

Determination

Capacity Market Appeal 2026: Battery Box Limited

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This determination is made pursuant to Regulation 71(3)(b) of the Electricity Capacity Regulations 2014 (as amended) following an appeal made to the Authority pursuant to Regulation 70(1)(a).

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Determination Battery Box Limited

1. Introduction

- 1.1 This determination relates to appeals made by Battery Box Limited (“Battery Box”) against reconsidered decisions made by the Electricity Market Reform Delivery Body (“Delivery Body”) in respect of the following Capacity Market Units (“CMUs”):
- BBT1U7 (T-1 Auction)
 - BT1U14 (T-1 Auction)
 - BT1U17 (T-1 Auction)
 - BT1U18 (T-1 Auction)
 - BBT1U19 (T-1 Auction)
- 1.2 This determination deals with all of the appeals listed above as they are substantively in respect of the same issue and differ only insofar as concerns the identity of the respective CMUs.
- 1.3 Pursuant to Regulation 71(3) of the Electricity Capacity Regulations 2014 (as amended) (the “Regulations”), where the Authority¹ receives an appeal notice that complies with Regulation 70, the Authority must review a reconsidered decision made by the Delivery Body.

¹ References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) support GEMA in its day-to-day work.

Determination Battery Box Limited

2. Appeal Background

2.1 Battery Box submitted an application for prequalification for the CMUs in Paragraph 1.1 in respect of the 2026/27 T-1 auction and the 2029/30 T-4 auction and sought a maximum obligation period of 1 year.

2.2 For the CMUs listed in Paragraph 1, the Delivery Body issued a notification of prequalification decision dated 11 November 2025 (the “Prequalification Decision”). The Delivery Body rejected the CMUs on the following grounds:

“This Application has not met the requirements of the Capacity Market Rules due to the following reason(s):

F4-41 Connection Agreement will not be in effect by the start of the Delivery Year. CM Rule 3.7.3(b) requires all New Build Generating CMUs that are Distribution connected to provide a copy of the Distribution Connection Agreement or connection offer (with evidence of acceptance), or where this is not possible, written confirmation from the Distribution Network Operator that such Distribution Connection Agreement or connection offer is in effect, which confirms the registered capacity of the Generating Unit, and the capacity of the Generating Unit is permitted to export to the Distribution Network. The Distribution Connection Agreement/Connection Offer provided for at least one Generating Unit in the CMU will not come into effect before the beginning of the relevant Delivery Year, and therefore the requirements of this rule have not been met.”

2.3 Battery Box submitted requests for reconsideration on 14 November 2025. These requests were accompanied by letters from Battery Box stating when the construction plans included in the connection agreements would be completed.

2.4 The Delivery Body issued a notice of reconsidered decision on 9 December 2025 which rejected the dispute on the following grounds:

“This Application has not met the requirements of the Capacity Market Rules due to the following reason(s):

F4-41 Connection Agreement will not be in effect by the start of the Delivery Year. CM Rule 3.7.3(b) requires all New Build Generating CMUs that are Distribution connected to provide a copy of the Distribution Connection Agreement or connection offer (with evidence of acceptance), or where this is not possible, written confirmation from the Distribution Network Operator that such Distribution Connection Agreement or connection offer is in effect, which confirms the registered capacity of the Generating Unit, and the capacity of the Generating Unit is permitted to export to the Distribution Network. The Distribution Connection Agreement/Connection Offer provided for at least one Generating Unit in the CMU will not come into effect before the beginning of the

Determination Battery Box Limited

relevant Delivery Year, and therefore the requirements of this rule have not been met.”

- 2.5 Battery Box submitted an appeal to the Authority on 15 December 2025. This appeal was accompanied by a copy of an email chain from the distribution network operator.

Battery Box’s Grounds for Appeal

- 2.6 Battery Box disputes the decision on the following ground:

Ground 1 – Misapplication of Rule 3.7.3(b)(ii)

- 2.7 The Applicant states that the Delivery Body incorrectly concluded that the Connection Agreements would not be in effect before the start of the relevant Delivery Year. The Applicant claims to have provided:

- Signed connection offers confirming energisation dates on or before the relevant delivery year commencement.
- Written confirmation from the distribution network operator that the agreements will be effective prior to the relevant Delivery Year.
- Additional assurances such as letters from company directors confirming that all components will be constructed and connected in accordance with the approved construction plan before the relevant delivery year.

