

# The Capacity Market (Amendment) Rules 2019

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



# The Capacity Market (Amendment) Rules 2019

## 1. Citation and commencement

1.1 These Rules may be cited as the Capacity Market (Amendment) Rules 2019.

1.2 These Rules come into force on 6 March 2019.

1.3 In these Rules:

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

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

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

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

## **2. Amendments**

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

*Claire Perry*

Minister of State for Energy and Clean Growth

4th March 2019

Department for Business, Energy & Industrial Strategy

## **SCHEDULE**

### **PART 1**

#### **Insertion of Chapter 16**

##### **1. Insertion of Chapter 16**

1.1.1 After Chapter 15, insert:

**“CHAPTER 16: MODIFICATIONS IN RESPECT OF AGREEMENTS EXISTING ON 15 NOVEMBER 2018 AND IN RESPECT OF THE T-1 AUCTION FOR THE DELIVERY YEAR COMMENCING ON 1 OCTOBER 2019**

##### **16.1 Purpose of this Chapter**

16.1.1 The Rules in this Chapter modify the application of the Rules in respect of Capacity Agreements that existed on 15 November 2018 and modifications to Rules in respect of the T-1 Auction for the Delivery Year commencing on 1 October 2019.

##### **16.2 Application of this Chapter**

16.2.1 The modifications to the application of the Rules made by Rule 16.3.1, Rule 16.3.2, Rule 16.3.3, Rule 16.3.4, Rule 16.3.5 and Rule 16.3.6 apply only in respect of a Capacity Agreement that existed on 15 November 2018 or a Transferred Part in respect of such a Capacity Agreement, from the coming into force of the Capacity Market (Amendment) Rules 2019 until 1 October 2020.

16.2.2 The modifications to the application of the Rules made by Rule 16.4.1, Rule 16.5.1 and Rule 16.5.2 apply only in respect of a Capacity Agreement that existed on 15 November 2018 or a Transferred Part in respect of such a Capacity Agreement from the coming into force of the Capacity Market (Amendment) Rules 2019 until the Auction Results Day for the T-1 Auction for the Delivery Year commencing on 1 October 2019.

16.2.3 The modifications to the application of the Rules made by Rule 16.6.1, and Rule 16.6.2 apply only in relation to the T-1 Auction for the Delivery Year commencing on 1 October 2019, including the rights and obligations arising out of, or in relation to, that auction, from the coming into force of the Capacity Market (Amendment) Rules 2019 until 1 October 2020.

### **16.3 Modifications to obligations in respect of Capacity Agreements which existed on 15 November 2018**

#### **16.3.1 Modification to Metering Assessment deadline for Unproven DSR CMUs**

Rule 3.10.2(b) applies as if at the end, there were inserted “(except that the reference to “four months” is to be construed as a reference to “two weeks” in respect of a Capacity Provider for an Unproven DSR CMU that has a Capacity Agreement for the Delivery Year commencing on 1 October 2019, who confirms in their Application that the Capacity Provider will complete a Metering Assessment)”.

#### **16.3.2 Modification to Connection Agreement deadline for New Build CMUs**

- (a) Rule 3.7.3(c)(i) applies as if at the end, there were inserted “(except that the reference to “the date 18 months prior to the commencement of the relevant Delivery Year” is to be construed as a reference to “31 March 2020” in respect of a Capacity Provider for a New Build CMU that has a Capacity Agreement for the Delivery Year commencing on 1 October 2020, who instead of complying with Rule 3.7.3(b) complies with this Rule 3.7.3(c)(i))”.
- (b) Rule 3.7.3(c)(ii) applies as if at the end, there were inserted “(except that the reference to “the date 18 months prior to the commencement of the relevant Delivery Year” is to be construed as a reference to “31 March 2020” in respect of a Capacity Provider for a New Build CMU that has a Capacity Agreement for the Delivery Year commencing on 1 October 2020 who instead of complying with Rule 3.7.3(ba) complies with this Rule 3.7.3(c)(ii))”.
- (c) Rule 8.3.1(a)(i) applies as if at the end, there were inserted “(except that the reference to “the date falling eighteen months prior to the commencement of the first Delivery Year” is to be construed as a reference to “31 March 2020” in respect of a Capacity Provider for a New Build CMU that has a Capacity Agreement for the Delivery Year commencing on 1 October 2020 who made a declaration in accordance with Rule 3.7.3(c))”.

#### **16.3.3 Modification to Metering Test deadline for Existing CMUs and Proven DSR CMUs**

- (a) Rule 8.3.3(e)(ii) applies as if at the end, there were inserted “(except that the reference to “the date falling 18 months prior to the start of the Delivery Year” is to be construed as a reference to “20 June 2020” in respect of a Capacity Provider for an Existing CMU or Proven DSR CMU that has a Capacity Agreement for the Delivery Year commencing on 1 October 2020)”.

(b) Rule 13.3.2A applies as if after Rule 13.3.2A(b), there were inserted:

“(ba) in the case of an Existing CMU or Proven DSR CMU that has been awarded a Capacity Agreement in a T-4 Auction for the Delivery Year commencing on 1 October 2020, 20 June 2020;”.

#### 16.3.4 Modification to Financial Commitment Milestone for New Build CMUs

Rule 6.6.1 applies as if at the end, there were inserted “(except that the reference to “16 months after the Auction Results Day for the Capacity Auction in respect of which the Capacity Agreement was awarded” is to be construed as a reference to “31 March 2020” in respect of a Capacity Provider for a New Build CMU that has a Capacity Agreement for the Delivery Year commencing on 1 October 2021)”.

