

Determination

Capacity Market Appeal 2026: Harmony KB 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 Harmony KB Limited

1. Introduction

- 1.1 This determination relates to an appeal made by Harmony KB Limited (“Harmony KB”) against a reconsidered decision made by the Electricity Market Reform Delivery Body (“Delivery Body”) in respect of the following Capacity Market Unit (“the CMU”):
- HKBL29 (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 Harmony KB submitted an application for prequalification for the CMU in respect of the 2029/30 T-4 auction and sought a maximum obligation period of 15 years.
- 2.2 For the CMU, 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):

F2-2 Company Address does not match with the Companies House listing

CM Rule 3.4.1(c) states each Applicant must provide contact details, including the registered address of the Applicant, however the address provided does not sufficiently match official records for this Applicant.

F2-17 Invalid Prequalification Certificate (Exhibit A): An incorrect Company address has been provided

CM Rule 3.12.3 requires all Applications be accompanied by a Prequalification Certificate (Exhibit A). The Company Address as included on the Prequalification Certificate (Exhibit A) does not sufficiently match the registered Company details. As such, this does not sufficiently address the matters as set out in the Prequalification Certificate as required under CM Rule 3.12.3

F2-36 Invalid Certificate of Conduct (Exhibit C): An incorrect Company Address has been provided

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 3.12.4 requires that a Certificate of Conduct (Exhibit C) is provided with each Application. The Company Address on the Certificate of Conduct does not sufficiently match the registered Company details. As such, this does not sufficiently address the matters as set out in the Prequalification Certificate as required under CM Rule 3.12.4

F6-20 Part 2 Declarations in respect of the Relevant CMU on Fossil Fuel Emissions Commitment (Exhibit ZB) is incorrect”

CM Rules 3.7.4, 3.8.3 and 3.10.4 require Applicants for New Build Generating, Unproven DSR, or Refurbishing Generating CMUs to provide a Fossil Fuel Emissions Commitment (Exhibit ZB). The Fossil Fuel Emissions Commitment provided has incorrect or insufficient declarations in respect of the Relevant CMU as per Part 2 of the Exhibit ZB. As such, the matters set out in the Exhibit ZB have not been sufficiently addressed, and the requirement not met. Therefore, as per CM Rule 4.4.2(i) the [Delivery Body] must not Prequalify this CMU.”

- 2.3 Harmony KB submitted a request for reconsideration of the prequalification decision on 18 November 2025.
- 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):

F6-14 Address of Registered Office on Fossil Fuel Emissions Commitment (Exhibit ZB) incorrect

CM Rules 3.7.4, 3.8.3 and 3.10.4 require Applicants for New Build Generating, Unproven DSR, or Refurbishing Generating CMUs to provide a Fossil Fuel Emissions Commitment (Exhibit ZB). The Fossil Fuel Emissions Commitment provided has incorrect or insufficient declarations in respect of the Relevant CMU as per Part 2 of the Exhibit ZB. As such, the matters set out in the Exhibit ZB have not been sufficiently addressed, and the requirement not met. Therefore, as per CM Rule 4.4.2(i) the [Delivery Body] must not prequalify this CMU.”

- 2.5 Harmony KB submitted an appeal to the Authority on 12 December 2025.

Harmony KB’s Grounds for Appeal

- 2.6 Harmony KB disputes the decision on the following ground.

Ground 1

- 2.7 Harmony KB states that the error in Exhibit ZB arose from a clerical error when submitting the request for reconsideration. They state that the correct Exhibit ZB had been created for the application, but that the request for reconsideration was submitted with an Exhibit ZB associated with a different CMU. Harmony KB

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believes that the CMU is fully compliant and have submitted a corrected Exhibit ZB with their appeal notice.

3. 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—

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- (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 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 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:

- (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.”

