Draft Regulations laid before Parliament under section 6(8) of the Energy Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

ELECTRICITY

The Contracts for Difference (Electricity Supplier Obligations) Regulations 2014

Made - - - - th July

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 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 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), (4) to (8), and (10), 17, 18(1), (2) and (4), 19, 21(1) and (3) and 22(1) of, and paragraph 16(2) of Schedule 2 to, the Energy Act 2013, makes the following Regulations:

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

"absolute value", in relation to an amount, means the magnitude of that amount without regard to whether that amount is positive or negative;

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

"the Act" means the Energy Act 2013;

"the Balancing and Settlement Code" means the code for the governance of electricity balancing and settlement in Great Britain which is maintained in accordance with the conditions of transmission licences granted under section 6(1)(b) of the Electricity Act 1989(**2**) as it was in force on 1st April 2014;

"BSC volume allocation run" means any one of the following—

(a) an Initial Volume Allocation Run,

(b) an Interim Information Volume Allocation Run,

(c) a Reconciliation Volume Allocation Run (including a Final Reconciliation Volume Allocation Run or a Post-Final Volume Allocation Run);

"the BSCCo" means ELEXON Limited (or any successor to that company acting in the capacity of the BSCCo within the meaning given in the Balancing and Settlement Code);

"CFD counterparty payment" means any payment which the CFD counterparty must make—

(a) under a CFD;

(b) under a connected agreement;

(c) to a CFD party for the purpose of compensating that person for any costs incurred by that person in respect of a breach of a CFD or a connected agreement,

and includes any payment made to a person to whom a benefit under a CFD or connected agreement has been assigned in accordance with the terms of that agreement;

"CFD party" means a person, other than the CFD counterparty, who is a party to a CFD or connected agreement and is entitled to payments under such an agreement;

"CFD party payment" means any payment which a CFD party must make to the CFD counterparty—

(a) under a CFD;

(b) under a connected agreement,

and includes a payment made to a person to whom a benefit under a CFD or connected agreement has been assigned in accordance with the terms of that agreement;

"CFD period contribution" is to be construed in accordance with regulation 3;

"connected agreement" means any agreement entered into by the CFD counterparty or a CFD party, pursuant to a CFD;

"electricity supplier" means a person who is the holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989;

"electricity supply" means a supply of electricity to any premises in Great Britain;

"estimated quarterly obligation period electricity supply", "estimated quarterly obligation period income", and "estimated quarterly obligation period payment cost" are to be construed in accordance with regulation 7;

"Final Reconciliation Volume Allocation Run" has the meaning given in the Balancing and Settlement Code (see section U of that code);

"first operational cost period" means the period beginning on 1st January 2015 and ending on 31st March 2015;

"Initial Volume Allocation Run" has the meaning given in the Balancing and Settlement Code (see section U of that code);

(**2**) 1989 c.29.

"Interim Information Volume Allocation Run" has the meaning given in the Balancing and Settlement Code (see section U of that code);

"interim rate payment" is to be construed in accordance with regulation 8;

"investment contract" has the meaning given in Schedule 2 to the Act;

"letter of credit" means a letter from a person which contains an irrevocable and unconditional authorisation in favour of the CFD counterparty to be paid by that person on demand up to an amount stated in the letter;

"mutualisation amount" and "mutualisation notice" are to be construed in accordance with regulation 17;

"operational cost period" means—

(c) the first operational cost period, or

(d) any subsequent period beginning on 1st April in a year and ending on 31st March in the following year;

"Post-Final Volume Allocation Run" has the meaning given in the Balancing and Settlement Code (see section U of that code);

"quarterly obligation period" means a period of 3 months commencing after 31st March 2015 on 1st April, 1st July, 1st October or 1st January in any period of 12 months;

"reconciliation determination" and "reconciliation period" are to be construed in accordance with regulation 15(1);

"Reconciliation Volume Allocation Run" has the meaning given in the Balancing and Settlement Code (see section U of that code);

"reserve payment" means a payment an electricity supplier is required to make under regulation 11(1);

"total reserve amount" is to be construed in accordance with regulation 10;

"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(**3**).

(2) Any reference in these Regulations to an amount of electricity is a reference to that amount expressed in megawatt hours.

(3) Any reference in these Regulations to an amount to be paid or provided is a reference to that amount expressed in pounds sterling and rounded to the nearest whole penny with any half of a penny being rounded upwards.

