

2016 No. 0000

ELECTRICITY

The Electricity Capacity (Amendment) Regulations 2016

Made - - - - *2016*

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^(a) 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, 28, 30, 31, 34(3) 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 2016.
- (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^(b) are amended as set out in Schedule 1.
- (2) Any reference in that Schedule to a numbered regulation or Schedule is to the regulation or Schedule 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^(c) 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.

(a) 2013 c.32.
(b) S.I. 2014/2043; amended by S.I. 2014/3354, 2015/875 and [2015/**].
(c) S.I. 2014/3354, amended by S.I. 2015/875.

SCHEDULE 1 Regulation 2
Amendments to the Electricity Capacity Regulations 2014

PART 1

Termination fees etc. and credit cover

Regulation 32 (termination fee rates)

- 4.—(1) In regulation 32(1)(a)—
- (a) for ““TF1_{rate}” means” substitute ““TF_x_{rate}” (for any value of x from x = 1 to x = 4) means”;
 - (b) for “that TF1” substitute “that TF_x”; and
 - (c) omit the definition of “TF2_{rate}”.
- (2) After regulation 32(3) insert—
- “(3A) TF3_{rate} is £10,000/MW.
 - “(3B) TF4_{rate}” is £15,000/MW.”.

Regulation 43 (termination fees)

- 5.—(1) In regulation 43(3)(b)—
- (a) for the first occurrence of “TF1” substitute “TF_x (for any value of x from x = 1 to x = 4)”;
 - (b) for the second occurrence of “TF1” substitute “TF_x”; and
 - (c) for “TF1_{rate}” substitute “TF_x_{rate}”.
- (2) Omit regulation 43(4).
- (3) In regulation 43(5), for the definitions of “TF1_{rate}” and “TF2_{rate}” substitute the single definition—
- ““TF_x_{rate}” (for any value of x from x = 1 to x = 4) means the rate in pounds per MW determined in accordance with regulation 32 and specified in the capacity market register as the rate at which TF_x is payable under the capacity agreement.”.

New regulation 43ZA

6. After regulation 43 insert—

“Termination fees: adjustment for DSR providers

- 43ZA.**—(1) This regulation applies where—
- (a) a termination fee is payable by a DSR provider;

(a) Regulation 32 is also amended by paragraph 18 of this Schedule.
(b) Regulation 43 is also amended by paragraph 22 of this Schedule.

- (b) before that termination fee became payable, the Settlement Body had drawn down applicant credit cover provided by the DSR provider in accordance with regulation 60(3) or regulation 61(1)(a)(ii);
 - (c) the termination fee and the applicant credit cover relate to the same unproven demand side response CMU; and
 - (d) either—
 - (i) the termination fee and the applicant credit cover relate to the same capacity auction, or
 - (ii) the termination fee relates to a capacity auction for which no further applicant credit cover was required to be provided because of regulation 59(1B).
- (2) The amount of the termination fee to be determined and invoiced under regulation 43 is reduced by the amount of the credit cover drawn down.”.

Regulation 43B (repayment of capacity payments on termination)

7. After sub-paragraph (b) of regulation 43B(3)(a) insert—

“;

- (c) the period TP3, the capacity payments that must be repaid are those made in respect of the period beginning with the date on which capacity payments began under the relevant capacity agreement and ending with the date of termination of the relevant capacity agreement”.

Regulation 53 (interpretation of Part 7)

8. In regulation 53(3), in the definition of “the required amount”, after “regulation 59(1)” insert “or (4)”.

Regulation 56 (maintenance of credit cover)

9. After regulation 56(3) insert—

“(3A) If A does not comply with paragraph (3)—

- (a) the Settlement Body may immediately draw down on the letter of credit to the full amount stated in the letter of credit and on receipt of funds from the paying bank place the funds in a bank account which satisfies the conditions in regulation 54(4); and
- (b) funds placed in a bank account under sub-paragraph (a) shall continue to be treated as credit cover provided by A.”.

Regulation 57 (downgrade of letter of credit)

10. In regulation 57(3), for “8” substitute “10 working”.

Regulation 59 (requirement to provide applicant credit cover)

11.—(1) In regulation 59(b)—

- (a) in paragraph (1), for “paragraphs (1A) and” substitute “paragraph”;
- (b) omit paragraph (1A); and
- (c) in paragraph (1B), after “demand side response CMU” insert “or an interconnector CMU”.