3. The Regulatory Framework

- 3.1 The Regulations were made by the Secretary of State under the provisions of section 27 of the Energy Act 2013. The Capacity Market Rules 2014 (as amended) (the “Rules”) were made by the Secretary of State pursuant to powers set out in section 34 of the Energy Act 2013.

The Regulations

- 3.2 The Regulations set out the powers and duties of the Delivery Body which it must rely upon when it determines eligibility.
- 3.3 Regulation 22(a) specifies that each application for prequalification must be determined in accordance with the Rules:

“The Delivery Body must—

(a) determine each application for prequalification that is made to it in accordance with capacity market rules;

(b) notify each applicant of its determination; and

(c) reconsider a determination, if an applicant requests it to do so under regulation 69.”

Determination Battery Box Limited

3.4 Regulations 68 to 72 set out the process and powers in relation to dispute resolution and appeals.

3.5 Regulations 69(1)-(4) state that:

“69.—(1) An affected person may request the Delivery Body to review a delivery body reviewable decision.

(2) The request must—

(a) be submitted in writing to the Delivery Body within 5 working days after receiving notice of the decision; and

(b) include each of the matters specified in sub-paragraphs (a) to (e) of regulation 70(3).

(3) [If the Delivery Body receives a request which complies with paragraph (2), within [20] working days of giving notice of the decision it must]—

(a) reconsider the matter; and

(b) give notice to the affected person of—

(i) the outcome of the reconsideration (the “reconsidered decision”); and

(ii) the reasons for the reconsidered decision.

(4) The Delivery Body must, within 5 working days after receiving a request which does not comply with paragraph (2), give notice to the affected person that the request is rejected as not complying with that paragraph, and give the reason why.”

3.6 Regulation 69(5) sets out the requirements for the Delivery Body when reconsidering a prequalification decision:

“69(5) Subject to paragraph (5A), in reconsidering a prequalification decision or a decision to issue a termination notice or a notice of intention to terminate or a decision to issue a CCS CFD transfer refusal notice, the Delivery Body must not take into account any information or evidence which—

(a) the affected person was required by these Regulations or capacity market rules to provide to the Delivery Body before the decision was taken; and

(b) the affected person failed to provide in accordance with that requirement.”

3.7 Regulation 69(5) is subject to Regulation 69(5A), which sets out the exceptions to Regulation 69(5):

“(5A) In reconsidering a prequalification decision or a decision to issue a CCS CFD transfer refusal notice, the Delivery Body may take into account information or evidence if the Delivery Body determines that:

Determination Battery Box Limited

- (a) the relevant application for prequalification or a CCS CFD transfer notice contained a non-material error or omission; and
- (b) the information or evidence is capable of rectifying such non-material error or omission.”

3.8 Regulation 69(7) provides the meaning of a “non-material error or omission”:

“(7) In this regulation-

“non-material error or omission” means an error or omission in an application for prequalification or a CCS CFD transfer notice which is-

- (a) manifest, and either inadvertent or the result of an honest mistake;
- (b) clerical, typographical or trivial in nature; or
- (c) determined by the Delivery Body to be inconsequential to the affected person’s compliance with, or the enforcement of, any requirement in these Regulations or the Rules to which the error or omission relates.”

3.9 Regulation 70(1) provides that an affected person who has, in accordance with regulation 69(2), made a request to the Delivery Body to review a delivery body reviewable decision, may appeal to the Authority if—

- “(a) the affected person disputes the reconsidered decision; or
- (b) the request for reconsideration was rejected by the Delivery Body on the ground that it did not comply with regulation 69(2).”

3.10 Regulation 70(3)-(6) provides that:

“(3) An appeal notice must contain—

- (a) a concise statement identifying the relevant part of the delivery body reviewable decision in dispute;
 - (b) a concise statement of the facts on which the affected person relies;
 - (c) a summary of the grounds for disputing the delivery body reviewable decision; (d) a succinct presentation of the arguments supporting each of the grounds for dispute; and
 - (e) a schedule listing the documents submitted with the appeal notice.
- (4) The appeal notice must be accompanied by—
- (a) a copy of—
 - (i) the notice given by the Delivery Body under regulation 69(3) or (4);
 - (ii) the request made to the Delivery Body for reconsideration; and

Determination Battery Box Limited

(iii) any information or evidence submitted to the Delivery Body in support of that request;

(b) in the case of an appeal relating to a prequalification decision, a copy of—

(i) the prequalification decision;

(ii) any information or documents provided by the affected person to the Delivery Body as part of the application for prequalification which are relevant to the matter in dispute; and

(iii) any information or evidence submitted in accordance with regulation 69(5A);

[...]

