

Proposal for a Capacity Market Rules Change



Making a positive difference
for energy consumers

Reference number (to be completed by
Ofgem): CP252

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

Tim Collins, Centrica

Date Submitted:

17 October 2017

Type of Change:

- Amendment
- Addition
- Revoke
- Substitution

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

Proposal summary (short summary, suitable for published description on our website)

We propose rationalising the number of certificates and declarations required as part of CM prequalification where the Applicant is not the Legal Owner of each Generating Unit comprised in a Generating CMU.

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

The proposal relates to Rules 3.2.3 to 3.2.9, the Exhibits relating to those Rules and potentially redundant references elsewhere in the Rules.

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

At present, where the Applicant for a Generating CMU is not the Legal Owner of each Generating Unit comprised in the Generating CMU, they are required to obtain either a Legal Owner Declaration signed by two directors of the Legal Owner or an Applicant Declaration signed by two directors of the Legal Owner. We propose deleting these requirements as they are administratively onerous and restrict legitimate sources of competition for CM Agreements. This is due to the risk that Directors of Legal Owners of non-Applicant parties, unfamiliar with the minutiae of CM prequal, are either "timed out" by the prequal deadline or make trivial errors in their Declarations, causing an entire Application to be rejected. The requirement for signatures from two Directors of the Legal Owner also conflicts with the delegations of authority to mid-level management that many of these companies have in place. The fact that the CM Rules prevent persons authorised by a company to agree and ensure entry into the CM from actually doing so augments the perception that CM entry barriers are excessively high. Ultimately this discourages supply side participation and reduces downward pressure on price.

We believe the Prequalification Certificate (Exhibit A) and Certificate of Conduct (Exhibit C) already require an Applicant to confirm the veracity of their Application. We further note that DSR CMUs can aggregate third party assets without the need for declarations signed by Directors of each Legal Owner and this is (rightly) deemed acceptable by BEIS and Ofgem. Finally, we

note that the various preconditions for receiving CM revenues, Termination Events, Termination Fees, Satisfactory Performance Tests etc render it almost impossible for a CMU to improperly receive CM revenues. In other words, the assurance regime around the CM is more than adequate and the Applicant and Legal Owner Declarations can be removed without compromising the CM's effectiveness.

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

Owing to the time constrained nature of this year's window for CM Rule change proposals and the substantial overlap with the prequalification window, we are unable to provide comprehensive legal text.

However, our suggestion is either:

- Amend 3.2.3 such that where the Applicant is not the Legal Owner of each Generating Unit comprising a Generating CMU, this is no longer subject to 3.2.4 to 3.2.9; and
- Delete 3.2.4 to 3.2.9, and all redundant references elsewhere in the CM Rules arising from that deletion.

Or:

- Amend 3.2.4 to 3.2.9 such that in each case, only the Aggregator Declaration (which is completed wholly by the Applicant) is required; and
- Delete all references to the Legal Owner Declaration and the Applicant Declaration, which are rendered redundant.

For the avoidance of doubt, we are happy for Ofgem to consult on alternative legal text, provided the substance of our proposal is achieved.

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:

As set out in our description of the issue, we believe the existing declarations required where an Applicant is not the Legal Owner of each Generating Unit comprising a Generating CMU are administratively onerous and restrict legitimate sources of competition for CM Agreements. This is due to the risk that Directors of Legal Owners of non-Applicant parties, unfamiliar with the minutiae of CM prequal, are either "timed out" by the prequal deadline or make trivial errors in their Declarations, causing an entire Application to be rejected. The requirement for signatures from two Directors of the Legal Owner also conflicts with the delegations of authority to mid-level management that many of these companies have in place. The fact that the CM Rules prevent persons authorised by a company to agree and ensure entry into the CM from actually doing so augments the perception that CM entry barriers are excessively high. Ultimately this discourages supply side participation and reduces downward pressure on price.

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

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