

# Proposal for a Capacity Market Rules Change



Making a positive difference  
for energy consumers

Reference number (to be completed by  
Ofgem):

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

Drax Power Limited

**Date Submitted:**

9th October 2018

**Type of Change:**

Amendment

Addition

Revoke

Substitution

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

CP258

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

The change is to enable an Applicant who has applied for a Development Consent Order in respect of its New Build CMU and has completed the examination stage in the process to defer the provision of its Relevant Planning Consent until after the prequalification window, provided that the decision of the Secretary of State will be received no later than 22 Working Days prior to the commencement of the first Bidding Window in relation to such Capacity Auction.

**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 the requirement to provide evidence of planning consent during prequalification - Rule 3.7.1 of the CM Rules.

In 2017, Ofgem implemented the National Grid rule change proposal (CP190) to remove the option for Applicants to defer provision of Relevant Planning Consents from the Sixth Full Capacity Market Auction. Giving applicants the ability to defer planning consent was felt to have resulted in the submission of speculative applications, undermined the necessary assurance that CMUs can meet their obligations and generated an administrative burden. However, Ofgem acknowledged in its response to the statutory consultation on amendments to the Capacity Market Rules (dated 5 July 2018) that there are different planning processes, each with a differing level of risk and complexity. The DCO process is a particularly lengthy and complex process, making it difficult to align the DCO application with the end of the prequalification window, particularly when prequalification and auction timelines differ year-on-year. A DCO typically takes 18 months to 2 years to complete and whilst the CM prequalification windows typically takes place during Q3, the precise prequalification timeline is not easily predictable and could result in a project missing prequalification by a matter of days.

This proposal allows applicants that can evidence during prequalification that they have completed the examination stage in the DCO process to defer the provision of planning consent until a date which is 22 working days prior to the relevant auction. The applicant would be required to provide the DCO within that timeframe. Having completed the examination in a DCO, the applicant has effectively done all it can in order to obtain a decision and knows that a decision will be forthcoming within 6 months. After examination, the Planning Inspectorate issues its recommendation to the Secretary of State, who has a further 3 months to issue a decision on the proposal.

**The Office of Gas and Electricity Markets**

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Without this change, Applicants which have expended considerable time and cost pursuing a DCO could be barred from the Capacity Auction despite the DCO being made shortly after the end of the prequalification window, which could lead to a higher auction price and worse outcome for the consumer. This would go against the Government's commitment of encouraging competition in the capacity market. For this reason, this rule change proposal requires urgent consideration.

This solution is administratively simple, achieves the objective of encouraging genuine projects into the auction, while deterring speculative applications and preventing the waste of resource in assessing them.

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

Please see attached sheet.

**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:**

This change will ensure a balance between ensuring that projects which are close to being planning approved are able to compete in capacity auctions, while deterring speculative projects. The proposal is not in conflict with The Electricity Capacity Regulations. With the proposed change to the CM Rules, we foresee no wider impact on other industry Codes.

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

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