(d) any other documentary evidence which the affected person wishes to rely on in support of the appeal and which—

(i) was provided to the Delivery Body before the reconsidered decision was made; or

(ii) is needed to show what evidence was before the Delivery Body when the reconsidered decision was made.

(5) Where a request for reconsideration was rejected by the Delivery Body on the ground that it did not comply with regulation 69(2), the affected person may submit evidence to the Authority that the request did comply with that regulation.

(6) Except as provided in paragraphs (4) and (5), no other documentary evidence may be included in or submitted with the appeal notice.”

3.11 Per Regulation 71(3), upon receiving an appeal notice which complies with regulation 70, and any information requested from the Delivery Body, the Authority must:

“(a) subject to paragraph (4), review the reconsidered decision;

(b) determine whether the reconsidered decision was correct on the basis of the information which the Delivery Body had when it made the decision.”

The Capacity Market Rules

3.12 Chapter 3 of the Rules governs the processes by which an applicant may apply to the Delivery Body for Prequalification of a CMU to participate in a Capacity Auction for a given Delivery Year.

3.13 Rule 3.7.3(b) sets out the requirements for Applicants for New Build CMUs who are or will be directly connected to a distribution network:

“(b) Subject to Rule 3.7.3(c) below, Applicants for a New Build CMU that is, or will be, directly connected to a Distribution Network must:

Determination Battery Box Limited

(i) confirm that there are one or more Distribution Connection Agreements or accepted connection offers which permit at least, in aggregate, the Anticipated De-rated Capacity of that CMU and any other CMUs to which the Distribution Connection Agreement applies to connect to the Distribution Network in the relevant Delivery Years; and (ii) provide with the Application a copy of any such Distribution Connection Agreement or connection offer (with evidence of acceptance), or where this is not possible, written confirmation from the Distribution Network Operator that such Distribution Connection Agreement or connection offer is in effect and confirming:

(aa) the registered capacity (or inverter rating, if applicable) of that Generating Unit and where a range of values is specified for the registered capacity (or inverter rating, if applicable), the minimum value in that range; and

(bb) the capacity that such Generating Unit is permitted to export to the Distribution Network.

[...]

(c) Except in the case of an Application to participate in a T-1 Auction, an Applicant which is unable to give the confirmation referred to in Rule 3.7.3(b)(i), or the letter referred to in Rule 3.7.3(ba) may, instead of complying with Rule 3.7.3(b), or Rule 3.7.3(ba), either;

(i) declare that a Distribution Connection Agreement will be in place by the date 18 months prior to the commencement of the relevant Delivery Year; or

(ii) provide a letter from the owner of the Private Network, to which the CMU will be connected, that confirms that the owner of that Private Network will have an agreement with the relevant Distribution Network Operator for the connection of the Private Network to, and use of, a Distribution Network by the date 18 months prior to the commencement of the relevant Delivery Year.”

4. Our Findings

4.1 We have assessed Battery Box’s grounds for appeal, which are summarised below.

Ground 1

4.2 Battery Box states that the Delivery Body incorrectly concluded that the connection agreements they submitted with their application for prequalification would not be in effect before the start of the relevant Delivery Year.

4.3 Rule 3.7.3(b) states that applicants for a new build CMU that is, or will be, directly connected to a distribution network must confirm that there are distribution connection agreements or accepted connection offers which permit the anticipated de-rated capacity of the CMU to connect to the distribution network in

Determination Battery Box Limited

the relevant delivery years. Applicants are also required to provide a copy of these distribution connection agreements. If this is not possible, the applicant is required to provide written confirmation from the distribution network operator confirming that these distribution network agreements or connection offers are in effect and confirming the registered capacity (or inverter rating) of the generating unit and the capacity that this generating unit is permitted to export to the distribution network. Given that the applications for the CMUs in Paragraph 1 were for the T-1 auction, the relevant delivery year for the purpose of Rule 3.7.3(b) was 1 October 2026 to 30 September 2027.

