Draft Order laid before Parliament under section 33BC(12) of the Gas Act 1986, s.41A(12) of the Electricity Act 1989 and section 103(5) of the Utilities Act 2000, for approval by resolution of each House of Parliament.
This draft Order supersedes the draft Electricity and Gas (Community Energy Saving Programme) Order 2009 laid before Parliament on 1st July 2009 and which has since been withdrawn.

DRAFT STATUTORY INSTRUMENTS

2009 No.XXX

ELECTRICITY
GAS

The Electricity and Gas (Community Energy Saving Programme) Order 2009

Made - - - -	*xxth July 2009*
Coming into force - -	*1st September 2009*

The Secretary of State makes this Order in exercise of the powers conferred by section 33BC of the Gas Act 1986(**1**), section 41A of the Electricity Act 1989(**2**) and section 103 of the Utilities Act 2000(**3**).

The Secretary of State has consulted the Gas and Electricity Markets Authority, the National Consumer Council(**4**), electricity generators, electricity distributors, electricity suppliers, gas transporters, gas suppliers and such other persons as the Secretary of State considers appropriate.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 33BC(12) of the Gas Act 1986, section 41A(12) of the Electricity Act 1989 and section 103(5) of the Utilities Act 2000.

(**1**) 1986 c.44. Section 33BC was inserted (as section 33BB) by section 10(1), Schedule 3, paragraph 36 of the Gas Act 1995 (c.45). Section 33BB was substituted for (and renumbered as) section 33BC by section 99 of the Utilities Act 2000. This section was also amended by sections 15 and 17 of the Climate Change and Sustainable Energy Act 2006 (c.19) and section 79 of and Schedule 8 to the Climate Change Act 2008 (c.27).
(**2**) 1989 c.29. Section 41 was substituted for section 41A by section 70 of the Utilities Act 2000 (c.27) and amended by sections 16 and 17 of the Climate Change and Sustainable Energy Act 2006 and section 79 of and Schedule 8 to the Climate Change Act 2008 (c.27).
(**3**) 2000 c.27. Section 103 has also been amended by section 79 of and Schedule 8 to the Climate Change Act 2008 (c.27).
(**4**) The National Consumer Council replaced the Gas and Electricity Consumer Council, see section 30 of the Consumer, Estate Agents etc. Act 2007 (c.17).

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Community Energy Saving Programme) Order 2009 and comes into force on 1st September 2009**.**

Interpretation

2. In this Order—

"April 2010 generator" means a generator for whom the obligation period commences on 1st April 2010;

"April 2011 generator" means a generator for whom the obligation period commences on 1st April 2011;

"April 2012 generator" means a generator for whom the obligation period commences on 1st April 2012;

"area of low income" means an area which appears in the document approved by the Secretary of State entitled "Communities: Areas of Low Income" which is published on 30th June 2009 and the ISBN of which is 9780108508417(**5**);

"carbon emissions reduction obligation" means the reduction in carbon emissions that a generator or a supplier must achieve under this Order in its obligation period;

"district heating system" means a system that delivers heat through pipes to two or more domestic premises;

"domestic customer" means an owner or occupier of domestic premises in Great Britain who is supplied with electricity or gas at those premises wholly or mainly for domestic purposes;

"domestic energy user" means a person who uses energy in domestic premises in Great Britain wholly or mainly for domestic purposes;

"energy" means energy from coal, electricity, gas, geothermal sources, liquid petroleum gas, oil, solar power, water, wind or wood;

"energy assessor" means a person with any of the following qualifications—

(a) City and Guilds (6176) in Energy Awareness(**6**);

(b) Level 3 of the National Vocational Qualification 6049-03 (Provide Energy Efficiency Services)(**7**);

(c) a qualification based on units one to five of the National Occupational Standards (NOS) for Home and Community Energy Advisers which qualification is awarded by a body which has been approved and quality assured by the Office of the Qualifications and Examinations Regulator(**8**); or

(**5**) Communities: Areas of Low Income is published by the The Stationary Office, Mandela Way, London, SE1 5SS. Copies of this document may be obtained by contacting The Stationary Office or by visiting the DECC website.

