



Department
of Energy &
Climate Change

Exemption from the requirement for a licence to generate electricity: proposal to make the Electricity (Exemption from the requirement for a generation licence) (Helius Energy) Order 2014

April 2014

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Executive summary

The Secretary of State, pursuant to section 5(2) and (3) of the Electricity Act 1989 (“the Act”) as amended by the Utilities Act 2000, hereby gives notice that he proposes to make an order under section 5(1) of the Act granting exemption from the requirement to hold a generation licence under section 4(1)(a) of the Act to:

- Helius Energy Gamma Limited (a wholly owned subsidiary of Helius Energy Plc) in respect of the Avonmouth biomass facility, a 99.9MW biomass facility at the Port of Avonmouth. Helius Energy Gamma Limited currently holds a licence for this power station, issued by Ofgem.

The Secretary of State’s reasons for making such an order on the terms proposed are set out in the attached document entitled “Exemption from the Requirement for a Licence to Generate Electricity: Proposal to Make “The Electricity (Exemption from the Requirement for a Generation Licence) (Helius Energy) (England and Wales) Order 2014”. The terms of the proposed draft order is set out in the appendix to the document.

Representations may be made with respect to the proposals in the document by 12 May 2014 to:-

Chris Chown, Energy Market Framework, Department of Energy and Climate Change, Fourth Floor, 3 Whitehall Place, London SW1A 2HD (telephone: 0300 068 6085; e-mail: chris.chown@decc.gsi.gov.uk)

INTRODUCTION

1. The Secretary of State proposes to make an order (“the Order”) under section 5(1) of the Electricity Act 1989 (“the Electricity Act”), as amended by the Utilities Act 2000, granting exemption from the requirement to hold a generation licence to:
 - Helius Energy Gamma Limited (a wholly owned subsidiary of Helius Energy Plc) in respect of the Avonmouth biomass facility, a 99.9MW biomass facility located at the Port of Avonmouth.
2. It is intended that this generating station will become operational in 2015.
3. The Secretary of State is proposing to make the Order subject to the conditions specified in the attached draft Order and referred to in paragraph 9 below, and to the views of consultees. This document explains why the Secretary of State is proposing to make the Order.

LEGISLATIVE BACKGROUND

4. Section 4(1)(a) of the Electricity Act makes it an offence for a person to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given unless he is authorised to do so by a licence or exemption. Section 5(1) of the Electricity Act provides that the Secretary of State may, by order, grant exemption from section 4(1)(a). Section 5(2) of the Electricity Act sets out the procedure for making such an order.
5. On 1 October 2001, the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 (“the Class Exemptions Order”) came into force. Among other things, the Class Exemptions Order continued the ‘Class C exemption’ previously comprised in the Electricity (Class Exemptions from the Requirement for a Licence) (England and Wales) Order 1997 for persons operating generating stations with existing energised connections on 30 September 2000 that did not provide more than 100 MW of power to the total system (Schedule 2, Class C of the Class Exemptions Order).

POLICY BACKGROUND

6. The Class C exemption does not exempt those who propose to operate plants which did not have existing energised connections on 30 September 2000 – even where those plants export no more than 100 MW to the total system. The policy reason for this was to maintain the exemption for existing plant of less than 100 MW (under the 1997 Order) but not to extend this to all such future plants connected after 30 September 2000, to ensure that future exemptions were controlled according to existing network regulation needs. This class exemption has not since been updated. Consequently, generators with new plant similar in size to that set out in the Class C exemption which were not connected to the total system on 30 September 2000 must apply to the Secretary of State for individual exemption pursuant to section 5 of the Electricity Act, or obtain a licence.

7. In determining whether such applications have merit, DECC's starting assumption is that all generation of electricity should be licensed, unless applicants can demonstrate that exemption does not pose a threat to the safe and secure operation of the electricity system or the interests of customers. In such cases where only a low impact on the network is anticipated, DECC considers that expecting applicants to meet the costs and obligations of a licence may be disproportionate and that individual exemption should be considered.

REASON FOR PROPOSED ORDER

8. Helius Energy Gamma Limited currently holds an electricity generation licence in respect of the Avonmouth plant.
9. Taking account of the level of the electrical power that could be exported to the total system in Great Britain by the Avonmouth biomass facility, the Secretary of State has provisionally concluded that the connection of this plant to the system would not adversely affect network operation and therefore that it would not be appropriate to require Helius Energy Gamma Limited to hold an electricity generation licence in respect of the station. He is therefore proposing to make the exemption.

