

Proposal for a Capacity Market Rules Change



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Reference number (to be completed by Ofgem):
CP160

Name of Organisation(s) / individual(s): UK Power Reserve	Date Submitted: 15 th January 2016
Type of Change: <input type="checkbox"/> Amendment <input checked="" type="checkbox"/> Addition <input type="checkbox"/> Revoke <input type="checkbox"/> Substitution	If applicable, whether you are aware of an alternative proposal already submitted which this proposal relates to: We are not aware of any alternative proposal.
What the proposal relates to and if applicable, what current provision of Rules the proposal relates to (please state provision number): The definition of ‘Legal Right’ in Rule 1.2.1 should be made clearer. In addition, we suggest that rules 3.7.1(a) and 4.7.1(a) should specify that legal right to land should be equal to or greater than the duration of any capacity market agreement awarded to a new build CMU. We also suggest a mandatory requirement for documentary evidence should also be included in rules 3.7.1 (b) and 4.7.1 (a) in relation to showing a legal right in land. We suggest that official copies of publicly available land registry documents or, if not available, redacted versions of the relevant documentation granting the interest should be provided to satisfy evidence requirements. Alternatively, in the case of a lease agreement, a signed declaration from the appropriate landlord to provide evidence of interest in the land can be provided as documentary evidence.	
Description of the issue that the change proposal seeks to address: The current definition of ‘legal right’ leaves room for an unintentional breach of the rules due to different interpretations by applicants, and an increased risk of project delivery failures. The absence of documentary evidence also leaves room for a potential breach of the rules due to speculative behaviour by applicants, also at the potential cost of project delivery failures. There is currently no safeguard preventing applicants from being awarded a capacity market agreement which may be greater in length than the duration of their legal right to land on which a CMU is or will be located.	
If applicable, please state the proposed revised drafting (please highlight the change): Amendments to the definition of ‘Legal Right’ in rule 1.2.1 so as to provide clarity as to what qualifies as an interest in land for the purposes of the Capacity Market Rules. Rules 3.7.1(a) and 3.7.1(b) – in each case, after the words “ <i>Legal Right</i> ” insertion of “ <i>which, in the case of an estate in land for a term of years, is to endure for no less than the term of the capacity market agreement which is to be awarded to the CMU</i> ”. Rule 3.7.1 – insertion of the words “ <i>and Legal Right</i> ” after “ <i>and in the case of 3.7.1(b) must provide documentary evidence of Relevant Planning Consents</i> ”. Rule 4.7.1 – insertion of “ <i>and in the case of 4.7.1(a) must provide documentary evidence of Relevant Planning Consents and Legal Right</i> ”	
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 introduction of a clear definition and requirement for evidence removes the risk of breach of rule 3.7.1(a) and 4.7.1(a) at the prequalification stage; and any breach of rules or regulations would guarantee immediate failure to prequalify. A clear definition of the legal right to land significantly reduces the risk of failing to comply with rules 3.7.1(a) and 4.7.1(a) that can be caused by a difference in interpretation or lack of legal expertise and resources. The introduction of a clear definition of the legal right to land may also	

reduce the level of legal costs and expertise required to ensure compliance with the rules 3.7.1(a) and 4.7.1(a). Specification that legal right to land must be equal to or greater than the length of any awarded capacity market agreement will prevent applicants from bidding for capacity agreements that would not be able to be fulfilled by the CMU in question.

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

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