

Determination

Capacity Market Appeal 2026: Diodes Zetex Semiconductors 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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1. Introduction

- 1.1 This determination relates to an appeal made Diodes Zetex Semiconductors Limited (“Diodes Zetex”) against a reconsidered decision made by the Electricity Market Reform Delivery Body (“Delivery Body”) in respect of the following Capacity Market Unit (“the CMU”):
- DIZE01 (T-4 Auction)
- 1.2 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.

2. Appeal Background

- 2.1 Diodes Zetex submitted an application for prequalification for the CMU in respect of the 2029/30 T-4 auction and sought a maximum obligation period of 1 year.
- 2.2 The application included a letter dated 30 September 2025. This letter (the “Historic Output Letter”) set out historical output data in MWh for the CMU and in respect of three settlement periods. The letter included a sentence stating:
- “This letter also confirms that the values provided above take account of all associated line loss factors”.
- 2.3 The Delivery Body issued a notification of prequalification decision dated 11 November 2025. The Delivery Body rejected the CMU on the following grounds:

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

F2-52 Secondary Trading details: Email and Phone number have not been provided

The Secondary Trading details were not provided with this Application in accordance with Capacity Market Rule 3.4.1(c)(ii), which states each Applicant must provide 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, to be published on the [capacity market register (“CMR”)] as per CM Rule 7.4.1(a)(ia). The email address and telephone number were not provided.

F4-121 Missing content for Address of the CMU Component

¹ The terms “we”, “us”, “our”, “Ofgem” and “the Authority” are used interchangeably in this document and refer to the Gas and Electricity Markets Authority. Ofgem is the office of the Authority.

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CM Rule 3.4.3(a)(i) requires the Applicant to provide the full postal address and postcode (if assigned) for all Generating Units comprised within the CMU. The address of at least one Generating Unit in the Application is missing/invalid, and therefore the requirements of this rule have not been met.

F4-122 Missing Postcode of the CMU Component

CM Rule 3.4.3(a)(i) requires the Applicant to provide the full postal address and postcode for all Generating Units comprised within the CMU. The postcode of at least one Generating Unit in the Application is missing without cover letter explanation, and therefore the requirements of this rule have not been met.

F4-124 Missing Ordnance Survey Grid Reference of the CMU Component

CM Rule 3.4.3(a)(i) requires the Applicant to provide the two-letter prefix and six-figure Ordnance Survey grid reference number(s), for all Generating Units comprised within the CMU. The [Ordnance Survey (“OS”)] grid reference for at least one Generating Unit in the Application was missing/invalid, therefore cannot be verified.

F4-212 No document provided for Confirmation of Line Loss Factors

Capacity Market Rule 3.6.1(c)(iii) requires each Applicant for an Existing Generating CMU that is a [non-central metering registration service (“Non-CMD”)] Network confirming the Line Loss Factor values applied in the three Settlement Periods referred to in Rule 3.6.1(a) or Rule 3.6.1(aa). This information has not been provided as part of this Application, as required by Rule 3.6.1(c)(iii).”

- 2.4 Diodes Zetex submitted a request for reconsideration on 18 November 2025. At this stage, Diodes Zetex submitted additional information with a view to addressing the error codes identified above. However, in relation to error code F4-212 Diodes Zetex did not submit any additional information, but instead directed the Delivery Body to the Historic Output Letter, making the argument that Rule 3.6.1(c)(iii) is only required where a line loss factor or adjustment is “applied” and that, since the Historic Output Letter states that line loss factors have been “taken account of [...] therefore further information regarding the adjustment and the calculations made is not required or necessary to prequalify”.
- 2.5 The Delivery Body issued a notification of reconsidered decision on 9 December 2025 which rejected the dispute on the following ground:

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

F4-212 No document provided for Confirmation of Line Loss Factors

Capacity Market Rule 3.6.1(c)(iii) requires each Applicant for an Existing Generating CMU that is a Non-CMRS Distribution CMU using the Balancing

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Services Metering Configuration Solution or Bespoke Metering Configuration Solution to provide either in relation to the CMU or to each Generating Unit comprising the Generating CMU: a letter from the Distribution Network Operator or Unlicensed Network confirming the Line Loss Factor values applied in the three Settlement Periods referred to in Rule 3.6.1(a) or Rule 3.6.1(aa). This information has not been provided as part of this Application, as required by Rule 3.6.1(c)(iii).”

2.6 Diodes Zetex submitted an appeal to the Authority on 16 December 2025.

Diodes Zetex’s Grounds for Appeal

2.7 Diodes Zetex disputes the notification of reconsidered decision on the following grounds:

Ground 1

2.8 Diodes Zetex considers that the Delivery Body made an error of fact in stating that the information required under Capacity Market Rule 3.6.1(c)(iii) had not been provided, as this information was contained within the Historic Output Letter submitted with the original application, and which confirmed that the historic output values “take account of all associated line loss factors”.

