

# Capacity Market Proposed Easements in Response to the COVID-19 pandemic

Version 1.0

June 2020



# Legal Disclaimer and Copyright

## Disclaimer

This document has been prepared by National Grid Electricity System Operator Limited (NGESO) and is provided voluntarily and without charge. Whilst NGESO has taken all reasonable care in preparing this document, no representation or warranty either expressed or implied is made as to the accuracy or completeness of the information that it contains and parties using information within the document should make their own enquiries as to its accuracy and suitability for the purpose for which they use it. Neither NGESO nor any other companies in the National Grid plc group, nor any Directors or employees of any such company shall be liable for any error or misstatement or opinion on which the recipient of this document relies or seeks to rely other than fraudulent misstatement or fraudulent misrepresentation and does not accept any responsibility for any use which is made of the information or the document or (to the extent permitted by law) for any damages or losses incurred.

In the event of any conflict or inconsistency between this document and the Capacity Market Rules, the Electricity Capacity Regulations or the Auction Guidelines, the latter documents take precedence. Capitalised terms used in this document shall have the same meanings given in the Capacity Market Rules.

## Confidentiality

This guidance document, and its contents should be considered as confidential in nature, and this document is supplied on this basis. No part of this document may be reproduced in any material form (including photocopying and restoring in any medium or electronic means and whether or not transiently or incidentally) without the written permission of NGESO.



# Version control

The table below will record the page numbers of any new changes to the document for each version. The new changes will be highlighted in yellow throughout the guidance document.

#	Changes	Pages	Date
1.0	Original document	-	04/06/2020



# Contents

---

1 Government Response to COVID-19

---

2 Summary of changes

---

3 Guidance updates

---

4 High-Level Timescales

---

5 FAQ's

---

6 Contact Information

---

# 1. Government response to COVID-19

The Government has introduced new Capacity Market (CM) Rules and Regulations to modify, temporarily, the application of the Electricity Capacity Regulations 2014 (“the Principal Regulations”) and CM Rules to remove or relax certain obligations and deadlines, to reduce administrative and operational burdens, and to minimise the likelihood of Terminations arising from the COVID-19 pandemic or the restrictions imposed by the Government to tackle it.

Security of electricity supply remains a key overarching objective for the Government, therefore any amendments must not undermine this objective. Any easements proposed will be temporary and will only remain in place if necessary.

On the 24 April, the Department for Business, Energy and Industrial Strategy (BEIS) launched a consultation on the Capacity Market proposed easements in response to the COVID pandemic. The full consultation can be found [here](#).

A response to this consultation can be found [here](#)



## 2. Summary of Changes



### Requirement

### Summary

<b>Metering</b>	The Meter Test Certificate Milestone obligations for the 2020/21 Delivery Year will be changed to the 30 September 2020 (Rule 18.6). This applies to Existing CMUs, Pre-Refurbishing CMUs, Proven DSR and Unproven DSRs with T-1 Agreements for Delivery Year 2020/2021.
<b>Extended Long-Stop Date</b>	For T-1 New Build and Refurbishing Capacity Agreements for Delivery Year 2020, the Long-Stop Date will be amended to 30 September 2021. This will be subject to an ITE (Independent Technical Expert) report being provided by 30 September 2020 detailing, amongst other things, that delays have been due to Covid-19. Capacity Agreements will only be active from the date that the obligation is met (Rule 18.5). T-4 New Build and Refurbishing Agreement in the 2019/20 and Delivery Year will now have a Long-Stop Date extension until 30 September 2021. If a Long-Stop Date extension has been achieved, then a remedial plan is not required.
<b>ITE reports (Independent Technical Evidence reports)</b>	Submission of an ITE report for a Prospective CMU, where there is a material change, is not required for the 2020/21 financial year. Also suspended is the requirement for an ITE report to accompany a remedial plan and the requirement for a remedial plan entirely if the extended Long-Stop Date has been utilised. As per Rule 18.8
<b>DSR Testing</b>	Obligations for Unproven DSR including DSR Tests to be delayed until 31 August 2021. This will only be permitted if an Unproven DSR CMU with an Agreement for Delivery Year 2020/21 provides, by 31 August 2020 an ITE report confirming, amongst other things, that a delay has been caused by Coronavirus and shows progress against the Business Plan detailing progression with recruiting DSR Components. These CMUs will not receive Capacity Payments until the obligations have been met (Rule 18.7). There will also be an associated extension to Meter Test Certificate dates up to 17 September 2021.
<b>DSR Baseline for SPD Assurance</b>	For DSR CMUs who have not yet met their SPD Milestone for 2019/20 can use the baseline data that was provided by 31 August 2019 as part of their DSR Test.
<b>DSR Baseline for 2020/21</b>	DSR Tests for 2020/21 provide data from two working days rather than six working days from the six-week period preceding the settlement period. Information as part of Rule 2.1.2 and 2.1.3 is still required.

