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Capacity Market Rules Change

Reference number (to be
completed by Ofgem):
P003

Name of Organisation(s) / individual(s):

Bill Reed, RWE Supply and Trading GmbH

Date Submitted:

23rd January 2015

Type of Change:

- Amendment
- Addition
- Revoke
- Substitution

If applicable, whether you are aware of an
alternative proposal already submitted which
this proposal relates to:

[Click here to enter text.](#)

What the proposal relates to and if applicable, what current provision of Rules the proposal relates to (please state provision number):

Allowing an Agent to represent more than one Applicant: This proposal relates to the provisions in Chapter 3 that are related to Agents, namely Section 3 **Submitting an Application** and 3.4 **Information to be provided in all applications**. It relates to the ability of an Agent to represent more than one Applicant while addressing the confidentiality provisions.

Description of the issue that the change proposal seeks to address:

The current Rules preclude an Agent acting on behalf of more than one Applicant by virtue of Rule 3.3.5 and the provisions in Rule 3.4.9. These restrictions prevent the development of commercial arrangements which would enable parties to offer agency services to Applicants who might otherwise feel unable to participate in the Capacity market.

If applicable, please state the proposed revised drafting (please highlight the change):

The following changes could be included in the Capacity Market Rules:

3.3.5 An Applicant may nominate an Agent to submit an Application for a CMU on its behalf and to otherwise perform its obligations under the Regulations or the Rules (whether in its capacity as Applicant, Bidder or Capacity Provider) provided that:

- (a) an Agent Nomination Form with respect to such Agent is included in the Application;
- (b) only one Agent is appointed by an Applicant with respect to a CMU at any one time;
- (c) ~~such Agent is not also the Agent for any other Applicant (unless the other Applicant is a member of the same Group [Not Used])~~
- (d) if the Applicant wishes to revoke the appointment of an Agent or to appoint a different Agent, the Applicant must submit a new Agent Nomination Form to the Delivery Body; and
- (e) the Agent shall have not authority to sign any Prequalification Certificate, Price-Maker Certificate, Certificate of Conduct or any other directors' or officers' certificate or other formal representation required to be submitted by the Applicant pursuant to the Regulations or the Rules.

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The following changes could be including in 3.4.9 Conduct of the Applicant (e)

(e) neither it nor any member of the Applicant's Group nor any person to whom Capacity Market Confidential Information has been disclosed, has disclosed Capacity Market Confidential Information, whether directly or indirectly, to another person other than:

- (i) in accordance with any requirement under:
 - (aa) an enactment;
 - (bb) a licence under section 6(1) of EA 1989 (where the Applicant is the holder of such a licence);
or
 - (cc) a document maintained under such a licence;
- (ii) to the Delivery Body;
- (iii) to a member of that Applicant's Group;
- (iv) to its Agent with respect to Capacity Market Confidential Information that relates to CMU to which the Agent is appointed by the Applicant ~~provided that such Agent is not also the Agent of another Applicant (unless the other Applicant is a member of the Applicant's Group);~~ or
- (v) where the Applicant is not the legal owner of the CMU to which the Application relates, to the legal owner of the CMU;
- (vi) to any potential purchaser of the CMU;
- (vii) where the Applicant is the legal owner of the CMU, to any third party having, or potentially having, Despatch Control with respect to that CMU;
- (viii) to any provider of finance with respect to the CMU;
- (ix) to any shareholder in the Applicant;
- (x) to the Applicant's professional advisors;
- (xi) in respect of information that was already public.

Analysis and evidence on the impact on industry and/or consumers including any risks to note when making the revision - including, any potential implications for industry codes:

The proposed change will better meet the applicable CM Rules Change Objectives as stated in the "Change Process for the Capacity Market Rules – Guidance" published by Ofgem. In particular the proposed change will:

- promote investment in capacity to ensure security of electricity supply by ensuring that there is an alternative route to prequalification for those parties that wish to take advantage of it;
- facilitate the efficient operation and administration of the Capacity Market by improving the arrangements with respect to Agent nominations; and
- ensure compatibility of the Capacity Market Rules with other subordinate legislation under Part 2 of the Energy Act 2013.6

Details of Proposer *(please include name, telephone number, email and organisation):*

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