STATUTORY INSTRUMENTS

2016 No. 363

ELECTRICITY

The Electricity Supplier Payments (Amendment) Regulations 2016

Made - - - - 10th March 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) 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), and (5) to (8), 12(3), 16, 17, 19, 20, 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 2016.

(2) Regulations 1, 2 and 24 come into force on the day after the day on which these Regulations are made.

(3) Regulations 3 to 23 come into force on the later of 1st April 2016 or the day after the day on which these Regulations are made.

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

Interpretation

2. In these Regulations—

"the ESO Regulations" means the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014(**2**);

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

"the Supplier Payment Regulations" means the Electricity Capacity (Supplier Payment etc.) Regulations 2014(**4**).

PART 2

Amendment of the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014

Amendment of the ESO Regulations (regulation 2)

3.—(1) Regulation 2 of the ESO Regulations is amended as follows.

(2) At the appropriate place in paragraph (1) insert—

""BM Unit" has the meaning given in the Balancing and Settlement Code (see section X of that code) and "registered" in relation to a BM Unit means registered in accordance with the requirements of section K of the Balancing and Settlement Code;".

Amendment of the ESO Regulations (regulation 6)

4.—(1) Regulation 6 of the ESO Regulations is amended as follows.

(2) For paragraphs (2) and (3) substitute—

"(2) The CFD counterparty must determine an interim levy rate for a quarterly obligation period ("the rate period") before the commencement of the quarterly obligation period which immediately precedes the rate period.

(3) Where the CFD counterparty has determined an interim levy rate for a quarterly obligation period it must—

(a) as soon as reasonably practicable, publish a notice setting out that rate and issue that notice to every electricity supplier who has a BM Unit registered as at the day before the date of publication of the notice; and

(b) issue that notice to every electricity supplier who has a BM Unit that becomes registered on or after the date of publication of the notice and by the last day of the quarterly obligation period to which that rate applies, as soon as reasonably practicable after the BM Unit is registered.".

Amendment of the ESO Regulations (regulation 7)

5.—(1) Regulation 7 of the ESO Regulations is amended as follows.

(2) For paragraph (1) substitute—

(**2**) S.I. 2014/2014, amended by S.I. 2015/721.
(**3**) S.I. 2014/2012, amended by S.I. 2015/1425.
(**4**) S.I. 2014/3354, amended by S.I. 2015/875.

"(1) The estimated quarterly obligation period payment cost in respect of a quarterly obligation period ("the rate period") is the sum of the CFD counterparty's estimates of TGPR and NDSR in respect of that period, estimated by the CFD counterparty having regard to the matters set out in paragraph (2).".

(3) In paragraph (2) omit—

(a) each occurrence of the words "in respect of which payments may become due"; and

(b) paragraph (v).

(4) In paragraph (3)—

(a) for "amount which the CFD counterparty estimates it will receive from CFD parties during" substitute "sum of the CFD counterparty's estimates of TCPR and NGSR in respect of"; and

(b) omit sub-paragraph (b).

(5) In paragraph (5)—

(a) after the definition of CFD generating station insert—

""CP" and "GP" are to be construed in accordance with regulation 4;"; and

(b) after the definition of "market reference price", "settlement hour", "settlement period" and "strike price" insert—

""NDS" and "NGS" are to be construed in accordance with regulation 5;

"NDSR" means the NDS required to be paid by the CFD counterparty during the rate period;

"NGSR" means the NGS which is paid to the CFD counterparty during the rate period;

"TCPR" means the sum of all CP paid to the CFD counterparty in respect of electricity generation during the rate period; and

"TGPR" means the sum of all GP required to be paid by the CFD counterparty in respect of electricity generation during the rate period.".

Amendment of the ESO Regulations (regulation 10)

6.—(1) Regulation 10 of the ESO Regulations is amended as follows.

(2) After paragraph (1) insert—

"(1A) The CFD counterparty must make and publish its determination of the total reserve amount for a quarterly obligation period before the commencement of the quarterly obligation period which immediately precedes that period.".

(3) For paragraph (2) substitute—

"(2) The CFD counterparty must determine the amount of each electricity supplier's reserve payment for a quarterly obligation period before the 8th working day of the quarterly obligation period which immediately precedes that period.".

(4) Omit paragraph (3).

(5) For paragraph (4) substitute—

"(4) The CFD counterparty must issue to every relevant supplier a notice which sets out the amount of that supplier's reserve payment for a quarterly obligation period before the 8th working day of the quarterly obligation period which immediately precedes that period.