(4) Any reference in these Regulations to a CFD includes a reference to an investment contract which was transferred to the CFD counterparty by virtue of paragraph 16(1) of Schedule 2 to the Act.

(5) For the purposes of sections 7, 8, 9, 17 to 21 and 26 of the Act an investment contract which was transferred to the CFD counterparty by virtue of paragraph 16(1) of Schedule 2 to the Act is to be treated as a CFD.

(6) Where more than one person is designated under section 7 of the Act as a CFD counterparty, the Schedule has effect and these Regulations have effect as set out in that Schedule.

(**3**) 1971 c.80.

PART 2

Supplier obligation

CHAPTER 1

The supplier obligation

The supplier obligation

3.—(1) Every electricity supplier who supplies electricity during a quarterly obligation period must, subject to paragraph (3), pay a CFD period contribution to the CFD counterparty in respect of that period.

(2) The CFD period contribution in relation to a supplier in respect of a quarterly obligation period is the sum of—

(a) CFD daily contributions for each day on which that supplier supplies electricity in that period calculated in accordance with regulation 4; and

(b) a CFD quarterly contribution for that period calculated in accordance with regulation 5.

(3) Where the amount of a supplier's CFD period contribution in respect of a quarterly obligation period is a negative number—

(a) the amount the supplier must pay under paragraph (1) in respect of that period is zero; and

(b) the CFD counterparty must pay the absolute value of that amount to that supplier.

(4) For the purpose of ensuring that the CFD period contribution is paid—

(a) an electricity supplier must—

(i) make interim payments in accordance with regulations 8(1) and 11(1) and, where so required, regulation 14(3),

(ii) make supplier data reconciliation payments in accordance with regulation 9(2), and

(iii) make any required reconciliation payments in accordance with regulation 16(3)(a); and

(b) the CFD counterparty must—

(i) make counterparty data reconciliation payments in accordance with regulation 9(3), and

(ii) make any required reconciliation payments in accordance with regulation 16(3)(b).

CFD daily contributions

4.—(1) The CFD daily contribution for a supplier for a day on which that supplier supplies electricity in a quarterly obligation period is the amount given by—

$$(GP - CP) \times \frac{SDS}{TDS}$$

where—

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;

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;

SDS is the amount of electricity supplied by that supplier on that day;

TDS is the total amount of electricity supplied by all suppliers on that day.

(2) In this regulation and regulation 5—

"generation counterparty payment" means any CFD counterparty payment made under, or in respect of a breach of, a CFD or connected agreement which is calculated directly by reference to an amount of electricity generated by a generating station which is the subject of that CFD or connected agreement;

"generation party payment" means any CFD party payment made under a CFD or connected agreement which is calculated directly by reference to an amount of electricity generated by a generating station which is the subject of that CFD or connected agreement;

(3) For the purposes of this regulation and regulation 5, the amount of electricity supplied by a supplier is the amount of electricity which the BSCCo determines was supplied by that supplier on the basis of—

(a) a Final Reconciliation Volume Allocation Run; or

(b) where a Post-Final Volume Allocation Run has occurred in relation to the day on which the electricity was supplied, a Post-Final Volume Allocation Run.

CFD quarterly contribution

5. The CFD quarterly contribution for a supplier for a quarterly period is the amount given by—

$$[NDS-(NGS+DI)]\times\frac{SQS}{TQS}$$

where—

NDS is the total amount of CFD counterparty payments which are not generation counterparty payments which the CFD counterparty was required to make during that period;

NGS is 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;

DI is any amount of interest which was paid by virtue of regulation 8(6), 9(7), 11(2), 14(8), 16(5), 17(6) or 25(5) during that period, less any amount of that interest which was paid to electricity suppliers by virtue of regulation 18(2);

SQS is the amount of electricity supplied by that supplier in that period;

TQS is the total amount of electricity supplied in that period.

CHAPTER 2

Interim daily levy

Setting the interim levy rate

6.—(1) The CFD counterparty must, in respect of every quarterly obligation period determine an interim levy rate which is to apply for that period.

(2) The CFD counterparty must determine an interim levy rate for a quarterly obligation period ("the rate period") before—

(a) where the rate period commences on 1st April 2015, 1st January 2015,

(b) for any other rate period, 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 publish a notice setting out that rate and must—