

# Proposal for a Capacity Market Rules Change



Making a positive difference  
for energy consumers

Reference number (to be completed by  
Ofgem): CP256

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

Date Submitted:  
17/10/2017

Type of Change:

- Amendment
- Addition
- Revoke
- Substitution

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

[Click here to enter text.](#)

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

The Rules should require each generating unit covered by the LCP BREF and that intends to bid for a Capacity Agreement to hold a permit stating that it will comply with the best available techniques in relation to emissions and energy efficiency set out in the LCP BREF. This requirement should also be updated to refer to the version of the LCP BREF dated April 2017.

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

The Rules currently state that where a CMU wishing to bid for a Capacity Agreement with an obligation period of between 3 and 15 years is a combustion installation covered by the LCP BREF, it must hold a permit stating that it will comply with the best available techniques in relation to emissions and energy efficiency set out in the LCP BREF.

The Rules currently define the BREF as "*the document of the European Commission "Integrated Pollution Prevention and Control, Reference Document on Best Available Techniques for Large Combustion Plants" dated July 2006, or as revised or reissued from time to time*".

See in particular the definition of "Maximum Obligation Period", Rule 8.3.6B and Rule 8.3.6C.

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

The requirement to hold a permit that states compliance with the best available techniques in relation to emissions and energy efficiency set out in the LCP BREF reflects the requirement in the EU's Industrial Emissions Directive that every large combustion plant holds a permit that provides for it to be operated in accordance with the "*best available techniques*".

This criterion should be extended to cover all CMUs that are combustion installations covered by the LCP BREF, regardless of the duration of the obligation period for which they intend to bid, to ensure consistency with and better mirror the requirements of the Industrial Emissions Directive.

In addition, the definition of the BREF should be updated to refer to the latest version of this document, dated April 2017.

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

1. Insert a new paragraph into Rule 8.3 which states that:

*"(a) where the CMU is a combustion installation covered by the BREF and which had either been granted a permit before 7 January 2013 or had been put into operation no later than 7 January 2014, the relevant Capacity Provider must provide the Delivery body no later than the start of the first Delivery Year with a permit issued in respect of that CMU by the Environment Agency, Natural Resources Wales or the Scottish Environment Protection Agency that includes the statement prescribed by Rule 8.3[X]; and*

*(b) for any other CMU which is a combustion installation covered by the BREF, the relevant Capacity Provider must provide the Delivery body no later than the start of the first Delivery Year with a permit issued in respect of that CMU by the Environment Agency, Natural Resources Wales or the Scottish Environment Protection Agency that includes the statement prescribed by Rule 8.3.6C."*

2. Insert a new paragraph (referred to as Rule 8.3[X] above) into Rule 8.3 which states:

*"The statement referred to in Rule 8.3[X] is a statement to the effect that the CMU will comply with those best available techniques levels, in relation to emissions and energy efficiency, that are:*

*(i) applicable to an existing combustion installation of the same type, size and energy source; and*

*(ii) defined by the version of the BREF that has effect at the time of issue of the permit"*

3. Delete Rule 8.3.6C(a) and introduce a new defined term in Rule 1.2.1 for "BREF" which states:

*"means the document of the European Commission "Best Available Techniques Reference Document for Large Combustion Plants" adopted in April 2017, or as revised or reissued from time to time"*

**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:**

Large combustion plants seeking to bid for a Capacity Agreement are also obliged to comply with their obligations under the Industrial Emissions Directive, as incorporated

into the law of England and Wales by the Environmental Permitting (England and Wales) Regulations 2010.

They are therefore already obliged to comply with the emissions limits associated with the best available techniques from 2021. By the same date, their permits must be reviewed to ensure compliance with the Industrial Emissions Directive, including the obligation to implement the best available techniques.<sup>1</sup>

<sup>1</sup> See in particular Articles 11(b), 15(3) and 21(3) of the Industrial Emissions Directive. Plants benefitting from a derogation under Article 15(4) are not obliged to meet the emissions limits associated with the best available techniques.

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

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