## 2. Summary of changes



Requirement	Summary
<b>COVID-19 Termination Event</b>	<p>Introduction of a new Termination Event where non-compliance arises from the COVID-19 pandemic or related restrictions (Rule 18.11). This will only be possible, amongst other things, in respect of a Capacity Agreement awarded in an Auction held before 1 April 2020 and where an Appeal has been made to BEIS to withdraw a Termination Notice. This will be at the discretion of BEIS. If successful, the CMU would have no liability for a Termination Fee but subject to direction from BEIS. All Capacity Payments made would be repaid.</p>
<b>Satisfactory Performance Days</b>	<p>Capacity Payment suspension will still continue from 30 April 2020 for those Capacity Providers who have not submitted their SPD as per the current process. If a Capacity Provider provides their SPD by 31 July 2020 (T-1 2019) or 30 September 2020 (T-4 2015), Capacity Payments that have been suspended will then be returned by the Settlements Body (Rule 18.9)</p>
<b>Dispute and Appeals Process timelines</b>	<p>Affected person(s) have 10 working days (after receiving notice of a decision) to request the Delivery Body reconsider their decision. The time for the Delivery Body to respond to such a request will be increased to 15 working days (rather than 10).</p> <p>Capacity Providers or Applicants will have 10 working days to raise an Appeal to Ofgem.</p> <p>In relation Termination Notices issued before 1 May 2021, CMUs with for Auctions taking place before 1 April 2020 will have 30 working days (increased from 20) to raise an Appeal to BEIS (18.11.1(c)(i)).</p> <p>Capacity Agreements for Auctions that took place Prior to the 1 April 2020 and where representations are made within the specified time (end of DY for one-year Agreements and end of first year for multi-year), BEIS can extend the Termination Notice period up to a maximum of 12 months.</p> <p>(Rule 18.11)</p>
<b>Financial Commitment Milestone (FCM) Deadlines for T-3 Auction</b>	<p>Removes the amended timeline for T-3 Capacity Agreements, which was implemented as part of the Capacity Market Restoration consultation for the FCM Credit Cover increase and final delivery milestone deadlines.</p> <p>The deadlines will now return to the normal FCM obligations i.e. 11 and 16 months (rather than 8 and 12).</p>

### 3. Guidance Updates

Process	New guidance
<b>Metering Test certificate</b>	<p>Existing Generating, Pre-Refurbishing, Unproven and Proven DSR CMUs with T-1 Capacity Agreements delivering in 2020/21 will have until <b>30/09/2020</b> to provide the relevant Metering Test Certificate to the Delivery Body.</p> <p>This deadline is for completion of the process and subject to the Metering Testing processes managed by the Settlement Body.</p> <p>There will be no extension deadline into the 2020/21 Delivery Year as accurate metering is essential in demonstrating the delivery of Capacity during stress events, and in relation to SPD.</p> <p>Please note, all documents should be submitted via the EMR Delivery Body Portal for review. Submissions via email shall not be accepted by the Delivery Body.</p> <p>For further guidance on how to submit the Metering Test Certificate via the portal please follow guidance on page 212 of the latest Prequalification Guidance <a href="#">here</a></p>
<b>FCM Deadlines for T-3 Auction</b>	<p>Removes the amended timeline, which was implemented as part of the CM Restoration processes for the FCM credit cover increase and final Delivery Milestone deadlines.</p> <p>The deadlines will now return to the normal FCM obligations i.e. 11 and 16 months after Auction results day (rather than 8 months and 12 months).</p>

# 3. Guidance Updates

## Construction Reports

For Construction Reports due between 1<sup>st</sup> April 2020 and 31<sup>st</sup> March 2021:

- An ITE report **does not need** to accompany a Six-Monthly Progress Report for New Build CMUs and Refurbishing CMUs, where a material change to the construction plan has occurred.
- An ITE report **does not need** to accompany a remedial plan for Substantial Completion Milestone purposes (if linked to progress report falling during the 2020/2021 financial year).