(a) Regulation 43B was inserted by S.I. 2015/875, and is also amended by paragraph 23 of this Schedule.
 (b) Paragraphs (1A) and (1B) of regulation 59 were inserted by S.I. 2015/875.

(2) After regulation 59(3) insert—

“(4) In circumstances specified in capacity market rules, the applicant credit cover provided under paragraph (1) in respect of a large new build CMU (as defined in capacity market rules)—

- (a) where six months have elapsed after the date on which the auction results are notified under regulation 25 (“the results day”), must be increased to an amount equal to £10,000 per MW of de-rated capacity; and
- (b) where twelve months have elapsed after the results day—
 - (i) must be increased to an amount equal to £15,000 per MW of de-rated capacity; or
 - (ii) as the case may be, may be reduced to the amount determined in accordance with paragraph (2)(a).

(5) Where under capacity market rules a person (“P”) is required to provide an increased amount in accordance with paragraph (4), P must do so within 5 working days after the end of the six- or twelve-month period concerned.”.

Regulation 60 (credit obligation period)

12.—(1) In regulation 60(1)—

- (a) in the opening words, after “(“CMU i”),” insert “and subject to paragraph (4A),”;
- (b) after sub-paragraph (b) insert—

“(ba) where A is required by capacity market rules to provide a notice of confirmation or other document as a requirement for being able to bid in the capacity auction in respect of CMU i, it does not do so within the time required by capacity market rules;”;

- (c) at the beginning of sub-paragraph (g)(i), insert “subject to paragraph (4A)”.

(2) For regulation 60(2) substitute—

“(2) Where paragraph (1)(a) applies, A must thereafter maintain credit cover—

- (a) for a T-4 or a T-1 auction, in an amount equal to £5,000 per MW of the amount of the DSR bid capacity of CMU i, or
- (b) for a DSR transitional auction, in an amount equal to £500 per MW of the amount of the DSR bid capacity of CMU i,

until the earliest of the events in sub-paragraphs (b) to (h) of paragraph (1) has occurred.”.

(3) After regulation 60(4) insert—

“(4A) Where the CMU is a large new build CMU (as defined in capacity market rules)—

- (a) paragraph (1)(g) does not apply unless any additional requirements laid down by capacity market rules in relation to capital expenditure are met; and
- (b) where the financial commitment milestone has been achieved but those additional requirements have not been met, the capacity provider must maintain an amount of credit cover specified by capacity market rules.”.

PART 2

Capacity market rules

Regulation 77 (Authority’s power to make capacity rules)

13.—(1) For regulation 77(1) substitute—

“(2) Subject to paragraph (3) and to regulation 77A, the power to make capacity market rules conferred by sections 34(1), 36 and 42 of the Act may be exercised by the Authority.”.

(2) Omit regulation 77(2).

New regulation 77A

14. After regulation 77 insert—

“Power to make capacity market rules: further conditions

77A.—(1) This regulation applies where, within the period of 28 days beginning with the date on which the Secretary of State is consulted under regulation 79(1) or (if shorter) the period allowed for the responses to that consultation, the Secretary of State gives notice to the Authority—

- (a) specifying one or more of the provisions, or descriptions of provisions, on which the Secretary of State has been consulted (“the relevant proposals”); and
- (b) stating that the Authority is not to implement the relevant proposals without the approval of the Secretary of State.

(2) The Authority may not make a provision so specified, or a provision of a description so specified, without the approval of the Secretary of State.

(3) The prohibition in paragraph (2) also applies where that provision, or description of provision, is amended following the consultation and notice mentioned in paragraph (1).”.

PART 3

Transfer of capacity obligations, volume reallocation and over-delivery payments

Regulation 2 (interpretation)

15. In regulation 2(1)(a)—

- (a) in the definition of “capacity obligation”, insert at the end “(and, unless the context otherwise requires, includes a part of a capacity obligation)”;
- (b) after the definition of “capacity payment” insert—
 - ““capacity provider” means the holder for the time being of—
 - (a) a capacity agreement, or
 - (b) a transferred part;”;
- (c) in the definition of “termination fee”, after “capacity agreement” insert “or transferred part”; and
- (d) after the definition of “total system”, insert—
 - ““transferred part” has the meaning given in regulation 30A(3);”.

