


<h2 style="text-align: center;">Proposal for a Capacity Market Rule Change</h2>	 <p style="text-align: center;">Making a positive difference for energy consumers</p> <p>Reference number: CP396</p>
<p>Title <i>(a short title which summarises your CM rule change request)</i> Total Project Spend review, changes beyond DESNZ ‘housekeeping’</p>	
<p>Name of organisation(s)/individual(s): Richard Thwaites – Exec Director at BW ESS</p>	<p>Contact e-mail address: Richard.Thwaites@bw-ess.com</p>
<p>Contact Telephone Number: na</p>	<p>Date submitted: 9th December 2025</p>
<p>Proposal abstract <i>(a short summary, suitable for published description on our website)</i></p> <p>CMAG Secretariat were tasked with reviewing the Total Project Spend (TPS) provisions in the CM Rules and make recommendations to improve the Rules. CMAG Secretariat reviewed their findings with CMAG, and a CMAG approved briefing was sent to DESNZ after CMAG 32 in May 2025 detailing a number of issues and solutions.</p> <p>DESNZ accepted several amendments from this briefing as ‘housekeeping’ changes but have asked CMAG to review the following issues and raise these as a Change Proposal, as the following proposals have been deemed significant Rule changes, beyond the scope of ‘housekeeping’.</p>	
<p>Description of the issue that the change proposal seeks to address:</p> <p>At CMAG28 it was agreed that TPS can vary after Application, and this should be clarified in Rules. This review widened and the final 4 issues have been identified.</p> <ul style="list-style-type: none"> • Issue 1 proposals are making the final definition amendments to clarify that TPS can change between Application and later CMU milestones. Also identified in the TPS review was an update to the De-rated Capacity definition to allow more than one Generating Technology Class. It was agreed at CMAG 29, that if there is more than one Generating Technology Class, the Connection Capacity of the CMU should not be multiplied by the De-rating Factor. Instead, the individual Generating Unit Connection Capacity should be used. • Issue 2 requires simply replacing ‘TPS incurred divided by the De-rated Capacity’ with ‘Qualifying £/kW Capital Expenditure’ in Rule 8.3.6. • For Issue 3, adding the additional scenario to Rule 8.3.6(zaa)(i)(dd), which outlines when an ITE report is required. The proposal is to simply correct this gap, providing full coverage of all relevant timing scenarios. Recognising that the date that the Capacity Agreement can take effect during a Notice of Intention to Terminate, in accordance with Rules 6.8.2 or 6.8.2F. • Issue 4 amendment proposes that the start of the TPS period remains fixed (77 months before first Delivery Year), but the end date flexes in line with any LSD extension under Rule 6.7.7. A dynamic end date best reflects real-world project development and expenditure 	

timing, particularly where most of the Capital Expenditure is incurred close to energisation. By fixing the start of the qualifying period, previously qualifying expenditure will not fall outside the qualifying window after an LSD extension.

Proposed solution to the issue:

The proposed solutions for each issue are as follows:

1. Clarification of the following in Rule 1.2 Definitions:
 - **De-rated Capacity** - clarify for CMU's comprising of more than one Generating Technology Class.
 - **Financial Commitment Milestone** - replace 'Capital Expenditure' with 'Total Project Spend', as used in Rule 6.6.2(a), because TPS includes the qualifying period definitions and Capital Expenditure is not subject to the qualifying period. Also, the TPS definition will include “the latest estimate of TPS” and will therefore reflect any updated TPS.
 - **Qualifying £/kW Capital Expenditure** – delete the text that is already provided for elsewhere, i.e. Capital Expenditure and Total Project Spend. This will mean “the latest estimate of TPS’ is used, which should reflect any updated TPS. Also, this text implies that the De-rated Capacity (DRC) is a direct result of Capital Expenditure, which isn’t necessarily true. Remove reference to “Applicant” so this applies to any participant at any stage.
2. In **Rule 8.3.6(a)**: Evidence of Total Project Spend,- The “Total Project Spend/De-Rated Capacity” needs to be replaced with “Qualifying £/kW Capital Expenditure”. The defined term “Qualifying £/kW Capital Expenditure” already exists and relates to “Total Project Spend divided by the De-rated Capacity of the CMU” but currently this Rule relates to Application only (see above). Most instances of “Total Project Spend divided by the De-Rated Capacity” being replaced by “Qualifying £/kW Capital Expenditure” were amended as DESNZ housekeeping changes for Rules 2025. However, DESNZ did not treat this instance as a housekeeping change, so it is included here.
3. Add an additional scenario (dd) to **Rule 8.3.6(zaa)(i)**, which outlines when an Independent Technical Expert (ITE) report is required when providing Evidence of Total Project Spend. This Rule does not currently recognise that at least Minimum Completion Requirement (Rule 6.8.3 or 6.8.3A) can be met during a Notice of Intention to Terminate period (Rule 6.8.2 or 6.8.2F).
4. **How TPS is treated if a Capacity Provider makes a request complying with Rule 6.7.7.** As per Rule 6.7.7, if a network delays an active connection, a Prospective CMU will currently see its TPS qualifying period remain fixed, ending at the start of the Capacity Agreement’s first Delivery Year. However, a Declared Long Stop CMU can extend their relevant Long Stop Date (LSD) and hence their TPS qualifying period end date by the extent of the LSD extension. Consequentially, the start of the qualifying period will also be delayed by as many months as the LSD extension. It is therefore possible that previously qualifying expenditure at Application falls outside the new qualifying period for TPS for such a Declared Long Stop CMU making use of Rule 6.7.7.

