STATUTORY INSTRUMENTS

2017 No. 502

ELECTRICITY

The Electricity Supplier Payments (Amendment) Regulations 2017

Made - - - - 27th March 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 24(1)(a) to (g) and 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 6(8) and 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 6(1), (5) and (6), 9(1), (2), (5) to (8), 12(3), 16, 17, 19, 21(1) and (3), 27, 30 and 40(1) of the Energy Act 2013, makes the following Regulations:

PART 1

Introduction

Citation and commencement

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

(2) These Regulations come into force on 1st July 2017 except for regulations 8, 14 and 19.

(3) Regulation 8 comes into force on 1st October 2017.

(4) Regulation 14 comes into force on 1st April 2017.

(5) Regulation 19 comes into force on the day after the day on which these Regulations are made.

(**1**) 2013 c.32.

Interpretation

2. In these Regulations—

"the Act" means the Energy Act 2013.

PART 2

Amendment of the ESO Regulations

3. The Contracts for Difference (Electricity Supplier Obligations) Regulations 2014(**2**) are amended in accordance with regulations 4 to 18.

4. At the appropriate places in regulation 2(1) insert—

""final reconciliation determination" is to be construed in accordance with regulation 15(2);" and

""reserve period" means a period beginning with the 13th working day of a quarterly obligation period and ending with the 13th working day of the subsequent quarterly obligation period;".

5. In regulation 4—

(a) for the definition of GP in paragraph (1) substitute—

"GP is the total amount of generation counterparty payments which the CFD counterparty is required to make in respect of electricity generation which occurred on that day except for any payments which, at the time of the final reconciliation determination in respect of that quarterly obligation period, had not been determined by the CFD counterparty;";

(b) for the definition of CP in paragraph (1) substitute—

"CP is the total amount of generation party payments which the CFD counterparty has received from CFD parties in respect of electricity generation which occurred on that day except for any payments which, at the time of the final reconciliation determination in respect of that quarterly obligation period, had not been determined by the CFD counterparty;";

(c) for the definition of GE in paragraph (1) substitute—

"GE is the QGE for that supplier in that quarterly obligation period divided by the number of days in that period;";

(d) for the definition of GT in paragraph (1) substitute—

"GT is the sum of QGE for all suppliers in that quarterly obligation period divided by the number of days in that period.";

(e) after paragraph (1) insert—

"(1A) In paragraph (1), the QGE for an electricity supplier in a quarterly obligation period is—

(a) where the condition in paragraph (1B) is met by that supplier, the difference between the amount of electricity supplied by that supplier in that quarterly obligation period and the amount of EII excluded electricity supplied by that supplier in that period; or

(**2**) S.I. 2014/2014 amended by the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations (S.I. 2015/721) and the Electricity Supplier Payments (Amendment) Regulations (S.I. 2016/363).

(b) where the condition in paragraph (1B) is not met by that supplier, the amount of green excluded electricity supplied by that supplier in that quarterly obligation period.

(1B) The condition in this paragraph is met by an electricity supplier where the total amount of green excluded electricity and EII excluded electricity supplied by that supplier in that quarterly obligation period is greater than the amount of electricity supplied by that supplier in that period.";

(f) in paragraph (2) for "and regulation 5" substitute "and regulations 5 and 28".

6. In regulation 5—

(a) for the definition of NDS substitute—

"NDS is the sum of—

(a) the total amount of CFD counterparty payments which are not generation counterparty payments which the CFD counterparty was required to make during that period; and

(b) the total amount of generation counterparty payments which were made during that period but which had not been determined by the time of the final reconciliation determination in respect of the quarterly obligation period to which the payment relates;";

(b) for the definition of NGS substitute—

"NGS is the sum of—

(a) the total amount of CFD party payments which are not generation party payments which the CFD counterparty has received from CFD parties during that period; and

(b) the total amount of generation party payments which the CFD counterparty has received from CFD parties during that period but which had not been determined by the time of the final reconciliation determination in respect of the quarterly obligation period to which the payment relates;";

(c) for the definition of XEP substitute—

"XEP is the lesser of—

(a) the amount of excluded electricity supplied by that supplier in that period; or

(b) the amount of electricity supplied by that supplier in that period;";

(d) for the definition of AXP substitute—

"AXP is the sum of XEP for all suppliers in that period.".

7. For regulation 10(5) substitute—

"(5) The total reserve amount for a quarterly obligation period is the amount which the CFD counterparty determines it would need to be paid for there to be a 19 in 20 probability of it being able to make all the payments it is required to make to CFD parties during the reserve period which commences during that period having regard to—

(a) the CFD counterparty's estimate of the payments it expects to receive from CFD parties and electricity suppliers during that reserve period; and

(b) the likelihood of any supplier failing to make payments it is required to make under these Regulations during that reserve period.".

8. For regulation 11(1) substitute—