(**6**) The City and Guilds (6176) in Energy Awareness is a qualification issued by the City and Guilds of London Institute, 1 Giltspur Street, London, EC1A 9DD.

(**7**) The National Vocational Qualification 6049-03 (Provide Energy Efficiency Services) is a qualification issued by the Qualifications and Curriculum Authority, 83 Piccadilly, London, W1J 8QA.

(**8**) The Office of the Qualifications and Examinations Regulator (Spring Place, Coventry Business Park, Hearld Avenue, Coventry, CV5 6UB). The NOS qualification is developed by Asset Skills and was approved by the UK Commission for Employment and Skills (3 Callflex Business Park, Golden Smithies Lane, Wath-upon-Dearne, South Yorkshire, S63 7ER) on 3rd June 2009.

(d) an equivalent qualification that is recognised by a member State of the European Union, an EEA State or Turkey;

"fuel switching" means changing the primary heating fuel used by a domestic energy user from coal, electricity or oil to a mains gas supply;

"G-rated boiler" means a boiler which has a seasonal efficiency value of less than 70% when that boiler is assessed against the Standard Assessment Procedure for Energy Rating of Dwellings (2005 Edition)(**9**);

"generation licence" means a licence granted under section 6(1)(a) of the Electricity Act 1989;

"generation period one" means 1st January 2006 to 31st December 2008;

"generation period two" means 1st January 2007 to 31st December 2009;

"generation period three" means 1st January 2008 to 31st December 2010;

"generation period four" means 1st January 2009 to 31st December 2011;

"generation periods" means any or all of the generation periods one, two, three or four, as the context admits;

"generator" has the meaning given by article 4;

"group of companies" means—

(a) a holding company; and

(b) the wholly-owned subsidiaries of that holding company;

"holding company" has the same meaning as in section 736 of the Companies Act 1985(**10**);

"home energy advice package" has the meaning given in Schedule 1;

"lifetime tonnes of carbon dioxide" means the amount of carbon dioxide that is expected to be saved over the lifetime of the measures to be promoted under this Order;

"local authority" means—

(a) in Greater London, a London Borough Council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;

(b) in England outside Greater London, a county council or, in relation to an area for which there is a district council but no county council, the district council, and the Council of the Isles of Scilly;

(c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**11**);

(d) in Wales, a county council or county borough council;

"microgeneration" has the same meaning as in section 26 of the Climate Change and Sustainable Energy Act 2006(**12**);

"new generator" has the meaning given by article 4(5);

"new supplier" has the meaning given by article 5(5);

"notification" means notification in writing and includes notification by electronic mail or facsimile;

(**9**) The Standard Assessment Procedure for Energy Rating of Dwellings (2005 Edition) can be found at www.bre.co.uk/sap 2005.
(**10**) 1985 c.6. Section 736 will be repealed on 1st October 2009 by section 1295 of and Schedule 16 to the Companies Act 2006 (c.46). Section 1297(5) (continuity of law) of the Companies Act 2006 provides that references to repealed provisions shall be construed as references to the corresponding provision in the Companies Act 2006, namely section 1159.
(**11**) 1994 c.39.
(**12**) 2006 c.19.

"obligation period" has the meaning given by—

(a) article 8 for a generator;

(b) article 10(3) for a supplier; or

(c) article 10(4) for a new supplier;

"October 2009 generator" means a generator for whom the obligation period commences on 1st October 2009;

"overall carbon emissions reduction target" means the target for the promotion of reduction in carbon emissions stated in article 3(1) and referred to in section 103(1) and (1A) of the Utilities Act 2000;

"qualifying action" has the meaning given in Schedule 2;

"replacement boiler" means a boiler which replaces a G-rated boiler and which meets the requirements of Part L of Schedule 1 to the Building Regulations 2000(**13**);

"solid wall insulation" means internal or external insulation which lowers the U-value of the walls to 0.5W/m^2K or less;

"subsidiary" has the same meaning as in section 736 of the Companies Act 1985;

"supplier" has the meaning given by article 5;

"TWh/yr" means gross terawatt hours per year;

"U-value" means the measure in W/m^2K of heat transmission through a wall;

"upgrade of a district heating system" means an alteration or improvement to a district heating system which enables the system to deliver heat to domestic properties at a lower value of kilograms of carbon dioxide per kilowatt hours of heat delivered.