List of alternative proposals already submitted which this proposal relates to (if any):

For Issue 4, DESNZ recognise the inconsistencies in how the TPS qualifying expenditure window interacts with Rule 6.7.7. However, DESNZ have also stated that the TPS qualifying window should remain static, even where an LSD extension is granted, aligning the TPS pathways for

Prospective CMU and Declared Long Stop CMUs. The DESNZ solution would tie the end of the qualifying period to the start of the Delivery Year or for Declared Long Stop CMUs their original LSD, rather than any delayed LSD as a result of Rule 6.7.7.

The rationale being that a static window:

- Encourages front-loaded spend and incentivises timely delivery;
- Is simpler to administer and understand; and
- Avoids unintended consequences where expenditure eligibility shifts late in the project lifecycle.

DESNZ have also noted that they would want this Rule amendment to be applied retrospectively.

If you know the specific change to the Capacity Market (CM) Rules you wish to make, please select the type of change below and propose specific revised text, indicating the provision number from the CM Rules and highlighting the change (if left blank, the Capacity Market Advisory Group (CMAG)/Ofgem may suggest revised text to achieve the proposed solution above):

Amendment Addition Revocation Substitution

See Appendix

Analysis and evidence for the impact of the proposed change on industry and/or consumers, highlighting how the proposal meets the Ofgem/Capacity Market objectives set out in Regulation 78 of The Electricity Capacity Regulations 2014, any risks to consider and any implications for industry codes:

Issues 1-3 provide simplification and clarity of the pertinent Rules. By doing so the effort required from all parties to understand and comply with the Rules is marginally reduced. It may also lead to fewer issues being raised with the EMR Delivery Body or challenges made against their decisions. This therefore meets CM Rules change objectives (b) facilitating the efficient operation and administration of the capacity market.

Issue 4 addresses a more fundamental issue, which has been noted at previous CMAG meetings, that Prospective CMU projects are at risk of Capital Expenditure being incurred outside of the qualifying period for TPS, as a result of changes to the projects expenditure profile that may be outside of the Capacity Provider's control.

The DESNZ 'alternative solution' for Issue 4 seeks to remove current inconsistency between TPS for Declared Long Stop CMUs and other Prospective CMUs, by limiting Declared Long Stop CMUs to a fixed qualifying period for TPS. This can be expected to be contrary to Ofgem's CM Rule change objective (a) promoting investment in capacity to ensure security of electricity supply, because it increases the risk that Capacity Provider's capex incurred will fall outside of the qualifying period for TPS and consequently lead to curtailed term of their Capacity Agreement. Such an increase in perceived risk is likely to lead to higher exit bids at Auction and therefore a higher clearing price. That is therefore likely to be contrary to Ofgem's principal objective "to protect the interests of existing and future consumers".

The CMAG preferred solution for Issue 4 is to make the end date of the TPS qualifying period dynamic and be extended to the same extent as a connection delay giving rise to use of Rule 6.7.7 to defer the LSD. This ensures that the end date of the qualifying period for TPS stays the same relative to the original LSD and thereby any delay in the profile of capex incurred because of those connection delays should largely remain qualifying TPS. Reducing the perceived risk of capex becoming non-qualifying (potentially leading to curtailment of the Capacity Agreement) therefore should meet objective (a) promoting investment in capacity to ensure security of electricity supply. That reduced perception of risk should also lead to lower Auction clearing

Urgency

Select this box if you would like this proposal to be treated as “urgent” (see 1.14 of “The Change Process for the Capacity Market Rules – Guidance” (2022) for details on the requirements of an urgent proposal)?

If selected, please include a justification, including any dates by which the CM Rule Change needs to be made and the consequences of not acting in time (*Note that urgent proposals may be deprioritised or rejected if the Rule Change suggested cannot be implemented before the date(/s) set out in this section*)

Confidentiality

We want to promote transparency in the Capacity Market Rule Change process. Submitting proposals directly to the Capacity Market Advisory Group (CMAG) supports transparency whilst ensuring that proposals benefit from the input of a panel of impartial capacity market experts whose role it is to support the development, scrutiny, and prioritisation of proposals to improve CM Rules.

Proposals submitted directly to Ofgem may be shared with CMAG or published on our website as part of a public consultation before any rule change is enacted, provided the information shared has not been marked as confidential.

To submit your proposal directly to CMAG, e-mail this document to cmag@elexon.co.uk

If you wish to submit confidential information to Ofgem as part of your proposal, there are two routes to do this:

1. Submit this document directly to CMAG (cmag@elexon.co.uk) excluding the confidential information, then submit a copy of this document plus an additional file containing the confidential information (marked as confidential) to emr_cmrules@ofgem.gov.uk
2. Submit this document plus an additional separate file containing the confidential information (marked as confidential) directly to Ofgem at emr_cmrules@ofgem.gov.uk

Nothing marked confidential will be shared outside of Ofgem without the express permission of the proposer.