4.4 In their application for prequalification, Battery Box submitted multiple distribution connection agreements covering the generating units for the CMUs stated in Paragraph 1. These letters from UK Power Networks each contain a section entitled “When can you expect your electricity connection?” which each state “Subject to the terms of the Quote, the DNO Works referred to in the Quote will be completed on or before [date]” (emphasis added). For each of the CMUs listed in Paragraph 1, at least one of the generating units in the CMU had a date after 1 October 2026 (see below for the specific dates):

- BBT1U7 – 14 October 2026
- BT1U14 – 26 November 2026, 29 November 2026
- BT1U17 – 16 November 2026
- BT1U18 – 29 January 2027, 17 January 2027
- BT1U19 – 7 December 2026

4.5 Each CMU also has a letter from Battery Box titled “Connection Arrangements Clarifications” that is appended to the start of the collection of connection agreement documents for that CMU. This document states that:

“It is noted that some of the dates contained within the connection offers date back to 2022. We have now secured funding to progress and build the sites in accordance with the construction milestones summary within the application.”

4.6 In the Delivery Body’s notification of prequalification decision, the Delivery Body rejected the application on the basis that the connection agreements provided did not meet the requirements of Rule 3.7.3(b) because at least one generating unit in the CMU had a distribution connection agreement or connection offer that would not come into effect before the beginning of the relevant delivery year. We hold that the information provided in the distribution connection agreements was not sufficient to meet the requirements of Rule 3.7.3(b) without additional clarification from the distribution network operator. We determine that the statement “will be completed on or before [date]” would still require written confirmation from the distribution network operator to confirm that the agreement

Determination Battery Box Limited

has come into effect on a date before the date specifically stated in the connection agreements.

- 4.7 As part of the applicant's request for reconsideration, Battery Box provided letters from Battery Box, signed by two directors, which confirmed that the generating units will be developed in accordance with the construction plan submitted and that the substantial completion milestone would be met by dates before 1 October 2026.
- 4.8 The Delivery Body's notification of reconsidered decision upheld its original decision to reject under Rule 3.7.3(b) without providing further clarification.
- 4.9 In evaluating the evidence, we hold that the letters provided by Battery Box signed by two Directors do not meet the requirements of Rule 3.7.3(b), specifically that if the distribution connection agreements or connection offers cannot demonstrate that the offer is in effect, the Applicant is required to provide "written confirmation from the distribution network operator that such distribution agreement or connection offer is in effect"(emphasis added). Rule 3.7.3(b) states that written confirmation is required to be from the distribution network operator, not the applicant company.
- 4.10 In the applicant's appeal to the Authority , Battery Box submitted an email from UK Power Networks for each CMU that stated that their records show the supply was connected prior to the 1 October 2026 deadline, providing the specific dates for each CMU generating unit.
- 4.11 We accept that this evidence would be sufficient to meet the requirements of Rule 3.7.3(b), however Regulation 70 sets out what documentary evidence can be accompanied by the Applicants' appeal notice. Only information and documentary evidence that the applicant has provided to the Delivery Body as part of their application for prequalification or in their request for reconsideration can be included in the applicant's appeal notice. Regulation 70(6) states that "except as provided in paragraphs (4) and (5), no other documentary evidence may be included or submitted with the Appeal Notice".
- 4.12 The Authority has no ability to consider the emails from UK Power Networks submitted to the Authority as part of the appeal process as the Authority cannot consider evidence that was not before the Delivery Body as stated in Regulation 71(3)(b).
- 4.13 Given that the evidence required to meet the requirements of Rule 3.7.3(b) was not provided to the Delivery Body at application for prequalification or at request for reconsideration, we hold that the Delivery Body was correct to reject the applications on the basis that they did not meet the requirements of Rule 3.7.3(b).

5. Conclusion

Determination Battery Box Limited

- 5.1 The Delivery Body reached the correct non-qualification review decision to reject BBT1U7, BT1U14, BT1U17, BT1U18 and BBT1U19 for the T-1 Auction on the basis that:
- (a) Insufficient evidence was submitted at the application for prequalification and the request for reconsideration in order to satisfy the requirements of Rule 3.7.3(b).
 - (b) The evidence submitted to satisfy the requirements of Rule 3.7.3(b) submitted at appeal to the Authority cannot be considered under Regulation 71(3)(b).

6. Determination

- 6.1 For the reasons set out in this Determination, the Authority hereby determines pursuant to Regulation 71(3) that the Delivery Body's reconsidered decision to reject Battery Box for prequalification be upheld in respect of the CMUs listed in Paragraph 1.1 for the T-1 auction.

Andrew Macdonell

For and on behalf of the Gas and Electricity Markets Authority

5 February 2026