STATUTORY INSTRUMENTS

2016 No. 784

ELECTRICITY

The Contracts for Difference (Miscellaneous Amendments) Regulations 2016

Made - - - - 19th July 2016

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) of, and paragraph 13(1)(a) to (c) of Schedule 2 to, 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) of, and paragraph 6(5)(b) of Schedule 2 to, 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) and (6), 10(3), 12(1) and (3), 13(1) to (3), 14(2), 15(4), 16, 19(1) and (2), and 21(1)(c) of, and paragraphs 6(1), 10(1), 14(3)(c) and 16(2) of Schedule 2 to, the Energy Act 2013, makes the following Regulations:

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Contracts for Difference (Miscellaneous Amendments) Regulations 2016 and come into force on the day after the day on which they are made.

(2) Part 3, except for regulation 18, does not extend to Northern Ireland.

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

PART 2

Amendments to the Contracts for Difference (Definition of Eligible Generator) Regulations 2014

Amendments to the Contracts for Difference (Definition of Eligible Generator) Regulations 2014

2. The Contracts for Difference (Definition of Eligible Generator) Regulations 2014(**2**) are amended as follows.

Amendment to regulation 3

3. In regulation 3 (definition of eligible generator)—

(a) after paragraph (4) insert—

"(4A) Where an eligible generator is an unincorporated association, any reference to—

(a) that "eligible generator"; or

(b) a "person", "applicant", "generator" or "party",

is to be read as a reference to the unincorporated association.

(4B) Paragraph (4A) does not apply to—

(a) paragraphs (4), (5) and (8) of regulation 14B of the Allocation Regulations;

(b) regulation 14D of the Allocation Regulations;

(c) regulation 59 of the Allocation Regulations;

(d) sub-paragraphs (a), (b), (c), (e) and (f) of paragraph 2 of Schedule 1 to the Allocation Regulations;

(e) paragraph 4 of Schedule 1 to the Allocation Regulations;

(f) regulation 7 of the General Regulations;

(g) Part 3 of the General Regulations.";

(b) in paragraph (5) after the definition of "eligible generating station" insert—

""the Allocation Regulations" means the Contracts for Difference (Allocation) Regulations 2014(**3**);";

""the General Regulations" means the Electricity Market Reform (General) Regulations 2014(**4**)."

PART 3

Amendments to the Contracts for Difference (Allocation) Regulations 2014

Amendments to the Contracts for Difference (Allocation) Regulations 2014

4. The Contracts for Difference (Allocation) Regulations 2014 are amended as follows.

(**2**) S.I. 2014/2010.
(**3**) S.I. 2014/2011, as amended by S.I. 2015/981.
(**4**) S.I. 2014/2013, as amended by S.I. 2015/718.

Amendment to regulation 2

5. In regulation 2 (interpretation)—

(a) in the definition of "distribution system" for "has the meaning given by" substitute "means a system, other than a private network, of the type described in";

(b) insert at the appropriate place—

""private network" means a network for the distribution of electricity which is not operated by a person authorised to distribute electricity under a licence granted or treated as granted under section 6(1)(c) of the Electricity Act 1989(**5**);";

""target commissioning date" means the intended date, being a date within the target commissioning window, for the generation of electricity to begin by a CFD unit once it is established or altered;";

""target commissioning window" means the period in which the generation of electricity must take place by a CFD unit once it is established or altered, the duration of which is listed in the allocation framework for each type of eligible generating station;";

""target commissioning window start date" means the date on which the target commissioning window begins;";

""target dates" means the target commissioning date and the target commissioning window start date;";

(c) for the definition of "working day", substitute—

""working day" means a day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(**6**).".

Amendment to regulation 14

6. In regulation 14 (excluded applications)—

(a) in paragraph (5), for "unit to be altered" substitute "unit to be established or altered";

(b) for paragraph (10) substitute—

"(10) No application may be made in respect of a CFD unit in relation to which—

(a) a CFD applies;

(b) a capacity agreement applies; or

(c) an application for a capacity agreement has been made but has not been determined.

(10A) For the purposes of paragraph (10)(c)—

(a) an application for a capacity agreement has been made when an application is made for prequalification in accordance with the Electricity Capacity Regulations 2014(**7**) and capacity market rules made under Chapter 3 of Part 2 of the Energy Act 2013 ("CM rules"); and

(b) an application for a capacity agreement has been determined when, in accordance with the Electricity Capacity Regulations 2014 and CM rules, it

(**5**) 1989 c. 29. Section 6 was amended by section 30 of the Utilities Act 2000 (c. 27). Other amendments have been made to section 6 but none is relevant to this provision.
(**6**) 1971 c. 80.
(**7**) S.I. 2014/2043, amended by S.I. 2014/3354, 2015/875, 2015/1974.

is no longer possible to obtain a capacity agreement as a consequence of that application.".