CONDITIONS

10. The conditions proposed to be included in respect of any such exemption are that:
 - the generating station is connected to the total system in England and Wales;
 - that except in circumstances outside the reasonable control of the operator, the generating station is not normally capable of exporting more electrical power than 100 megawatts to the total system; and
 - that Helius Energy Gamma Limited does not hold a generation licence under section 6(1)(a) of the Electricity Act.

REPRESENTATIONS AND TIMETABLE

11. Representations on the issues raised in this document and the proposal are invited by 12 May 2014 and should be made to: Chris Chown, Energy Market Framework, Department of Energy and Climate Change, Fourth Floor, 3 Whitehall Place, London SW1A 2HD (telephone: 0300 068 6085; e-mail: chris.chown@decc.gsi.gov.uk).

REGULATORY IMPACT ASSESSMENT

12. The Government produced a Regulatory Impact Assessment in respect of the Class Exemptions Order in October 2001. The assessment may be viewed at:
http://www.legislation.gov.uk/uksi/2004/1776/pdfs/uksiem_20041776_en.pdf

or obtained from: Chris Chown, Energy Market Design, Department of Energy and Climate Change, Fourth Floor, 3 Whitehall Place, London SW1A 2HD (telephone: 0300 068 6085; e-mail: chris.chown@decc.gsi.gov.uk).

STATUTORY INSTRUMENTS

2014 No. 0000

ELECTRICITY, ENGLAND AND WALES

<i>Made</i> - - - -	[●] 2014
<i>Laid before Parliament</i>	[●] 2014
<i>Coming into force</i> - -	[●] 2014

The Secretary of State makes the following Order in exercise of the powers conferred by section 5 of the Electricity Act 1989⁽¹⁾.

In accordance with section 5(2) and (3) of that Act the Secretary of State has given notice of the proposal to make this Order [*and has considered the representations made in relation to the proposal.*][. *No representations in respect of the proposal have been made.*]

Citation, commencement and extent

1.—(1) This Order may be cited as the Electricity (Exemption from the Requirement for a Generation Licence) (Helius Energy) (England and Wales) Order 2014 and shall come into force on [●].

(2) This Order extends to England and Wales only.

Interpretation

2. In this Order—

“the Act” means the Electricity Act 1989;

“the company” means Helius Energy Gamma Limited, a company registered in England and Wales with company number 06690364;

“the generating station” means the Avonmouth biomass facility, a biomass electricity generating station located at Ordnance Survey map reference ST517798, near Avonmouth Docks, Bristol; and

“the total system in England and Wales” means—

- (a) the transmission system of the holder of a licence under section 6(1)(b) of the Act; and
- (b) all distribution systems,

in each case, to the extent located in England and Wales.

Exemption from section 4(1)(a) of the Act

3.—(1) Subject to paragraph (2), the company is granted exemption from section 4(1)(a) of the Act (prohibition of unlicensed generation of electricity for supply) in respect of the generating station.

(2) The exemption granted in paragraph (1) is subject to compliance with the following conditions—

- (a) that the generating station is connected to the total system in England and Wales;
- (b) that, except in circumstances outside the reasonable control of the company, the generating station does not export more than 100 megawatts of electrical power to the total system in England and Wales; and
- (c) that the company does not hold a licence under section 6(1)(a) of the Act.

⁽¹⁾ 1989 c.29; section 5 was substituted by section 29 of the Utilities Act 2000 (c.27).

Date

Name
Minister of State,
Department of Energy and Climate Change

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants exemption from the requirements of section 4(1)(a) of the Electricity Act 1989 (which prohibits the generation of electricity for supply to any premises without a licence) to Helius Energy Gamma Limited in respect of the Avonmouth biomass facility, which is located near Avonmouth Docks, Bristol (Ordnance Survey map reference ST517798).

A regulatory impact assessment in respect of exemptions from the requirements of section 4(1)(a) of the Electricity Act 1989 was prepared in 2001 and can be obtained from the Department of Energy and Climate Change, Energy Markets Unit, 4th Floor, 3 Whitehall Place, London, SW1A 2AW. Copies have been placed in the libraries of both Houses of Parliament.

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