

Capacity Market participants,
prospective participants and
other interested parties

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Dear colleague,

**Rejection of CM Rule Change Proposals without Consultation: CP357, CP358,
CP360 and CP367**

Summary

- The Capacity Market Advisory Group (CMAG) has now been established and is meeting on a monthly basis to review Capacity Market Rule Change Proposals
- For four of the CM Rule Change Proposals that were reviewed, Ofgem was minded to reject the proposals without statutory consultation and CMAG supported this decision
- Two of the proposals were withdrawn by the proposers while the remaining two were judged not to be appropriate for consideration through our CM Rule Change process

Regulatory context

The CM is governed by a combination of the Regulations and the Rules. The Regulations permit us to amend, add to, revoke or substitute any provision of the Rules other than to confer functions on the Secretary of State or additional functions on ourselves. When changing the Rules, we must have regard to our principal objective and general duties, and the specific objectives set out in the Regulations (the "CM Rules objectives"):

- promoting investment in capacity to ensure security of electricity supply
- facilitating the efficient operation and administration of the Capacity Market
- ensuring the compatibility of the Capacity Market Rules with other subordinate legislation under Part 2 of the Energy Act 2013.

The Regulations (79) also allow us to reject a proposal without consulting on it, with the requirement that we publish our reasons for rejecting the proposal without further consultation.

The Role of the Capacity Market Advisory Group (CMAG)

In May 2022, we published our decision to set up the Capacity Market Advisory Group (CMAG). CMAG is an advisory body drawn from across the GB energy industry, made up of impartial experts and representatives of official bodies (such as Ofgem and DESNZ), the ESO and stakeholder groups. CMAG has been meeting monthly since October 2022, with Elexon acting as the secretariat.

The purpose of CMAG is to enable a more dynamic, adaptive and transparent CM Rule Change process. CMAG reviews, considers and prioritises CM Rule Change proposals and provides system and market insights to Ofgem. CMAG also recommends which proposals we should progress to Statutory Consultation.

To guide CMAG, we provided the following example reasons for rejection without further consultation:

- **Beyond Competence**

The proposed rule change would contravene the Electricity Capacity Regulations (2014) or would confer additional functions on the Secretary of State (DESNZ) or the Authority (Ofgem)

- **Policy Overreach**

The proposed rule change acts against government policy or involves significantly altering the balance between existing government policy priorities

- **Better Route Available to Achieve Desired Outcome**

The desired outcome of the proposed rule change could be better achieved via a route other than a CM rule change

- **Proposed Revision Does Not Resolve Highlighted Issue**

There is no clear link between the issue highlighted and the revision proposed

This list is not exhaustive and is provided primarily as a tool to help in identifying proposals which do not require further consultation.

Rejected Proposals without Consultation

Discussions with CMAG have so far identified four CM Rule Change proposals that we will reject without further consultation – CP357, CP358, CP360¹ and CP367². CP357 and CP358 were withdrawn by their proposers, while CP360 and CP367 were discussed with CMAG, who supported Ofgem’s minded-to position to reject these proposals without further consultation. A brief description of the proposal and the specific reasons for rejections will be given for each proposal:

1. CP357 – No Title (Triton)

Summary of Proposal

This proposal is a response to the DESNZ/BEIS review of the Capacity Market.

Reason for Rejection

This proposal is a response to the DESNZ/BEIS review of the Capacity Market, erroneously considered as a Capacity Market Rule Change Proposal and subsequently withdrawn by its proposer.

2. CP358 – Previous Settlement Period Performance (Waters Wye Associates)

Summary of Proposal

This proposal seeks to allow Existing Generating CMUs to provide previous settlement period performance data outside of the 24-month window currently specified in Rule 3.6.1(a).

3.6.1 (a)

"Except where Rule 3.6.1(aa) applies each Applicant for an Existing Generating CMU must identify in the Application three Settlement Periods on separate days in: the 24 months prior to the end of the Prequalification Window, or in the case where Rule 3.13 applies, prior to the close of the last day for submission of secondary trading, in which such Existing Generating CMU delivered a net output equal to or greater than its Anticipated De-rated Capacity, and specify the physically generated net outputs, or Metered Volume where applicable, in MWh to three decimal places for each of those Settlement Periods."

Reason for Rejection

This proposal was withdrawn by the proposer on the basis that it was no longer applicable, given that one of the proposals of the DESNZ Capacity Market 2023 consultation³ is to change rules relating to providing evidence of Previous

¹ CP357, CP358 and CP360 - [Outstanding Capacity Market Rules Change Proposals | Ofgem](#)

² CP367 – Included as supporting document

³ [Capacity Market 2023: strengthening security of supply and alignment with net zero - GOV.UK \(www.gov.uk\)](#)

Settlement Performance of existing CMUs to remove the barriers to mothballed plant from prequalifying.

3. CP360 – Efficiency Modifier for Capacity Price (CCET Consulting)

Summary of Proposal

This proposal suggests that assets participating in the Capacity Market are paid the Capacity Market Price multiplied by the efficiency of the asset in order to promote the build out of reliable energy that has the least impact on the environment,.

Reason for Rejection

This change proposal represents a policy overreach, as it would significantly alter the balance between existing government policy priorities on energy security and net-zero. Ofgem's opinion is that it would be for DESNZ to consider whether to introduce a change of this type and magnitude.

4. CP367 – Deferral of Fossil Fuel Emissions Declaration (Waters Wye Associates)

Summary of Proposal

This proposal seeks to temporarily allow deferral of the requirement for an existing generating CMU to provide a Fossil Fuel Emissions Declaration at Prequalification until 1 month prior to the start of the Relevant Delivery Year.

Reason for Rejection

This change proposal represents a policy overreach, as the core of this proposal (the willingness to trade off security of supply against emissions limits) is fundamentally a government policy question and specifically addresses something that has arisen due to recent government policy (DESNZ/BEIS's guidance on Carbon Emissions Limits in the Capacity Market, updated in 2022⁴). If changes to the balance of security of supply and emissions limits are required, it would be best approached holistically by DESNZ through government policy, rather than via the CM Rule Change process.

⁴ [Carbon emissions limits in the Capacity Market - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/carbon-emissions-limits-in-the-capacity-market)

Next Steps

Ofgem and CMAG will continue to review the CM Rule Change proposals currently submitted and we expect to bring a number to Statutory Consultation in the near future. We are also working with CMAG on a revised CM Rule Change proposal form that we hope will simplify the submission process. We will update the "Guidance for the CM Rule Change Process" document to reflect this change.

Yours Faithfully,

Andrew Macdonell

**Senior Policy Manager, Domestic Market Management
For and behalf of the Gas and Electricity Markets Authority**