied who complied with the requirements of Rule 3.6C.1(b) or 3.10.3(b)”.

32.3.3 In Rule 4.5B.2, after “Regulation 61 or” insert “(in the case of an Unproven DSR CMU)”.

32.3.4 In Rule 4.5B.3(a), for “five” substitute “fifteen”.

32.3.5 In Rule 4.5B.6, omit “from a Capacity Provider of an Unproven DSR CMU”.

**32.4** In Rule 4.5C, after “DSR CMU” insert “or a New Build Interconnector CMU”, and after “Regulation 61 or” insert “(in the case of an Unproven DSR CMU)”.

**32.5** In Rule 4.6.1, for “five” substitute “fifteen”.

**32.6** In Rule 4.6.2, for “the Applicant must within five Working Days” substitute “it must on the same day”.

**32.7** In Rule 4.6.3, for “an Applicant” substitute “the CM Settlement Body”.

**32.8** In Rule 4.6.3A, for “the Applicant provides” substitute “the CM Settlement Body provides”.

### **33. Amendments of Chapter 5**

**33.1** Omit Rule 5.5.19.

**33.2** For Rule 5.6.5(b) substitute:

“(b) specify that the duration of Capacity Agreement that the Bidder requires with respect to that Bidding CMU in the event that the Clearing Price is lower than that price is one Delivery Year;”.

**33.3** Omit Rule 5.6.6.

**33.4** In Rule 5.7.2, omit the words in parentheses.

**33.5** In Rule 5.8.2(b), omit the words in the first set of parentheses.

**33.6** In Rule 5.9.5:

33.6.1 For paragraph (c) substitute:

“(c) if more than one Relevant Exit Bid has the same Exit Price and the same Bidding Capacity, such Relevant Exit Bids must be ranked between themselves according to the duration of Capacity Agreement specified in the Duration Bid for the applicable Bidding CMU at the Exit Price, with the shortest duration of Capacity Agreement given the highest ranking;”.

33.6.2 In paragraph (d), omit the words before “if”.

### **34. Amendments of Chapter 6**

**34.1** In Rule 6.8.2B, for “within” substitute “by the end of the last day of”.

**34.2** In Rule 6.10:

34.2.1 In Rule 6.10.1<sup>29</sup>, after paragraph (m) omit “or” and after paragraph (n) insert:

“; or

- (o) where any information or declaration submitted in or with an Application relating to the Capacity Agreement did not comply with the requirements in Rule 3.12.1.”.

34.2.2 In Rule 6.10.2(f)(ii), after “CM Settlement Body” insert “and the Authority”.

**34.3** At the end of Rule 6.11.4(b), insert “, with payment due no later than the end of the 5th such day”.

### **35. Amendments of Chapter 7**

**35.1** In Rule 7.4.1, for “On or before Prequalification Results Day”, substitute “On the day on which the Secretary of State is given the notification required by Regulation 23(1)”.

**35.2** In Rule 7.4.5(g), omit “Adjusted”.

### **36. Amendments of Chapter 8**

**36.1** In Rule 8.3.3(f)(i), after “Rule 3.6.4(a)” insert “, Rule 3.6A.3(a)”.

**36.2** For Rule 8.3.3A(c) substitute:

“(c) Where a Capacity Agreement has been awarded to an Unproven DSR CMU:

- (i) where the Agreement has been awarded in a Capacity Auction held in the 2014/15 or 2015/16 Auction Windows, that Unproven DSR CMU must not include any DSR CMU Component which is or has been part of a CMU in respect of which a Capacity Agreement has been awarded in a Transitional Capacity Auction; and
- (ii) where the Agreement has been awarded in a Capacity Auction held in the 2016/17 Auction Window, that Unproven DSR CMU must not include any DSR CMU Component which is or has been part of a CMU in respect of which a Capacity Agreement has been awarded in a Transitional Capacity Auction held in the same Auction Window.”.

### **37. Amendment of Chapter 9**

**37.1** In Rule 9.2.10A(a):

37.1.1 omit “Existing” in each place it appears; and

37.1.2 for “an” in the first place it appears, substitute “a”.

**37.2** Omit Rule 9.5.1.

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<sup>29</sup> The amendment to Rule 6.10.1 made by this Part of this Schedule does 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: see Rule 2.1.2.

### **38. Amendment of Chapter 13**

#### **38.1** In Rule 13.4:

38.1.1 In the introductory words to Rule 13.4.1:

- (a) omit “or Rule 13.4.3 as applicable”; and
- (b) for “(subject to Rule 9.5.1)” substitute “or aggregate Capacity Obligations”.

38.1.2 In Rule 13.4.1(c), for “Settlement Period Penalties paid” substitute “capacity provider penalty charges paid under Regulation 41”.

38.1.3 In Rule 13.4.2, after “Generating CMU” insert “, a DSR CMU”.

38.1.4 Omit Rule 13.4.3.

38.1.5 In Rule 13.4.4 for “Rules 13.4.2 or 13.4.3” substitute “Rule 13.4.2”.

38.1.6 For Rule 13.4.6 substitute:

“13.4.6 If, in two or more months in which System Stress Events occur in a Delivery Year, a Capacity Committed CMU fails to achieve a calculation of  $E_{ij}$  of 1kWh in relation to at least one System Stress Event in each such month, then each obligation pursuant to Rule 13.4.1 that requires the demonstration of three Satisfactory Performance Days during a period shall instead be a requirement to demonstrate six Satisfactory Performance Days in the same such period.”

### **39. Amendment of Schedule 1**

**39.1** In Schedule 1, after “pursuant” in the first place it appears, insert “to”.

**39.2** In Schedule 1, in entry (v) in the table at Part B, omit “Adjusted”.

### **40. Amendment of Schedule 7**

**40.1** In Section F (Meters), after paragraph 15 insert:

“15A For Metering Systems that use a Meter that measures on a half hourly basis and is of Metering Type 1, 2 or 3, a Main Meter and a Check Meter shall be supplied by the Capacity Provider for each circuit.”

### **41. Amendment of Exhibits**

**41.1** In the following paragraphs, after “has” insert “or, in the case of a Prospective CMU, will have”:

- 41.1.1 paragraph (a)(ii) of Exhibit F;
- 41.1.2 paragraph (a)(ii) of Exhibit G;
- 41.1.3 paragraph (c) of Exhibit H; and
- 41.1.4 paragraph (b) of Exhibit I.