A remedial plan does not need to be provided if:

1. You are a:

- a) New Build CMU with a T-4 agreement starting on 1 Oct 2019 or a T-1 agreement starting on 1 Oct 2020; **or**
- b) Refurbishing CMYU with a T-4 or T-1 agreement starting on 1 Oct 2020; **AND**

2. You provide an ITE report detailing, amongst other things, the effect COVID had on achieving SCM (as further detailed in Rule 18.6.1(b)(b))

The Construction Documents can still be uploaded to [My Agreements > Milestones](#)

If an ITE Report needs to be submitted later and need uploaded to the EMR Portal this can be done so via, [My Agreements > Other Documents > Additional Construction Report](#)

# 3. Guidance Updates

## Extended Long-Stop Date

This change applies to T-1 2020/21 New Build and Refurbishment Agreements, T-4 2020/21 Refurbishment Agreements and T-4 (2015) New Build Agreements.

Due to COVID-19 impacts, if SCM cannot be fulfilled in line with Rule 6.7, Capacity Providers are able to provide an ITE report by 30 September 2020 detailing the following information;

- An explanation of progress made against the construction plan
- An explanation of how COVID-19 caused delays in achieving SCM or Minimum Completion Requirements
- Confirmation that, based on progress made by the CMU as of 12 March 2020, that, the corresponding Generating Unit(s) would have been expected to have been Operational by 1 Oct 2020

Subject to an ITE Report being submitted to The Delivery Body by 30 September 2020 and meeting the requirements discussed above (as fully detailed in Rule 18.6.1(b)):

*For T-1 the Long Stop Date will be amended to 30 September 2021*

*For T-4 the Long Stop Date will be amended to 30 September 2021*

The requirements of Rule 6.7 (Substantial Completion Milestone) should still be adhered to as normal if COVID-19 has not affected a CMU. Please upload [to My Agreements > Milestone > Substantial Completion Milestone](#)

The ITE Report can be to be uploaded on the Portal to [My Agreements > Other Documents](#)

Capacity Agreements will only become active once the requirements in Rule 18.6 (and Rules 6.7. and 6.8 (as amended)) have been achieved.

# 3. Guidance updates

## DSR and Metering Testing

Unproven DSR CMUs holding a Capacity Agreement for Delivery Year 2020/21 may provide, by 31 August 2020, an ITE report which confirms that the CMU would have been ready to deliver their Auction Acquired Capacity Obligation by the start of the Delivery Year had it not been for the impacts of the COVID-19 pandemic.

If an ITE report is submitted by 31 August 2020, the deadline to provide a DSR Test Certificate (Rule 8.3.2(a)) will be extended by 12 months to 31 August 2021; and the deadline to a Metering Test Certificate (Rule 8.3.3(e)(i)), if required, extended to 17 September 2021 (as per Rules 18.8.1).

The ITE report must contain confirmation that the CMU would have been ready to deliver Capacity by the start of the Delivery Year had it not been for the impacts of the COVID-19 pandemic.

The ITE report must-

- Recap the Capacity Provider's progress in recruiting DSR Components,
- Confirm the CMU had been on track against the original Business Plan for the CMU (Rule 3.10.1) to deliver by 1 October 2020 until the outbreak of the COVID-19 pandemic,
- Contain an explanation of how the impacts of the COVID-19 pandemic led to delays.

ITE reports will needed to be added to MY CMU's > Other Documents on the portal.

The Delivery Body will assess the DSR test period against the last 10 working / non working days as normal, however the same day of the week in two of the last 6 weeks will now be assessed as opposed to the current process which is to assess the same day of the week in 6 of the last 6 weeks.

Please note that a DSR test cannot be carried out during Prequalification Assessment

### 3. Guidance Updates

#### DSR baseline for assurance on SPDs

Those DSR Capacity Providers who have not been successful in providing SPD data by 30 April 2020 will be able to use baseline data that was used for their DSR Test (prior to 31 August 2019) in order to assess their performance. The Delivery Body already has access to this data and therefore it will be assessed automatically on this basis.

#### Satisfactory Performance Days

Capacity Providers who did not meet their SPD deadline by the 30 April 2020 will be suspended as per the usual process.

Those with a T-1 Agreement will have until the 31 July 2020 to provide their SPD data and those with a T-4 agreement will have until the 30 September 2020 to provide their SPD data. If Capacity Providers provide their SPD data by the above dates then their suspension will be lifted once the SPD's have been approved. Any suspended Capacity Payments will be repaid by the Settlement Body if the Capacity Providers achieves the SPDs during the extension period for the 2019/20 Delivery Year.