#### 16.3.5 Modification to requirement to deliver a progress report for Prospective CMUs

Rule 12.2 applies as if:

(a) at the beginning of Rule 12.2.1, there were inserted “Subject to Rule 12.2.7,”; and

(b) after Rule 12.2.6, there were inserted:

“12.2.7 Rule 12.2.1(c), Rule 12.2.1(ca) and Rule 12.2.1A do not apply in respect of a Capacity Provider for a Prospective CMU who is required by Rule 12.2.1 to deliver a progress report.”

#### 16.3.6 Modification to disapply Termination Event in Rule 6.10.1(ba) for New Build CMUs

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

### **16.4 Modifications to Chapter 3 (prequalification information)**

16.4.1 For Rule 3.13.1, there were substituted:

“3.13.1 A Secondary Trading Entrant may submit an Application in respect of the transfer of Capacity Obligations for the Delivery Year commencing on 1 October 2019 at any time from the coming into force of the Capacity Market (Amendment) Rules 2019.”

## **16.5 Modifications to Chapter 9 (transfer of capacity obligations)**

16.5.1 Rule 9.2.4(a) applies as if for “a Delivery Year” there were substituted “the Delivery Year commencing on 1 October 2019”.

16.5.2 Rule 9.2.5(a) applies as if “after the T-1 Auction for the relevant Delivery Year has concluded (or, in the case of an SA Agreement, after 30th May 2017) and” were omitted.

## **16.6 Modifications to Chapter 13 (testing regime)**

16.6.1 Rule 13.2 applies as if:

(a) at the beginning of Rule 13.2.2, there were inserted “Subject to Rule 13.2.3A,”;

(b) at the beginning of Rule 13.2.3, there were inserted “Subject to Rule 13.2.3A,”;

(c) after Rule 13.2.3 there were inserted:

“13.2.3A

(a) Rule 13.2.2 and Rule 13.2.3 do not apply to an Applicant for a DSR CMU which has Prequalified or Conditionally Prequalified for the T-1 Auction for the Delivery Year commencing on 1 October 2019;

(b) An Applicant described in Rule 13.2.3A(a) may carry out a DSR Test after the coming into force of the Capacity Market (Amendment) Rules 2019.”;

(d) in Rule 13.2.4, for “Rule 13.2.2(a) or 13.2.2(b)” there were substituted “Rule 13.2.2(a), Rule 13.2.2(b) or Rule 13.2.3A”;

(e) at the beginning of Rule 13.2.11, there were inserted “Unless the DSR Test has been carried out pursuant to Rule 13.2.2A(b) (in which case Rule 13.2.11A applies),”; and

(f) after Rule 13.2.11 there were inserted:

“13.2.11A If an Applicant for a DSR CMU which has Prequalified or Conditionally Prequalified for a T-1 Auction for the Delivery Year commencing on 1 October 2019 has carried out the DSR Test prior to the Auction Results Day for the T-1 Auction for the Delivery Year commencing on 1 October 2019, and provided that no notice has been issued under Rule 13.2.10, the



Delivery Body must issue a DSR Test Certificate to the Applicant or Capacity Provider detailing the matters described in Rule 13.2.11(a) to (c) as applicable, within 5 Working Days of the Auction Results Day for the T-1 Auction for the Delivery Year commencing on 1 October 2019.”.

16.6.2 Rule 13.2B applies as if:

(a) at the beginning of Rule 13.2B.2, there were inserted “Subject to Rule 13.2B.3A”;

(b) at the beginning of Rule 13.2B.3, there were inserted “Subject to Rule 13.2B.3A”;

(c) after Rule 13.2B.3 there were inserted:

“13.2B.3A

(a) Rule 13.2B.2 and Rule 13.2B.3 do not apply to an Applicant for a DSR CMU which has Prequalified or Conditionally Prequalified for a T-1 Auction for the Delivery Year commencing on 1 October 2019.

(b) An Applicant described in Rule 13.2B.3A(a) may carry out a DSR Test after the coming into force of the Capacity Market (Amendment) Rules 2019.”;

(d) in Rule 13.2B.4, for “Rule 13.2B.2(a) or 13.2B.2(b)” there were substituted “Rule 13.2B.2(a), Rule 13.2B.2(b) or Rule 13.2B.3A”;

(e) at the beginning of Rule 13.2B.12, there were inserted “Unless the DSR Test has been carried out pursuant to Rule 13.2B.3A(b) (in which case Rule 13.2B.12A applies),”; and

(f) after Rule 13.2B.12 there were inserted:

“13.2B.12A

If an Applicant for a DSR CMU which has Prequalified or Conditionally Prequalified for the T-1 Auction for the Delivery Year commencing on 1 October 2019 has carried out a DSR Test prior to the Auction Results Day for the T-1 Auction for the Delivery Year commencing on 1 October 2019, and provided that no notice has been issued under Rule 13.2B.10, the Delivery Body must issue a DSR Test Certificate to the Applicant or Capacity Provider detailing the matters described in Rule 13.2B.12(a) to (d) (as applicable) within 5 Working Days of the Auction Results Day for the T-1 Auction for the

Delivery Year commencing on 1 October 2019.”.

## **PART 2**

### **Total Project Spend**

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

**2.1** In Rule 8.3.6(a), after “Delivery Year” insert “(or on the date that the Capacity Agreement takes effect in accordance with Rule 6.7.4(a)(ii) or Rule 6.8.5)”.