Ground 2

2.9 Diodes Zetex contends that, contrary to Regulation 70(3)(c), the Delivery Body failed to take into account relevant information in making its decision, the information in question being the statement regarding line loss factors in the Historic Output Letter, which “directly addressed the treatment of line loss factors but was disregarded”.

Ground 3

2.10 Diodes Zetex argues that the Delivery Body misapplied Capacity Market Rule 3.6.1(c)(iii) “by treating the requirement as not met, despite having documentation that substantively confirms that the historic output values have been calculated taking account of the applicable Line Loss Factors”.

Ground 4

2.11 Diodes Zetex states that:

“The rejection of DIZE01 on F4212 is inconsistent with the purpose of Rule 3.6.1(c)(iii) and the wider regulatory regime, which is to ensure that prequalification is based on historic output correctly adjusted for line loss factors. That objective is in fact satisfied by the documentation submitted”.

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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.”

- 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.

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(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 Further, 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 of 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:

- (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 refusal 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 provides that:

“(1) 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

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(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
- (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

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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 1 of the Rules contains general provisions, including definitions (set out within Rule 1.2.1).

3.13 Rule 1.2.1 gives the definition of additional information:

“Additional Information in respect of a CMU that is the subject of an Application, means the additional information and documents required to be submitted with the Application, as set out in one or more of the paragraphs below:

(a) in the case of an Application relating to an Existing Generating CMU, such information as is required pursuant to Rule 3.6;...”

3.14 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.

3.15 Rule 3.6.1 sets out the evidence that is required to be provided in order to demonstrate performance in previous settlement periods:

“Previous Settlement Period performance

(a) Except where Rule 3.6.1(aa) applies each Applicant for an Existing Generating CMU must:

(i) 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

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(ii) specify the physically generated net outputs, or Metered Volume where applicable, in MWh to three decimal places for each of those Settlement Periods.

[...]

(c) Each Applicant for an Existing Generating CMU that is a Non-CMRS Distribution CMU using the Balancing Services Metering Configuration Solution or Bespoke Metering Configuration Solution must provide either in relation to the CMU or to each Generating Unit comprising the Generating CMU:

(i) a letter from the supplier or former supplier to such CMU confirming the CMU or Generating Unit's physically generated net output in MWh to three decimal places; or

(ii) evidence the CMU or Generating Unit delivered a Metered Volume (in MWh to three decimal places) in discharge of an obligation to deliver a balancing service confirming the CMU or Generating Unit's physically generated net output in MWh to three decimal places;

(iii) and if line loss adjustments have been applied, either:

(aa) a letter from the Distribution Network Operator confirming the Line Loss Factor values in the three Settlement Periods referred to in Rule 3.6.1(a) or Rule 3.6.1(aa); or

(bb) where applicable, a letter from the owner of the Unlicensed Network confirming the electrical loss factor values in the three Settlement Periods referred to in Rule 3.6.1(a) or Rule 3.6.1(aa) and the methodology used to calculate such values."

3.16 Rule 3.12 deals with the submission of declarations and additional information:

"3.12.1 A person submitting an Application [...] must ensure and confirm in the Application [...] that: (a) in all material respects, the Application or Opt-out Notification and, in the case of an Application, all Additional Information submitted by the Applicant; ... is true and correct [...]"

3.17 Rule 4.4 deals with the decisions to be made by the Delivery Body:

"4.4.1 The Delivery Body must, for each CMU for which an Application has been received, determine whether the CMU has prequalified for the Capacity Auction (the "Prequalification Decision")"

Rule 4.4.2 states when a Delivery Body must not prequalify a CMU: "4.4.2 Subject to Rule 3.8.1A(c)(ii), the Delivery Body must not Prequalify a CMU where: (a) it is aware that the Application has not been completed or submitted in accordance with the Rules; (aa) it reasonably believes that any information or declaration submitted in or with an Application does not comply with the requirements in Rule 3.12.1; (b) the required Additional Information is missing...;"

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4. Our Findings

- 4.1 We have assessed Diodes Zetex's grounds for appeal, which are summarised below.

Ground 1 – Error of fact

- 4.2 Diodes Zetex argues that the statement in the Historic Output Letter: “confirms that the historic output values used for DIZE01 already incorporate all associated Line Loss Factors. It is therefore inaccurate to say that no information confirming the LLFs applied was provided... The Reconsidered Decision is thus based on a clear error of fact” We understand from this statement, the contents of the Historic Output Letter and the other submissions made by Diodes Zetex, that line loss adjustments had – as a matter of fact – been made.² As set out earlier, Rule 3.6.1(c)(iii) sets out the specific requirements as to the information that must be provided regarding line loss adjustments, where such adjustments have been applied. In such cases, an existing generating CMU that is a non-centralised metering registration system (CMRS) distribution CMU using the balancing services metering configuration or bespoke metering configuration solution, must provide either a letter from the distribution network operator (DNO) confirming the line loss factor values in three settlement periods or, where applicable, a letter from the owner of the unlicensed network confirming the electrical loss factor values in the three settlement periods (referred to in Rule 3.6.1(a)) and the methodology used to calculate such values.
- 4.3 The Delivery Body rejected the CMU in the notification of reconsidered decision on the basis that Diodes Zetex had not provided a document for confirmation of line loss factors as required by Rule 3.6.1(c)(iii).
- 4.4 As stated above, in the request for reconsideration, Diodes Zetex had directed the Delivery Body to the Historic Output Letter and made the argument that Rule 3.6.1(c)(iii) is only required where a line loss factor or adjustment is “applied” and that, since the Historic Output Letter states that line loss factors have been “taken account of”, no further information was required. This argument is not repeated by Diodes Zetex in its appeal to the Authority, although it does submit additional evidence by way of an email exchange with the Delivery Body shortly before the reconsidered decision, in which the same argument is articulated.
- 4.5 We have considered this argument, and our understanding is that Diodes Zetex is seeking to make a distinction between the application of line loss factors, and the taking into account of line loss factors. In our view, this is not a meaningful distinction, because the statement ‘if line loss adjustments have been applied’ within Rule 3.6.1(c)(iii) must mean that there has been some adjustment of the

