STATUTORY INSTRUMENTS

2015 No. 875

ELECTRICITY

The Electricity Capacity (Amendment) Regulations 2015

Made - - - - 23rd March 2015

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 33, 36 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 2015.

(2) These Regulations come into force on the day after the day on which they are made.

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 Electricity Capacity (Supplier Payment etc.) Regulations 2014

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

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

(**1**) 2013 c.32.
(**2**) S.I. 2014/2043; amended by S.I. 2014/3354.
(**3**) S.I. 2014/3354.

Amber Rudd
Parliamentary Under-Secretary of State
23rd March 2015 Department of Energy and Climate Change

SCHEDULE 1 Regulation 2(1)

Amendments to the Electricity Capacity Regulations 2014

PART 1

Electricity Interconnectors etc.

Regulation 2 (interpretation)

1. In regulation 2(1)—

(a) in the definition of "capacity", after "generating capacity" insert ", interconnected capacity";

(b) in the definition of "CMU", omit "or" after paragraph (a) and after paragraph (b) insert—

"or

(c) an interconnector CMU;";

(c) after the definition of "commissioned" insert—

""commissioned", in relation to an electricity interconnector, means that—

(a) such procedures and tests have been completed as constitute, at the time they are undertaken, industry standards and practices for commissioning an electricity interconnector of that type such that it is capable of operation at its connection capacity; and

(b) the electricity interconnector has not subsequently been decommissioned;";

(d) in the definition of "connection capacity", after "in relation to" insert "an interconnector CMU," and after "of that" insert "interconnector CMU,";

(e) after the definition of "decommissioned" insert—

""decommissioned", in relation to an electricity interconnector, means that the interconnector has permanently been physically disconnected from the GB transmission system;";

(f) in the definition of "Delivery Body", in paragraph (b), after "section 46 of the Act," insert "and to the extent of the functions that have been transferred,";

(g) in the definition of "interconnected capacity", for "capacity provided by the transmission of electricity to Great Britain" substitute "electricity provided to the GB transmission system";

(h) after that definition insert—

""interconnector CMU" has the meaning given in regulation 5A;";

(i) after the definition of "net output" insert—

""net output", in relation to an interconnector CMU, means the amount of electricity transmitted through the CMU into the GB transmission system;"; and

(j) after the definition of "prospective generating unit" insert—

""prospective interconnector CMU" means an interconnector CMU within regulation 5A(1)(b);".

New regulation 5A

2. After regulation 5 (demand side response CMU) insert—

"**"Interconnector CMU"**

5A.—(1) An "interconnector CMU" is—

(a) an existing interconnector which meets the conditions in paragraph (3); or

(b) a prospective interconnector which when commissioned (or, as the case may be, recommissioned) will meet the conditions in paragraph (3).

(2) In paragraph (1)—

"existing interconnector" means an electricity interconnector that has been commissioned;

"prospective interconnector" means an electricity interconnector or proposed electricity interconnector that—

(a) has not been commissioned; or

(b) is to be subject to an improvements programme and has not been recommissioned following that improvements programme.

(3) The conditions referred to in paragraph (1) are that—

(a) the electricity interconnector has a connection capacity not less than the minimum capacity threshold; and

(b) the net output of the electricity interconnector is measured by one or more half hourly meters in accordance with capacity market rules.".

Regulation 7 (annual electricity capacity report)

3.—(1) In regulation 7(2)(c)(i), after "capacity" insert ", in relation to each electricity interconnector that has or is likely to have been commissioned before the end of the forecast period concerned".

(2) In regulation 7(4)(c), omit "and" after paragraph (i), and after "CMUs" at the end of paragraph (ii) insert—

"; and

(iii) interconnector CMUs".

Regulation 14 (eligibility to bid in capacity auctions)

4.—(1) In regulation 14(1), for "An applicant" substitute "Subject to paragraph (3), an applicant".

(2) After regulation 14(2) insert—

"(3) In respect of an interconnector CMU, an applicant is not eligible to bid in a capacity auction held for a delivery year commencing before 2019.".

Regulation 21 (auction guidelines)

5. In regulation 21(2)(e), after "class," insert "and for each interconnector CMU," and after "Delivery Body" insert "or the Secretary of State".

Regulation 23 (notifying prequalification results to the Secretary of State)

6. In regulation 23(1)(c), after "generating CMUs" insert ", or interconnector CMUs,".

Regulation 30 (capacity agreements)

7. In regulation 30(2)(a), after "generating CMU" insert "or an interconnector CMU".

New regulation 43A

8. After regulation 43 insert—

"**Non-completion fee**

43A.—(1) A capacity provider in respect of a new build interconnector CMU must pay to the Settlement Body a fee (a "non-completion fee") by way of a financial penalty if, in circumstances specified for the purposes of this regulation by capacity market rules, the capacity provider fails to meet the completion requirements of the capacity agreement.

(2) For the purposes of paragraph (1)—

"completion requirements" are requirements to reach a level of operational capability specified in capacity market rules by the end of a delivery year;

"new build interconnector CMU" means a prospective interconnector CMU which has not been commissioned.

(3) The Settlement Body must, as soon as reasonably practicable after receiving notice in accordance with capacity market rules of the imposition of a non-completion fee—

(a) determine the amount in pounds of the non-completion fee that is payable; and

(b) issue to the capacity provider an invoice for that amount.

(4) Paragraphs (3) to (5) of regulation 43 apply to the determination of the amount of a non-completion fee as they apply to the determination of the amount of a termination fee.

(5) For the purposes of this regulation, references in regulation 32(1)—

(a) to a "termination fee" are to be construed as references to a non-completion fee; and

(b) to termination on a ground specified in capacity market rules are to be construed as references to a failure to meet completion requirements in circumstances so specified.".

Regulation 59 (requirement to provide applicant credit cover)

9.—(1) In regulation 59(1), for "An applicant" substitute "Subject to paragraphs (1A) and (1B), an applicant".

(2) After regulation 59(1) insert—

"(1A) Where an applicant provides applicant credit cover for a capacity auction in respect of an interconnector CMU, the applicant is not required to provide further applicant credit cover for any subsequent capacity auction in respect of that CMU, provided that the credit cover already provided has not been drawn down.

(1B) Where an applicant provides applicant credit cover for a capacity auction in respect of an unproven demand side response CMU, the applicant is not required to provide further applicant credit cover for any subsequent capacity auction in respect of that CMU except in circumstances specified in capacity market rules.".

Regulation 60 (credit obligation period)

10. In regulation 60(1)(g), after "generating CMU" insert "or a prospective interconnector CMU".