If T-1 Capacity Providers do not provide SPD data by 31 July 2020, they will be Terminated. If T-4 Capacity Providers does not provide this information by 30 September 2020, they will not be Terminated. This only applies for the 2019/2020 Delivery Year. Any Capacity Payments suspended will be repaid by the Settlement Body for the 2019/20 Delivery Year.

# 3. Guidance Updates

## Prequalification Disputes & Appeals

Affected persons have 10 working days (after receiving notice of a decision) to request the Delivery Body reconsiders a reviewable decision. The time for the Delivery Body to respond to such a request will be increased to 15 working days (rather than 10).

Capacity Providers will have 10 working days to raise an Appeal to Ofgem.

## Appeals to the Secretary of State

For Capacity Agreements for Auctions that have taken part before 1 April 2020 where a Termination Notice has been issued before 1 May 2021, BEIS will allow up to 30 working days for an appeal to be raised from a Termination Event, rather than the current 20 days.

For Capacity Agreements for Auctions that have taken place before 1 April 2020 and where representations are made within the specified time (end of DY for one-year Agreements and end of first year for multi-year), BEIS can extend the Termination Notice period up to a maximum of 12 months.

The Capacity Provider or Applicant will have the opportunity to raise an appeal to BEIS asking to be terminated under the COVID-19 Event as per Rule 18.2.

If this is agreed, then the Capacity Provider would need to re-pay the Capacity Payments for the delivery year.

Auctions that took part prior to 1 April 2020 and where representations are made within the specified time (end of DY for one-year Agreements and end of first year for multi-year), BEIS can extend the Termination Notice period up to a maximum of 12 months.

## 4. High-level Timescales

Change	New Deadline
<b>Metering</b>	
Existing and Pre-Refurbishing CMUs, T-1 (2020)	30/09/2020
Unproven DSR CMU, T-1 (2020)	30/09/2020
<b>Longstop Date</b>	
New Build T-1 2020 ( subject to ITE report)	30/09/2021
Refurbishing T-1 2020 (subject to ITE report)	
Refurbishing T-4 (2015)	
New Build T-4 (2015)	
<b>SPDs</b>	
T-1 2019	30/07/2020
T-4 2015	30/09/2020
<b>DSR</b>	
Unproven DSR's Test Certificate (subject to an ITE report)	31/08/2021
Unproven DSR Metering Testing (subject to an ITE report)	17/09/2021
FCM (T-3)	11 and 16 months after auction date

## 5. FAQ's

Questions	Answer
How does the COVID-19 Pandemic impact my Prequalification Application?	Prequalification Applications will not be impacted and will be completed as normal.
When are the new Rules in place?	The new Rules will come into effect on the 29 June 2020
What happens to Termination Fees that were due before the 20 May 2020?	Termination Fees due before the 20 May 2020 will still need to be paid unless the Capacity Provider is subject to an extension.
Is there a process to request an extension to a termination notice that occurred during the COVID-19 Pandemic?	The original reason that a Capacity Provided will be Terminated will still be due to a missed milestone however a Capacity provider can appeal to BEIS for a termination extension due to COVID-19. BEIS will allow a Termination Extension to be permitted to a maximum of 12 months
Any question relating to credit cover, Termination Fees or re-payment of suspended payments for SPD's?	Please contact the EMR Settlement Body on 020 7380 4333 <a href="mailto:contact@emrsettlement.co.uk">contact@emrsettlement.co.uk</a>

## 5. FAQ's Continued

Questions	Answer
How will I know if my ITE report is approved for an extension?	Once the Capacity Provider receives confirmation that the ITE report has been approved in the portal then the extension has been granted.
How do I send a request to use the extended DSR Test/ Longstop date?	For DSR tests and Extended Long-Stop dates, please use the Other Documents section in My Agreements
What if the milestone is not mentioned in this document?	If a milestone is not mentioned in this document, then it will not be changed as part of the COVID-19 response and therefore the current milestone dates remain the same
How do I submit an ITE report as part of this process?	The ITE report can be submitted via MY CMU's >Other Documents

## 6. Contact Information

For more information  
please contact

[.box.EMR.contact](mailto:.box.EMR.contact)

[nationalgrideso.com](http://nationalgrideso.com)

Faraday House, Warwick Technology Park,  
Gallows Hill, Warwick, CV346DA



**nationalgrid**ESO