Regulation 30 (capacity agreements)

16.—(1) In regulation 30(1), for “is the term used to describe” substitute “comprises”.

(2) In regulation 30(2)—

- (a) for “capacity agreement accrues” substitute “distinct capacity agreement accrues”; and
- (b) at the beginning of sub-paragraph (a) insert “a capacity obligation equal to”.

(3) In regulation 30(6), after “capacity market rules,” insert “and subject to any termination of a transferred part in accordance with regulation 30A(4).”.

(a) Regulation 2 is also amended by paragraph 32 of this Schedule.

New regulation 30A

17. After regulation 30 insert—

“Transfer of a capacity agreement

30A.—(1) A capacity agreement may be transferred in accordance with capacity market rules so as to apply in respect of a CMU—

- (a) for the entire delivery year, or period of delivery years, for which the capacity agreement has effect; or
- (b) only for a specified number of calendar days in such a delivery year (“the transfer period”).

(2) A transfer under paragraph (1) may be made—

- (a) in respect of the entire capacity obligation comprised in the capacity agreement; or
- (b) in respect of a part only of that obligation.

(3) For the purposes of this regulation, a “transferred part” comprises the rights and obligations accruing to the transferee in respect of a CMU where the capacity agreement (“the related agreement”) is transferred under paragraph (1)(b) or (2)(b).

(4) A transferred part may be terminated, in accordance with capacity market rules, so as to extinguish the rights and obligations accruing to the transferee.

(5) But a termination of the transferred part does not—

- (a) in itself amount to the termination of the related agreement; or
- (b) affect any rights and obligations accruing—
 - (i) in a part of a delivery year that is not included in the transfer period; or
 - (ii) in relation to any part of the capacity obligation that is not transferred.

(6) A termination of the related agreement also extinguishes the rights and obligations accruing in respect of any transferred part.

(7) This regulation applies to the further transfer of a transferred part as it applies to a transfer of a capacity agreement.”.

Regulation 32 (termination fee rates)

18. After regulation 32(4) insert—

“(5) This regulation applies to the termination of a transferred part as it applies to the termination of a capacity agreement; but in that case, the reference in paragraph (4) to the de-rated capacity or DSR bid capacity for which the capacity agreement is issued is to be construed as a reference to the capacity obligation comprised in the transferred part.”.

Regulation 39 (determination of adjusted load-following capacity obligation etc.)

19. In regulation 39(5)(a)—

- (a) in the definition of “volume reallocation”, omit both occurrences of “capacity committed”; and
- (b) in the definition of “volume reallocation window”, for “capacity providers” substitute “persons qualified to do so”.

Regulation 41 (capacity provider penalty charges)

20. In regulation 41(3)(a) and (b), for “SPPSA_{im}” substitute “MPSA_{im}”.

(a) Regulation 39 is also amended by paragraph 37 of this Schedule.

Regulation 42 (over-delivery payments)

21.—(1) For regulation 42(1) and (2) substitute—

“(1) A person (“P”) is entitled to receive from the Settlement Body an over-delivery payment in respect of a delivery year (“year X”) if—

- (a) any capacity committed CMU (“CMU i”) for which P was the capacity provider over-delivered in any relevant settlement period in year X; or
- (b) P has made a qualifying delivery in any such settlement period.

(2) For the purposes of this regulation—

- (a) CMU i over-delivers in a relevant settlement period j if AE_{ij} is greater than $ALFCO_{ij}$;
- (b) P makes a qualifying delivery in a relevant settlement period j if—
 - (i) P was a qualified person (but not a capacity provider) in respect of a CMU (“CMU i”) during that period, and
 - (ii) in that period, AE_{ij} is greater than zero;
- (c) a “qualified person” is a person who—
 - (i) has registered with the delivery body under capacity market rules in respect of a CMU for the purpose of participating in volume reallocation, and
 - (ii) is an “acceptable transferee” within the meaning of capacity market rules; and
- (d) “volume reallocation” has the meaning given in regulation 39(5).”.

