

Capacity Market participants,
prospective participants and
other interested parties

Email: EMR_CMRules@ofgem.gov.uk

Date: 16/02/2024

Dear colleague,

Rejection of Capacity Market Rule Change Proposal without Consultation: CP365

Intent to reject CP365 because of proposer's withdrawal.

Summary:

- The change proposal CP365 was submitted to the Capacity Market Advisory Group (CMAG) by ENGIE on 13 October 2022.
- CP365 was sent to Ofgem with the CMAG recommendation to approve this Change Proposal on 14 February 2023.
- However, Department for Energy Security & Net Zero (DESNZ) subsequently picked up this proposal in their January 2023 consultation¹ and the proposer was happy that the changes met their requirements.
- DESNZ has implemented a rule change covering the same topic as CP365 as part of their January 2023 consultation on strengthening security of supply and alignment with net zero. In consultation with CMAG, DESNZ and the proposer we are in agreement that an additional consultation is not required from Ofgem's side.

¹ [Capacity Market 2023 consultation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Rejected Proposal without Consultation

Discussions with CMAG, DESNZ and the original proposer have identified a CM Rule Change proposal that we will reject without further consultation – CP365. A brief description of the proposal and the specific reasons for rejection is given below:

CP365 – Independent Technical Expert Report Requirements (ENGIE)

Summary of Proposal

CP Rule 12.2.1 required new build and refurbishing Capacity Market Units (CMUs) to submit progress reports, signed by two Directors, from after the Auction until completion of the Substantial Completion Milestone (up to eight reports in total). If the earliest and latest dates for these construction milestones move by more than two months in either direction, it is considered a material change and an assessment is required by an Independent Technical Expert (ITE). If the forecasted earliest and latest dates are close together, any changes to the project timeline are likely to cause a material change. Each ITE report can cost thousands of pounds per CMU, and this cost can be burdensome for Capacity Providers making it difficult to enter the Capacity Market.

CP365 sought to address this by removing the requirement for an ITE assessment of the progress report if construction milestones have moved by more than two months, either earlier or later than that set out in the Construction Plan in the pre-qualification application. Only where a construction milestone has moved to be later than two months will a progress report signed by two Directors and an explanation of the material change be required under CP Rule 12.2.1(a). CP365 proposes to remove the requirement for an explanation of the material change where a construction milestone has moved earlier than that stated in the progress report.

Reason for Rejection

DESNZ proposed changes to end the requirement for ITE reports in their January 2023 consultation². DESNZ implemented this change on 12 July 2023. We suggested the proposer withdraw the proposal from the Ofgem process because DESNZ had already adequately addressed this rule change. They were happy to do so.

² [Capacity Market 2023 consultation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/capacity-market-2023)

Next Steps

CP365 requires no further Ofgem action. DESNZ has consulted on the issue raised in this proposal in their January 2023 consultation³ and published its response in June 2023⁴.

Yours Faithfully,

Andrew Macdonell

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

³ [Capacity Market 2023 consultation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/capacity-market-2023-consultation)

⁴ [Capacity Market 2023 Consultation: Government response \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/capacity-market-2023-consultation-government-response)