Amendment to regulation 14B

7. In regulation 14B (grounds for granting exemption certificates), after paragraph (8) insert—

"(9) Where E, P1, P2 or P3 is an unincorporated association, the conditions relating to E, P1, P2 or P3 in paragraphs (4) and (5) apply as if E, P1, P2 or P3 means any member of the unincorporated association.

(10) For the purposes of the definition of "relevant court proceedings", where the applicant is an unincorporated association, court proceedings include proceedings against any member of the unincorporated association.".

Amendment to regulation 14D

8. In regulation 14D (register of sites to which a temporary site exclusion applies), after paragraph (1) insert—

"(1A) Where an eligible generator is an unincorporated association, the requirements relating to the eligible generator in paragraph (1)(c) and (d) apply in relation to the unincorporated association and each member of the unincorporated association.".

Amendment to regulation 25

9. In regulation 25 (connection agreements)—

(a) for paragraphs (2) to (4) substitute—

"(2) Where a direct connection applies or is to apply to the relevant CFD unit, the applicant must provide a copy of the connection agreement applicable to the relevant CFD unit, and—

(a) where connection is to the national transmission system for Great Britain, that agreement must secure transmission entry capacity for the CFD unit of at least 75% of the provisional capacity estimate of the CFD unit; or

(b) where connection is to the distribution system, that agreement must provide for the export of at least 75% of the provisional capacity estimate of the CFD unit to the distribution system.

(3) Where a direct connection or a partial connection does not apply or is not to apply to the relevant CFD unit, the applicant must provide either—

(a) a statement that the applicant is or is to be the operator of the private network to which the relevant CFD unit exports or is to export electricity; or

(b) a copy of a private network use agreement applicable to the relevant CFD unit.

(4) Where a partial connection applies or is to apply to the relevant CFD unit, the applicant must provide—

(a) copies of—

(i) either—

(aa) a statement that the applicant is or is to be the operator of the private network to which the relevant CFD unit exports or is to export electricity; or

(bb) a copy of a private network use agreement applicable to the relevant CFD unit; and

(ii) the connection agreement applicable to the relevant CFD unit; or

(b) copies of—

(i) the private network use agreement applicable to the relevant CFD unit that allows the CFD unit to access a connection to the national transmission system for Great Britain or the distribution system; and

(ii) the connection agreement between the operator of the private network and the national system operator or the distribution system.";

(b) in paragraph (6)—

(i) in the definition of "connection agreement" after "means an agreement" insert "(including a countersigned offer)"; and

(ii) insert at the appropriate place—

""private network use agreement" means an agreement to connect to a private network, entered into by the operator of that private network, which sets out the terms for exporting electricity to that private network and the capacity in the private network that is accessible under the agreement;";

""provisional capacity estimate" means the capacity of the relevant CFD unit, as provided by an applicant in accordance with paragraph 3(a)(iii) of Schedule 1;";

""transmission entry capacity" means the maximum amount of electricity permitted by the national system operator to be exported from the relevant CFD unit to the national transmission system for Great Britain at any given time.".

Amendment to regulation 32

10. In regulation 32 (notices of requests for review or appeal), in paragraph (1), after "Secretary of State" insert "and the Authority".

Amendment to regulation 34

11. In regulation 34 (delay to the commencement of allocation processes)—

(a) in paragraph (2), for "the information provided in compliance with paragraph 3(a)(iv) of Schedule 1 ("the target dates")" substitute "target dates";

(b) in paragraphs (2) and (4) to (6), for "varied" substitute "delayed";

(c) in paragraph (4), for "vary" substitute "delay";

(d) in paragraph (6)(b), for "paragraph (4)(b)" substitute "paragraph (5)(b)".

Amendment to regulation 38

12. In regulation 38 (proceeding, re-running an allocation process or terminating an allocation round), in paragraph (1) omit "Subject to regulation 40(1)(a),".

Amendment to regulation 39

13. In regulation 39 (re-running an allocation process)—

(a) in paragraph (2)(a) omit "subject to regulation 40(1)(b),";

(b) after paragraph (2) insert—