(2) In regulation 42(3)—

- (a) for “26th” substitute “28th”;
- (b) in sub-paragraph (a), for “over-delivery payment payable to each capacity provider” substitute “payments payable to each person under this regulation”; and
- (c) in sub-paragraph (b), for “capacity provider which is entitled to such an over-delivery payment” substitute “person who is entitled to such a payment”.

(3) For regulation 42(4) substitute—

“(4) The amount payable to P under paragraph (3)(a) is the sum of—

- (a) $TODP_{ix}$, as calculated in accordance with paragraph 7 of Schedule 1, for each CMU—
 - (i) for which P was registered on the capacity market register as the capacity provider for the whole of year X, or
 - (ii) in respect of which P was a qualified person for the whole of year X; and
- (b) P’s proportion of $TODP_{ix}$, as calculated in accordance with paragraphs 7 and 8 of Schedule 1, for each CMU—
 - (i) for which P was registered on the capacity market register as the capacity provider for part of year X, or
 - (ii) in respect of which P was a qualified person for part of year X.”.

Regulation 43 (termination fees)

22.—(1) After regulation 43(1) insert—

“(1A) A termination fee is payable in accordance with paragraph (1) if the capacity agreement is terminated in accordance with capacity market rules, notwithstanding that the termination does not take effect until after the expiry of the delivery year, or period of delivery years, to which the capacity agreement relates (“the relevant period”).”.

(2) After regulation 43(5) insert—

“(6) In this regulation, references to the termination of a capacity agreement include references to the termination of a transferred part; and for that purpose—

- (a) the reference to the relevant period in paragraph (1A) is to be construed as a reference to the transfer period as defined in regulation 30A(1)(b); and
- (b) “CO” in paragraph (5) means the capacity obligation in MW comprised in that transferred part as specified in the capacity market register.”.

Regulation 43B (repayment of capacity payments on termination)

23. After regulation 43B(4)(a) insert—

“(5) This regulation applies to the termination of a transferred part as it applies to the termination of a capacity agreement.”

Regulation 68 (delivery body reviewable decisions)

24.—(1) In the table in regulation 68(2), in the last entry in the first column, after “capacity agreement” insert “or a transferred part”.

(2) In regulation 68(3), for “has the meaning” substitute “, “termination notice” and “notice of intention to terminate” have the meaning”.

Amendments to Schedule 1

25.—(1) Schedule 1 (settlement calculations) is amended as follows.

(2) In the following provisions of this Part, any reference to a numbered paragraph is to the paragraph so numbered in that Schedule.

Paragraph 1 (interpretation)

26.—(1) For paragraph 1(1) substitute—

“(1) In this Schedule—

“ AE_{ij} ”, “ $ALFCO_{ij}$ ” and “ E_{ij} ”, in relation to a capacity committed CMU i and a relevant settlement period j , are to be interpreted in accordance with regulation 39 and mean the amounts determined in accordance with that regulation;

“ CO_{ix} ” means the capacity obligation in MW, as recorded on the capacity market register, awarded in respect of CMU i for year X in a capacity auction;

“ ICO_{ij} ” means a whole or part of a capacity obligation in MW, as recorded on the capacity market register, which applies to CMU i in settlement period j ;

“ WF_{mx} ” means the weighting factor determined under paragraph 2 for month M in capacity year X .”.

Paragraph 3 (calculations to be made annually)

27.—(1) In paragraph 3(1)(a), for “CMU i for year X ” substitute “ CO_{ix} ”.

(2) For the formula in paragraph 3(3) substitute the following formula—

$$MCP_{im} = WF_{mx} \left(ACP_{ix} + \sum_N tACP_N \times \frac{DT_{mN}}{D_m} \right).$$

(3) After paragraph 3(3) insert—

“(3A) For the purpose of sub-paragraph (3)—

(a) Regulation 43B is also amended by paragraph 7 of this Schedule.

“tACP_N” is any amount ACP_{zx}, or proportionate part of such amount, corresponding to a whole or part of the capacity obligation CO_{zx} awarded in respect of CMU z that has been transferred so as to—

- (a) apply to CMU i for all or part of month M, or
- (b) cease to apply to CMU i for all or part of month M (in which case tACP_N is to be expressed as a negative number);

“DT_{mN}” means the number of days in month M for which that capacity obligation has been transferred;

“D_m” means the total number of days in month M.”.

