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## Capacity Market Rules Change

Reference number (to be  
completed by Ofgem):  
**P051**

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

Date Submitted:  
**23 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:**

Implications for the DECC proposed Rule Amendments on interconnectors.

If this proposal is taken forward then there is no need to consider increases to the termination fee under the Termination Event 6.10.1(b) in isolation.

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

**Addition** to the information required under Rule 3.7.

Additional Information for a New Build CMU, whereby the directors or officers of the Capacity Provider have the option to certify that the Capacity Provider has or will have sufficient financial resources to meet Total Project Spend (and provide contemporaneous evidence if challenged by Ofgem). If financial backing is dependent on the outcome of the auction Directors will also be required to certify that they will act in the auction in accordance with the financial mandate (as it may be revised before or during the auction).

In the absence of any such commitments the termination fee rate for Termination Event 6.10.1(b) increases from TF1 (£5/kW) to TF2 (£25/kW).

A further alternative would be to disqualify applicants altogether at the prequalification stage if they are unable to certify and evidence financial backing.

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

The termination fee alone is not considered sufficient to deter speculative projects participating in a T-4 Auction. Although, for the time being (in future mothballed plant may not exist), the relevant T-1 Auction should be able to address any capacity shortfall resulting from a Financial Commitment Milestone termination event, it is highly unlikely that this capacity can be sourced from New Build generation at such short notice.

The prequalification process should be sufficiently robust to ensure only financially viable New Build projects are progressed to the Auction participation stage.

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

### **3.7. Additional Information for a New Build CMU**

Rule 3.7.2 Construction Plan should be amended as follows:

After Rule 3.7.2(c) insert the following: “the directors of the Capacity Provider (or officers, in the case of a Capacity Provider other than a company) have the option to certify that the Capacity Provider has or will have sufficient financial resources to meet the Total Project Spend. Certification includes commitments from the Capacity Provider (or officers, in the case of a Capacity Provider other than a company) to act in the auction within the confines of any financial backing restrictions (as they may be revised during or before the auction).”

### **6.10.3 Termination Fees**

Rule 6.10.3 (b) should be amended as follows:

In Rule 6.10.3(b) (i) insert after Rule 6.10.1(b) “On the condition that the directors of the Capacity Provider (or officers, in the case of a Capacity Provider other than a company) supplied adequate financial resource commitments under 3.7.2(c) and is able on request from Ofgem to provide appropriate contemporaneous resolutions (if the project is to be financed from its own resources) or letters from external funders to demonstrate this (“financial evidence”)”

In Rule 6.10.3(b) (ii) after “grounds specified in” insert “Rule 6.10.1(b) If the Capacity Provider (or officers, in the case of a Capacity Provider other than a company) failed to provide adequate financial resource commitments under 3.7.2(c)” or cannot upon request from Ofgem provide contemporaneous financial evidence.

Changes to the rules will also be required so that fines are appropriately collateralised.

**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:**

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

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