(4A) For the purpose of paragraph (4), a "relevant supplier" is an electricity supplier who supplied electricity during the reference period (within the meaning given by regulation 11(4)).".

Amendment of the ESO Regulations (regulation 11)

7.—(1) Regulation 11 of the ESO Regulations is amended as follows.

(2) At the end of paragraph (4) insert "before the CFD counterparty makes its determination under regulation 10(1A) in respect of the relevant period".

Amendment of the ESO Regulations (regulation 12)

8.—(1) Regulation 12 of the ESO Regulations is amended as follows.

(2) In paragraphs (1), (2) and (3) for "during", in each place it occurs, substitute "in respect of".

Amendment of the ESO Regulations (regulation 13)

9.—(1) Regulation 13 of the ESO Regulations is amended as follows.

(2) In paragraph (1) for "relation to", in each place it occurs, substitute "respect of electricity supply during".

(3) For paragraph (3) substitute—

"(3) Where the CFD counterparty has determined an adjusted interim levy rate it must—

(a) as soon as reasonably practicable, publish a notice setting out that rate and issue that notice to every electricity supplier who has a BM Unit registered as at the day before the date of publication of the notice;

(b) issue that notice to every electricity supplier who has a BM unit that becomes registered on or after the date of publication of the notice and by the last day of the quarterly obligation period during which that rate has effect, as soon as reasonably practicable after the BM Unit is registered; and

(c) where paragraph (5) applies, specify a date on which the rate shall have effect.".

(4) In paragraph (4) for "An adjusted interim levy rate" substitute "Where the adjusted interim levy rate is greater than the previous levy rate, it".

(5) After paragraph (4) insert—

"(5) Where the adjusted interim levy rate is less than the previous levy rate, it has effect from the date specified in the notice published under paragraph (3).

(6) For the purpose of paragraphs (4) and (5), "previous levy rate" means the interim levy rate or the adjusted interim levy rate most recently determined in respect of the rate period.".

Amendment of the ESO Regulations (regulation 14)

10.—(1) Regulation 14 of the ESO Regulations is amended as follows.

(2) In paragraph (3) after "supplier" insert "who supplied electricity during the adjusted reference period".

(3) In paragraph (5) for "purpose of paragraph (4)" substitute "purposes of paragraphs (3), (4) and (6)".

(4) In paragraph (6)(b) after "supplier" insert "who supplied electricity during the adjusted reference period".

Amendment of the ESO Regulations (regulation 15)

11.—(1) Regulation 15 of the ESO Regulations is amended as follows.

(2) In paragraph (3) for "electricity supplier" substitute "relevant supplier".

(3) After paragraph (3) insert—

"(4) For the purpose of paragraph (3), a "relevant supplier" is an electricity supplier who—

(a) supplied electricity during the reconciliation period,

(b) is due to make or receive a reconciliation payment, or

(c) is due to make a reserve payment.".

Amendment of the ESO Regulations (regulation 17)

12.—(1) Regulation 17 of the ESO Regulations is amended as follows.

(2) At the end of paragraph (1) insert "who supplied electricity during the reference period".

(3) In paragraph (2) omit sub-paragraphs (c) and (d).

(4) Omit paragraph (4).

(5) In paragraph (8)——

(a) for "purposes of paragraph (7)" substitute "purposes of paragraphs (1) and (7)";

(b) in sub-paragraph (a)—

(i) omit paragraph (i) and the word "or" that follows it; and

(ii) in paragraph (ii), omit "in respect of any other default,".

Amendment of the ESO Regulations (regulation 18)

13.—(1) Regulation 18 of the ESO Regulations is amended as follows.

(2) In paragraph (3) for "5th" substitute "15th".

Amendment of the ESO Regulations (regulation 20)

14.—(1) Regulation 20 of the ESO Regulations is amended as follows.

(2) In paragraph (5) before "electricity suppliers" insert "BM registered".

(3) After paragraph (5) insert—

"(5A) In paragraph (5), "BM registered electricity suppliers" means electricity suppliers who have a BM unit registered as at the day before the date the notice is issued.".

(4) In paragraph (6) after "suppliers" insert "who were sent the first notice".

Amendment of the ESO Regulations (regulation 22)

15.—(1) Regulation 22 of the ESO Regulations is amended as follows.

(2) In paragraph (3) for "5" substitute "15".

Amendment of the ESO Regulations (regulation 23)

16.—(1) Regulation 23 of the ESO Regulations is amended as follows.

(2) In paragraph (7)(a) for "£0.0397" substitute "£0.0509".