(4) In paragraph 3(4), for “CMU i for year X” substitute “CO_{ix}”.

(5) In paragraph 3(7)—

- (a) in the definition of “CCP_i”, for “CMU i” substitute “CO_{ix}”;
- (b) omit the definition of “CO_{ix}”;
- (c) in the definition of “CPI_{base}”, for “determined under” substitute “referred to in”;
- (d) in the definition of “relevant capacity auction”, for “the capacity obligation applying to CMU i” substitute “CO_{ix}”; and
- (e) omit the definition of “WF_{mx}”.

Paragraph 5 (calculation of settlement period penalty)

28.—(1) In paragraph 5(2), for “PR_{ix}” substitute “PR_{ij}”.

(2) After paragraph 5(2) insert—

“(2A) For the purpose of sub-paragraph (2), “PR_{ij}” is the penalty rate in pounds per MWh applying to CMU i in respect of settlement period j, and is to be calculated in accordance with the formula—

$$PR_{ij} = \frac{\sum_N (PR_N \times ICO_{ijN})}{\sum_N ICO_{ijN}},$$

where—

“ICO_{ijN}” is the whole or a part of any capacity obligation CO_{zx} applying to CMU i in settlement period j, and

“PR_N” is the penalty rate applying to that capacity obligation.

(3) For paragraph 5(3) substitute—

“(3) For the purpose of sub-paragraph (2A), PR_N is to be calculated in accordance with the formula—

$$PR_N = PE_{zx} \times \left(\frac{1}{24} \right).$$

(4) In paragraph 5(4), for the definition of “PE_{ix}” substitute—

““PE_{zx}” means the price in pounds per MW determined for CO_{zx} in accordance with paragraph 3(4) to (6)”.

Paragraph 6 (calculation of monthly penalty charge)

29.—(1) For paragraph 6(1) and (2) substitute—

“(1) The Settlement Body must, after the end of each month of a delivery year (“year X”) in which one or more relevant settlement periods occur (“month M”), calculate for each relevant CMU (“CMU i”)—

(a) for each relevant settlement period in month M (“settlement period j”), the settlement period penalty settlement amount for CMU i in settlement period j (“SPPSA_{ij}”); and

(b) the monthly penalty charge to be paid in respect of month M (“MPSA_{im}”).

(2) For the purpose of sub-paragraph (1)—

(a) the Settlement Body must perform both of the calculations in sub-paragraphs (3) and (5), and (subject to sub-paragraphs (2A) and (2B)) SPPSA_{ij} is equal to whichever is the lesser of the two amounts so calculated; and

(b) MPSA_{im} is equal to the highest value of SPPSA_{ij} in month M.

(2A) SPPSA_{ij} is equal to the amount calculated under sub-paragraph (3) unless—

(a) a capacity provider penalty charge has been incurred in respect of CMU i in at least 48 relevant settlement periods, and

(b) those periods together comprise at least 8 relevant settlement periods in each of at least 6 months in delivery year X.

(2B) Where the calculation in sub-paragraph (5) would give a negative number, the result of the calculation is deemed to be zero.”.

(2) In paragraph 6(3), for “MPC_{im}” substitute “MPC_{ij}”.

(3) For paragraph 6(4) substitute—

“(4) For the purpose of the first calculation, MPC_{ij} is the monthly penalty cap in pounds applying to CMU i in respect of relevant settlement period j in month M, and is to be calculated in accordance with the formula—

$$MPC_{ij} = RMCP_{ij} + \sum_{k=1}^{j-1} ASPPA'_{ik} ,$$

where—

$$RMCP_{ij} = (ACP_{ix} \times WF_{mx} \times F_i) + \sum_N (tACP_N \times WF_{mx} \times F_z), \text{ and}$$

$$“ \sum_{k=1}^{j-1} ASPPA'_{ik} ”$$

means the sum of all apportioned settlement period penalty amounts, as determined in accordance with paragraph 6A, for each obligation ICO_{ik} applying to CMU i in any relevant settlement period k in month M that precedes period j (but excluding any obligation applying in such a settlement period which also applies to CMU i in settlement period j); or, where j is the first such period, zero.”.

