STATUTORY INSTRUMENTS

2017 No. 1053

ELECTRICITY

The Electricity Capacity (Amendment) Regulations 2017

Made - - - - 1st November 2017

Coming into force in accordance with regulation 1

The Secretary of State has before making these Regulations—

(a) consulted the persons listed in section 40(2)(a) and (b) of the Energy Act 2013(**1**) and such other persons as the Secretary of State considered it appropriate to consult; and

(b) had regard to the matters in section 5(2) of that Act.

In accordance with section 40(5) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 27 to 31, 36(4), and 40(1) of the Energy Act 2013, makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Electricity Capacity (Amendment) Regulations 2017.

(2) These Regulations, apart from regulations 3 and 4(2) and (3) and Schedule 2, come into force on the day after the day on which they are made.

(3) Regulations 3 and 4(2) and (3) and Schedule 2 come into force on 1st January 2018.

Amendment of the Electricity Capacity Regulations 2014

2.—(1) The Electricity Capacity Regulations 2014(**2**) are amended as set out in Schedule 1.

(2) Any reference in that Schedule to a numbered regulation is to the regulation so numbered in those Regulations.

Amendment of the Supplier Payment Regulations

3.—(1) The Electricity Capacity (Supplier Payment etc.) Regulations 2014(**3**) ("the Supplier Payment Regulations") are amended as set out in Schedule 2.

(**1**) 2013 c.32.
(**2**) S.I. 2014/2043 as amended by S.I. 2014/3354, S.I. 2015/875, S.I. 2015/1974, and S.I. 2016/742.
(**3**) S.I. 2014/3354 as amended by S.I. 2015/875, S.I. 2016/363, and S.I. 2016/742.

(2) Any reference in that Schedule to a numbered regulation is to the regulation so numbered in those Regulations.

Transitional provisions

4.—(1) The amendment to regulation 60(2)(a) of the Electricity Capacity Regulations 2014 made by paragraph 6(4) of Schedule 1 to these Regulations, does not affect the level of credit cover required in relation to any capacity agreement awarded before that paragraph comes into force.

(2) This paragraph applies in relation to any calculation required to be made or other thing required to be done in respect of—

(a) any capacity year, delivery year or financial year which commenced before 1st January 2018; or

(b) any period forming part of such a year.

(3) Where paragraph (2) applies, the Supplier Payment Regulations continue to apply on and after 1st January 2018 as if they had not been amended by Schedule 2.

(4) In this regulation—

"capacity agreement", "capacity year", "credit cover", and "delivery year" have the meanings given in regulation 2(1) of the Electricity Capacity Regulations 2014; and

"financial year" has the meaning given in regulation 2(1) of the Supplier Payment Regulations.

Richard Harrington
Parliamentary Under Secretary of State, Minister for Energy and Industry
Department for Business, Energy & Industrial Strategy

1st November 2017

SCHEDULE 1 Regulation 2

Amendments to the Electricity Capacity Regulations 2014

Regulation 2 (interpretation)

1. In regulation 2(1)—

(a) after the definition of "the capacity market" insert—

""capacity market notice" has the meaning given in the Rules;";

(b) omit the definition of "capacity market warning";

(c) omit the definition of "DSR bid capacity"; and

(d) in the definition of "relevant settlement period", for "capacity market warning" substitute "capacity market notice".

Regulation 25 (notification of results)

2. In regulation 25(2)(d)(i), omit the words ", and, in the case of a demand side response CMU, its DSR bid capacity if different".

Regulation 30 (capacity agreements)

3. In regulation 30(2)(a), omit the words from "in the case of a generating CMU" to the end.

Regulation 32 (termination fee rates)

4. In regulation 32(4) and (5), omit the words "or DSR bid capacity".

New regulation 49A

5. After regulation 49 insert—

"**Reducing capacity payments: offsetting relevant expenditure**

49A.—(1) This regulation applies if, before the time when a credit note is issued to a capacity provider ("C") for a capacity payment, the Delivery Body has acknowledged receipt of a declaration under the Rules that relevant expenditure has been incurred, or is expected to be incurred, in respect of the capacity committed CMU for which C is responsible.

(2) If this regulation applies, the Settlement Body must ensure that the credit otherwise payable to C is reduced—

(a) by the amount of any outstanding relevant expenditure; or

(b) to nil, if the amount of any outstanding relevant expenditure is equal to or greater than the amount of the credit.

(3) The Settlement Body must ensure that the credit note issued to C states the amount by which the credit is reduced, and the reason for the reduction.

(4) This regulation applies to a credit note issued in respect of a transferred part as it applies to a credit note issued in respect of a capacity agreement, and where a capacity agreement has been transferred pursuant to regulation 30A(1)(b) or regulation 30(2)(b), the reduction in the amount payable to C is to be calculated so that it is proportionate to the