STATUTORY RULES OF NORTHERN IRELAND

2015 No. 249

ELECTRICITY

GAS

The Electricity and Gas (Ownership Unbundling) Regulations (Northern Ireland) 2015

Made - - - -	*13th May 2015*
Coming into operation	*5th June 2015*

The Department of Enterprise, Trade and Investment being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to energy and energy sources(**2**), in exercise of the powers conferred on it by the said section 2(2), and of every other power enabling it in that behalf makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Electricity and Gas (Ownership Unbundling) Regulations (Northern Ireland) 2015 and shall come into operation on 5th June 2015.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Assembly.

Electricity transmission: independence

3.—(1) The Electricity (Northern Ireland) Order 1992(**4**) is amended as follows.

(2) In Article 10G(1) (the ownership unbundling requirement) for the words "the Authority considers that each of the following five tests is passed" substitute—

"in relation to each of the five tests below—

(a) the Authority considers that it is passed; or

(**1**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7). Other amendments have been made that are not relevant to these Regulations.
(**2**) The European Communities (Designation) Order 2010 S.I. 2010/761
(**3**) 1954 c.33 (N.I.)
(**4**) S.I. 1992/231 (N.I. 1)

(b) it is treated as passed by virtue of paragraphs (5), (7), or (13A)".

(3) After Article 10G(13) insert—

"(13A) Except where paragraph (13B) applies, the Authority may treat one or more of the five tests in this Article as passed if—

(a) the test or tests are not passed in relation to a relevant producer or supplier;

(b) the applicant has demonstrated to the Authority's satisfaction that the applicant does not have a relationship with the relevant producer or supplier which might lead the applicant to discriminate in favour of the relevant producer or supplier; and

(c) the Authority thinks it appropriate to treat the test or tests as passed.

(13B) This paragraph applies where the applicant, or a person who controls or has a majority shareholding in the applicant, controls or has a majority shareholding in a person ("A") who operates a generating station and—

(a) A is a relevant producer or supplier; and

(b) the generating station is directly physically connected to anything that forms part of the applicant's transmission system.".

(4) After Article 10I(12) (monitoring and review of certification) insert—

"(12A) If, before any of the deadlines mentioned in paragraph (5) or (7) (or before such deadline as previously extended under this paragraph), the Authority asks the certified person or a relevant producer or supplier for information under paragraph (10) or (11), the relevant deadline is the end of the 4 months beginning with the day on which the last of that information is received.".

(5) In Article 10L(1) (interpretation) substitute the definition of "review period" with—

""review period" in relation to a review under Article 10I, means the period specified in paragraph (5) or (7) of that Article as extended, if appropriate, by—

(a) any period of suspension under paragraph (8) of that Article, or

(b) the 4 months mentioned in paragraph (12A) of that Article;".

Gas transmission: independence

4.—(1) The Gas (Northern Ireland) Order 1996(**5**) is amended as follows.

(2) In Article 8G(1) (the ownership unbundling requirement) for the words "the Authority considers that each of the following tests is passed" substitute—

"in relation to each of the five tests below—

(a) the Authority considers that it is passed; or

(b) it is treated as passed by virtue of paragraphs (5), (7) or (13A)".

(3) After Article 8G(13) insert—

"(13A) The Authority may treat one or more of the five tests in this Article as passed if—

(a) the test or tests are not passed in relation to a relevant producer or supplier;

(b) the applicant has demonstrated to the Authority's satisfaction that the applicant does not have a relationship with the relevant producer or supplier which might lead the applicant to discriminate in favour of the relevant producer or supplier; and

(**5**) S.I. 1996 (N.I. 2)