(4) In paragraph 6(5), for the formula substitute the following formula—

$$APC_{ij} = \sum_{k=1}^{m-1} MPSA_{ik} .$$

(5) For paragraph 6(5A)(a) substitute—

“(5A) For the purpose of the second calculation, APC_{ij} is the annual penalty cap in pounds applying to CMU i in respect of relevant settlement period j, and is to be calculated in accordance with the formula—

$$APC_{ij} = ACP_{ix} \times G_i + \sum_N \left(tACP_N \times G_z \times WF_{mx} \times \frac{DT_{mN}}{D_m} \right),$$

(a) Sub-paragraph (5A) was inserted by S.I. 201/33454.

where “DT_{mN}” and “D_m” have the meaning given in paragraph 3(3A)”.

(6) In paragraph 6(6)—

(a) for the definitions of “F” and “G” substitute—

““F_y” (for any value y) means the percentage stated on the capacity market register under regulation 31(2)(f), at the date of issue of the capacity agreement, as the monthly penalty cap percentage for the capacity obligation CO_{yx} awarded in respect of CMU y for year X;

““G_y” (for any value y) means the percentage stated on the capacity market register under regulation 31(2)(f), at the date of issue of the capacity agreement, as the annual penalty cap percentage for the capacity obligation CO_{yx} awarded in respect of CMU y for year X;”;

(b) in the definitions of “MaxSP_i” and “SP_i”, after “paragraph 5” insert “up to and including the settlement period for which the calculation is being made”;

(c) omit the definition of “∑SPPSA_{i(m-1)}” and insert after the definition of “MCP_{im}”—

$$““\sum_{k=1}^{m-1} MP SA_{ik}””$$

means the sum of the monthly penalty charges paid or payable in respect of CMU i for each of the months of year X preceding month M (or where M is the first such month, zero)”; and

(d) insert at the end—

““tACP_N” has the meaning given in paragraph 3(3A)”.

New paragraph 6A

30. After paragraph 6 insert—

“Capacity provider penalty charges: apportionment

6A.—(1) Immediately after calculating SPPSA_{ij} for a relevant CMU i and any relevant settlement period j in month M, under paragraph 6, the settlement body must also calculate—

$$SPPSA_{ij} - SPPSA_{i(j-1)},$$

where “SPPSA_{i(j-1)}” is the settlement period penalty settlement amount for CMU i in the relevant settlement period preceding period j (or, where j is the first such period in month M, zero).

(2) For each relevant settlement period j in month M, the settlement body must then determine for each obligation ICO_{ij} applying to CMU i in that settlement period (“ICO_{ijN}”)—

(a) the monthly penalty cap applying in respect of ICO_{ijN} (“MPC_{ijN}”); and

(b) the apportioned settlement period penalty amount for ICO_{ijN} (“ASPPA_{ijN}”) as determined in accordance with sub-paragraph (5).

(4) For the purpose of sub-paragraph (2)(a), MPC_{ijN} is to be determined in accordance with the formula—

$$MPC_{ijN} = ICO_{ijN} \times PE_{zx} \times WF_{mx} \times F_z - \sum_{k=1}^{j-1} ASPPA_{ikN},$$

where—

ICO_{ijN} is the whole or a part of the capacity obligation CO_{zx} awarded in respect of CMU z for year X,

“PE_{zx}” has the corresponding meaning given in paragraph 3,
“F_z” is to be interpreted in accordance with paragraph 6(6), and

$$\text{“} \sum_{k=1}^{j-1} ASPPA_{ikN} \text{”}$$

means the sum of all apportioned settlement period penalty amounts calculated for ICO_{ijN} when that obligation applies to CMU i in any relevant settlement period in month M that precedes period j (or, where j is the first such period, zero).