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3.9 Regulation 70 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
 - (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

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(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 3.7.4 sets out the requirements for applicants for new build CMUs to provide a fossil fuel emissions commitment (Exhibit ZB):

“Fossil Fuel Emissions Commitment Each Applicant for a New Build CMU must provide to the Delivery Body a Fossil Fuel Emissions Commitment signed by two directors (or two officers, in the case of a body other than a company), and in such declaration, an Applicant for a CMU which will or may comprise of at least one Fossil Fuel Component or Storage Facility which has part or all of its electricity requirements met by an Associated Fossil Fuel Component (each a “relevant Fossil Fuel Component”) must declare any of the following where applicable:

(a) that the Applicant intends to apply the Fossil Fuel Emissions CCUS Formula to determine the Fossil Fuel Emissions of a relevant Fossil Fuel Component which will be equipped with CCUS equipment;

(b) that the Applicant intends to apply the Design Efficiency CHPQA Formula to determine the Design Efficiency of a relevant Fossil Fuel Component which will be in the Combined Heat and Power (CHP) Generating Technology Class; and/or

(c) that the Applicant will apply the Fossil Fuel Emissions Mixed Fuel Formula or intends to apply the Fossil Fuel Emissions Composite Formula to determine the

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Fossil Fuel Emissions of a relevant Fossil Fuel Component that will use more than one fuel to produce electricity”

3.14 Rule 3.12.1 states that an applicant must ensure the information they submit is true and correct:

“A person submitting an Application or an Opt-out Notification must ensure and confirm in the Application or the Opt-out Notification 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; and

(b) in all respects, each of the specific declarations referred to in Rules 3.4 to 3.11 (where relevant),

is true and correct (or, to the extent that the Additional Information is a copy document, that it is a true and correct copy) and that the Application and Additional Information has been authorised by the board of directors of the Applicant or the person submitting the Opt-out Notification (as applicable).”

4. Our Findings

4.1 We have assessed Harmony KB’s Grounds for Appeal, which are summarised below.

Ground 1

4.2 Harmony KB acknowledges that they submitted the wrong Exhibit ZB with their request for reconsideration and have submitted an updated Exhibit ZB with their appeal notice.

4.3 Rule 3.7.4 states that applicants for a new build CMU must provide a fossil fuel emissions commitment (Exhibit ZB) requiring the applicant to provide information on any fossil fuel components or associated fossil fuel components comprising the CMU. Rule 3.12.1 applies to Rule 3.7.4 and states that it must be true and correct.

4.4 At the notification of prequalification decision, the Delivery Body rejected the application submitted by Harmony KB on the basis that the Exhibit ZB submitted with the application contained a company address that did not match the company address listed on Companies House. We have reviewed this evidence and find that the Delivery Body came to the correct conclusion, as the information provided was not true and correct, as required by Rule 3.12.1 applied to Rule 3.7.4.

4.5 At the request for reconsideration, Harmony KB submitted an Exhibit ZB where the relevant CMU is stated as “HCAS29”. In their notification of reconsidered decision, the Delivery Body rejected the application on the basis that the

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replacement Exhibit ZB is also incorrect. We have reviewed this evidence and find that the Delivery Body came to the correct conclusion, as the information provided was not true and correct, as required by Rule 3.12.1 applied to Rule 3.7.4.

- 4.6 In its appeal to the Authority, Harmony KB has acknowledged the errors in the Exhibit ZB submitted at request for reconsideration and has provided a corrected version of Exhibit ZB that corrects the error with the stated CMU.
- 4.7 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".
- 4.8 The Authority has no ability to consider the Exhibit ZB submitted at appeal 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).
- 4.9 Given that the evidence required to meet the requirements of Rule 3.7.4 was not provided to the Delivery Body at the application for prequalification or at the request for reconsideration, we hold that the Delivery Body was correct to reject the application on the basis that they did not meet the requirements of Rule 3.7.4.

5. Conclusion

- 5.1 The Delivery Body reached the correct non-qualification review decision to reject the CMU for the T-4 auction on the basis that:
 - (a) Evidence sufficient to satisfy the requirements of Rule 3.7.4 was not submitted at either the application for prequalification or the request for reconsideration.
 - (b) The evidence submitted to satisfy the requirements of Rule 3.7.4 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 Harmony KB for prequalification be upheld in respect of the CMU for the T-4 auction.

Andrew Macdonell

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For and on behalf of the Gas and Electricity Markets Authority