

Proposal for a Capacity Market Rules Change



Making a positive difference
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Reference number (to be completed by
Ofgem): CP231

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

Date Submitted:
11/11/2016

Type of Change:

- Amendment
- Addition
- Revoke
- Substitution

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

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

Correction to the legal drafting used in implementing CP124 on Joint DSR Tests.

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 Joint DSR Tests, as implemented in Rules 13.2B.

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

The rules for Joint DSR Tests, as implemented by Ofgem in July 2016, differ in a crucial respect from the draft rules that were put out for statutory consultation by Ofgem in April 2016.

It looks like this was an accidental change during legal redrafting — it was not suggested in any of the 23 published responses to the statutory consultation, and Ofgem’s decision paper makes no mention of it. Unfortunately, it has the effect of rendering Joint DSR Tests almost useless, undermining all of the benefits that were spelled out in CP124 and which met with broad approval during the statutory consultation.

This is because, as implemented, a group of CMUs put forward for a Joint DSR Test that proved 99.9% of their combined Unproven DSR Capacity would not be awarded any DSR Test Certificates. None of their capacity would be recognised as Proven DSR Capacity. If this happened twice, then none of the capacity would be able to participate in the Capacity Market for that delivery year, and Termination Fees would be payable.

This makes Joint DSR Tests a uniquely high-stakes endeavour, with a “cliff-edge” pass/fail decision. In normal DSR Tests, if an Unproven DSR CMU only manages to deliver 99.9% of its Unproven DSR Capacity during a DSR Test, it is issued a DSR Test Certificate for 99.9% of its capacity. It has the option of undertaking a second DSR Test, in an attempt to improve on that result, but does not need to do so. (In practice, given the high costs associated with DSR Tests, the aggregator would not usually seek a second test in this situation.) The

comparable tests for New Build CMUs, the Substantial Completion Milestone, does have a “cliff-edge” nature, but the pass threshold is set at only 90% of expected capacity.

Since DSR aggregators always face some degree of uncertainty about the performance of their portfolio, the high-stakes nature of the Joint DSR Test as implemented makes it very unattractive. Only one aggregator used a Joint DSR Test to prove their capacity for the 2016/17 Transitional Arrangements, and this was only because they had no choice: they had constructed their portfolio with the assumption that it would be tested jointly, before discovering the discrepancy between the rule as consulted on and the rule as implemented. With the rule as currently written, it seems unlikely that Joint DSR Tests will be used again.

The version of the rule put out for consultation in April 2016 did what was proposed in CP124:

- If the aggregate Proven DSR Capacity of the jointly tested DSR CMUs is at least as great as their aggregate Unproven DSR Capacity, then DSR Test Certificates are issued on a joint basis, with each CMU allocated a share of the Proven DSR Capacity in proportion to its Unproven DSR Capacity.
- Otherwise — i.e. if the aggregate Proven DSR Capacity is less than the aggregate Unproven DSR Capacity — DSR Test Certificates are issued as if each of the CMUs had been submitted for separate tests.

It would have been simpler not to have this conditional step, and instead just assess performance jointly, regardless of whether the result was higher or lower than the Unproven DSR Capacity. CP124 introduced this complication with the aim of reducing the amount of retesting required in some circumstances — DSR Tests have significant economic costs, so it is important to minimise them. Specifically, if most of the jointly-tested CMUs performed as expected, but one CMU had a significant shortfall, this approach would allow the aggregator to retest only the CMU that performed poorly. Without the conditional step, all the CMUs would be affected by that CMU’s poor performance, so the aggregator would probably seek to retest all of them.

The redrafting between April 2016 and July 2016 was substantial, including changing the sequence of steps. In the April version, the “otherwise” clause from CP124 did not need to be stated explicitly, because in those circumstances the CMUs would already have been issued with DSR Test Certificates on an individual basis. With the change in sequence in the July version, it became necessary to provide for these circumstances explicitly, but this seems to have been overlooked.

This oversight could be fixed in one of three ways:

1. Implementing the version of the rules that was consulted on in April.
2. Amending the rules, adding the “otherwise” clause, to achieve similar intent to CP124 and the April drafting.
3. Removing the conditional part of the rules, so that DSR Test Certificates are always issued on a joint basis if a Joint DSR Test has been requested.

Option 1 will achieve the intent of CP124 and be consistent with the statutory consultation. Option 2 will achieve nearly the same intent, although the structure of the July drafting makes the amendments awkward, so the proposed text below achieves a similar, but not quite identical outcome. If there was a good reason for the redrafting between April and July, then Option 2 would be preferable. Option 3 is the smallest possible change. It would achieve most of the objectives of CP124, but, as discussed above, will lead to wasteful retesting in some circumstances.

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

Option 1

Option 1 is to use the drafting of Rule 13.2B published as Annex E to Ofgem's statutory consultation paper, dated 29 April 2016.

Option 2

Our preferred option is to amend Rule 13.2B to achieve similar functionality to that described in CP124 and the April 2016 drafting, as follows:

In Rule 13.2B.10: add "... may only exercise the right to require a retest pursuant to this Rule **or Rule 13.2B.10A** on one occasion ..."

Add Rule 13.2B.10A:

The Applicant or Capacity Provider (as applicable) may, within two Working Days of receiving a notice from the Delivery Body pursuant to Rule 13.2B.9, issue notices under Rule 13.2.6(b) for non-joint retests of some or all of the DSR CMUs that were nominated for the Joint DSR Test, provided that the Applicant or Capacity Provider may only exercise the right to require a retest pursuant to this Rule or Rule 13.2B.10 on one occasion. If this right is exercised:

- (a) for each DSR CMU covered by a notice under Rule 13.2.6(b), the outcome of the second DSR Test under Rule 13.2 will be conclusive as to its proven DSR Capacity, even if such outcome demonstrates a lower Proven DSR Capacity than indicated for that CMU from the Joint DSR Test;
- (b) for each DSR CMU that was nominated for the Joint DSR Test but not included in a notice under Rule 13.2.6(b), a DSR Test Certificate shall be issued in accordance with Rule 13.2.11, using the values calculated under Rule 13.2B.9(i)-(iii), with the value in (iii) being the Proven DSR Capacity for the CMU;
- (c) For the purpose of Rule 13.2B.18, none of the DSR CMUs are considered to have undertaken a Joint DSR Test.

Option 3

A simpler, but less effective, change, would be to remove the conditionality, so that Rule 13.2B.13 applies unconditionally, through the following amendment:

In Rule 13.2B.12, remove "If the aggregate Proven DSR Capacity for those DSR CMUs is at least as great as their aggregate Unproven DSR Capacity, and", so that the paragraph starts "Provided that no notice has been issued..."

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:

CP124 sought to bring significant benefits to current consumers by reducing costs and to future consumers by making auctions more competitive, while still delivering the same level of security of supply. The full reasoning is explained in CP124, Ofgem's April 2016 statutory consultation paper and July 2016 decision paper.

This revision seeks to fix the implementation error that prevents the benefits of CP124 from being realised.

We do not think that this revision introduces any risks, or has any potential implications for industry codes.

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

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