PART 2

Overall carbon emissions reduction target and carbon emissions reduction obligations

Overall carbon emissions reduction target and carbon emissions reduction obligations

3.—(1) The overall carbon emissions reduction target under this Order for the period 1st October 2009 to 31st December 2012 is 19.25 million lifetime tonnes of carbon dioxide.

(2) The overall carbon emissions reduction target comprises the following—

(a) a carbon emissions reduction target for generators of 9.625 million lifetime tonnes of carbon dioxide; and

(b) a carbon emissions reduction target for suppliers of 9.625 million lifetime tonnes of carbon dioxide.

(3) The Authority must ensure that the sum of all carbon emissions reduction obligations imposed on—

(a) generators equals the carbon emissions reduction target in paragraph (2)(a);

(b) suppliers equals the carbon emissions reduction target in paragraph (2)(b).

(**13**) S.I. 2000/2531. These Regulations have been amended on several occasions. Two amendments are of relevance. The Building and Approved Inspectors (Amendment) Regulations 2006 (S.I. 2006/652) inserted a new Part L into Schedule 1 to the Building Regulations 2000. Regulation 2 of the Building and Approved Inspectors (Amendment) Regulations 2007 (S.I. 2007/3384) substituted a new sub-paragraph (b) into column 1 of paragraph L1 of Part L to the Schedule 1 of the Buildings Regulations 2000.

Definition of generator

4.—(1) A person is a generator if that person holds a generation licence and satisfies paragraph (2).

(2) A person must have generated a mean of 10 TWh/yr or more of electricity in any of the generation periods.

(3) A person generates electricity at a generation plant throughout a generation period where that person holds the generation licence for that plant on the final 31st December of that generation period.

(4) Where a company holds a generation licence and belongs to a group of companies and the mean of electricity generated by the group of companies in a generation period is 10 TWh/yr or more, each company in the group with a generation licence satisfies paragraph (2).

(5) A new generator is a generator who satisfies paragraph (2) in respect of a generation period other than generation period one.

(6) In this article—

(a) "generation plant" means a place in Great Britain, in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone where electricity is generated; and

(b) "Renewable Energy Zone" has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004(**14**).

Definition of supplier

5.—(1) A person is a supplier if that person holds a supply licence—

(a) under section 6(1)(d) of the Electricity Act 1989 and that person satisfies paragraph (2) or (3) in respect of the supply of electricity; or

(b) under section 7A of the Gas Act 1986 and that person satisfies paragraph (2) or (3) in respect of the supply of gas.

(2) A person must supply at least 50,000 domestic customers on 31st December of the year 2008, 2009, 2010 or 2011.

(3) A company that belongs to a group of companies must on 31st December of the year 2008, 2009, 2010 or 2011 supply domestic customers and the number of domestic customers of that company and of other companies in the group must be at least 50,000.

(4) Where a person satisfies paragraph (1) in respect of electricity and of gas that person is a separate supplier in respect of each supply.

(5) A new supplier is a supplier who satisfies paragraph (1) for the first time on—

(a) 31st December 2009;

(b) 31st December 2010;or

(c) 31st December 2011.

Notification by generators

6.—(1) A generator must notify the Authority by 14th September 2009 of the amount of electricity generated by it, in TWh, between 1st January 2008 and 31st December 2008.

(2) A generator must notify the Authority by 1st March 2010 and on each anniversary of that date, ("the notification date"), of the amount of electricity generated by it, in TWh, between 1st January 2008 and the 31st December before the notification date.

(**14**) 2004 c.20.