² It has not at any stage been suggested that the line loss factor values are zero – if this were the case, our expectation is that this would have been explicitly stated.

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historic output figures in order to take any line loss into account. The terms of the Historic Output Letter clearly indicate that there has been some adjustment, and we also note that in the statement quoted above, Diodes Zetex accepts that line loss factors were in fact applied. It is also pertinent to note that Diodes Zetex accepts that Rule 3.6.1(c) applies in the notice of appeal to the Authority. Therefore, we consider that the Delivery Body was right to conclude that line loss factors had been applied and that the requirements of sub-paragraphs (aa) or (bb) of Rule 3.6.1(c)(iii) had to be met.

- 4.6 Turning to the question of whether either of these requirements were met, as the Historic Output Letter is a letter from Diodes Zetex, not the Distribution Network Operator, it is Rule 3.6.1(c)(iii)(bb) that applies.
- 4.7 In order to meet the requirements of sub-paragraph (bb), Diodes Zetex (as the unlicensed network owner) must confirm the electrical loss factor values and give the methodology used to calculate such values. The Historic Output Letter only provides the output in MWh for three settlement periods and confirmation that “the values provided above take account of all associated line loss factors”.
- 4.8 We do not view this statement as being sufficient to meet either of the requirements of Rule 3.6.1(c)(iii)(bb), being the specific electrical loss factor values and the methodology used to calculate such values. Therefore, we do not consider that the reconsidered decision is based on an error of fact.

Ground 2 – Failure to take into account relevant information³

- 4.9 For the reasons set out above, we have concluded that the evidence supplied by Diodes Zetex did not meet the requirements of Rule 3.6.1(c)(iii). It follows from this that we do not agree that in rejecting the Historic Output Letter the Delivery Body failed to take into account relevant information.

Ground 3 – Misapplication of Capacity Market Rule 3.6.1(c)(iii)

- 4.10 In this ground Diodes Zetex argues that “the purpose of this rule is to ensure that historic output values used for prequalification accurately reflect the CMU’s output at the relevant connection point, having applied the correct Line Loss Factors [...] Substantively, this achieves precisely what Rule 3.6.1 is intended to secure- namely that the data used for prequalification has been calculated with the appropriate LLFs” .
- 4.11 We do not accept this argument. Rule 3.6.1(c)(iii)(bb) contains specific provisions that explicitly require an applicant to provide both the electrical loss factor values

³ We are unsure of the source of Diodes Zetex’s citation of Regulation 70(3)(c) in the notice of appeal, and presume the intention is to refer to the requirement of Regulation 71(3)(b) which states that the Authority must determine whether the reconsidered decision was correct on the basis of the information which the Delivery Body had when it made the decision.

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and the methodology used to calculate them. Therefore, it is not correct to say that the Historic Output letter substantively delivers the same outcome.

Ground 4 – Inconsistency with the purpose and intent of the Rules and the Regulations

- 4.12 Diodes Zetex argues that the Delivery Body was able to verify the connection and derated capacity, the rejection of the CMU was inconsistent with the purpose of Rule 3.6.1(c)(iii) and “Once the 30 September 2025 documentation is properly recognised, the substantive requirement of Rule 3.6.1(c)(iii) is met”. This appears to us to be a substantively similar argument to that which is set out in Ground 3, and for the same reasons we reject it. We do not consider the approach taken by the Delivery Body to be inconsistent with the Rules or the Regulations and conclude that the Delivery Body was correct not to prequalify the application.

5. Conclusion

- 5.1 The Delivery Body reached the correct decision to reject the CMU for the T-4 auction on the basis that:
- 5.2 Diodes Zetex did not provide a document that confirmed line loss factors as required by Rule 3.6.1(c)(iii); and
- (a) The Historic Output Letter provided with the application does not contain sufficient evidence to meet the requirements of Rule 3.6.1(c)(iii).

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 notification of reconsidered decision to reject Diodes Zetex for prequalification for the T-4 auction be upheld in respect of the CMU.

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For and on behalf of the Gas and Electricity Markets Authority