(5) For the purpose of sub-paragraph (2)(b) ASPPA_{ijN} is to be determined as follows (where D is the result of the calculation referred to in sub-paragraph (1))—

- (a) for each obligation ICO_{ijN} referred to in sub-paragraph (2), calculate PR_N in accordance with paragraph 5(3), and arrange those obligations in a series (beginning with ICO_{ij1}) as described in paragraph (b);
- (b) each such obligation ICO_{ijN} is ranked according to the magnitude of its corresponding PR_N (in descending order with the highest corresponding penalty rate first), except that where the same penalty rate corresponds to more than one such obligation those obligations are ranked between themselves—
 - (i) according to the date on which the obligation was awarded in respect of CMU i, or transferred so as to apply to CMU i (with the latest such date first), and
 - (ii) for obligations awarded or transferred on the same date, according to the time at which a request to transfer the obligation was received by the Delivery Body (with the latest such time first), and with an awarded obligation ranking prior to any transferred obligation;
- (c) then for any such ICO_{ijN}—
 - (i) if $\sum_{k=1}^N MPC_{ijk} \leq D$, $ASPPA_{ijN} = MPC_{ijN}$;
 - (ii) if $\sum_{k=1}^{N-1} MPC_{ijk} < D$ and $\sum_{k=1}^N MPC_{ijk} > D$, $ASPPA_{ijN} = D - \sum_{k=1}^{N-1} MPC_{ijk}$; and
 - (iii) otherwise, $ASPPA_{ijN} = 0$.”.

Paragraph 7 (over-delivery payments)

31.—(1) In paragraph 7(1)(a), for the words from “relevant” to the end substitute “each relevant settlement period in year X (“ODR_{ij}”)”.

(2) In paragraph 7(2) and (3), for “ODR_{ix}” (wherever it occurs) substitute “ODR_{ij}”.

(3) In paragraph 7(2)—

- (a) insert at the beginning “Subject to sub-paragraph (2A),”; and
- (b) for “PR_{ix}” substitute “PR_{ij}”.

(4) After that paragraph insert—

“(2A) For the purposes of the calculation in paragraph (2), where the over-delivery payment is made to a qualified person who is not a capacity provider in settlement period j, the value of PR_{ij} is deemed to be equal to the penalty rate applying to a capacity obligation awarded in the T-4 auction for year X and calculated in accordance with paragraph 5.”.

(5) In paragraph 7(5)—

- (a) in the definition of “PR_{ix}”—
 - (i) for “PR_{ix}” substitute “PR_{ij}”; and
 - (ii) for “year X” substitute “settlement period j”; and
- (b) after that definition insert—

““qualified person” has the meaning given in regulation 42(2);”.

PART 4

Miscellaneous and minor amendments

Regulation 2 (interpretation)

32. In regulation 2(4), after “by a working day” insert “, unless specified otherwise”.

Regulation 6 (reliability standard)

33. In regulation 6(5)(a), after “(4)(a)” omit “it”.

Regulation 7 (annual electricity capacity report)

34. In regulation 7(a)—

(a) omit paragraph (4)(c)(i) and (ii); and

(b) after paragraph (4) insert—

“(5) An electricity capacity report must include the de-rating factors that the Delivery Body estimates will apply to—

(a) generating CMUs in each generating technology class; and

(b) demand side response CMUs;

for the purposes of capacity auctions held in the following auction window.”.

Regulation 13 (adjustment of auction parameters following prequalification)

35. In regulation 13(2), for “5” substitute “10”.

Regulation 15 (general eligibility criteria)

36. In regulation 15(5), for “an” substitute “a”.

Regulation 39 (determination of adjusted load-following capacity obligation, net output and adjusted net output)

37. In regulation 39, after the definition of “capacity market volume reallocation notifications” insert—

““net output”, in relation to a demand side response CMU, means DSR volume (as defined in capacity market rules);”.

Regulation 40 (capacity payments)

38. In regulation 40—

(a) in paragraph (4)(a), for “26th” substitute “28th”; and

(b) in paragraph (5), for “25th” substitute “26th”.

Regulation 45 (payment and non-payment, general)

39.—(1) In regulation 45—

(a) Paragraphs (2) and (4) of regulation 7 were amended by S.I. 2015/875.

- (a) in paragraph (1), in the definition of “in default”, before “the payment due date” insert “the end of”; and
- (b) omit paragraphs (2) and (3).

Regulation 46 (payment of invoices and accruing interest)

40. In regulation 46(1), before “the payment due date” insert “the end of”.

Regulation 47 (the non-payment register)

41. In regulation 47(1), before “the payment due date” insert “the end of”.

Regulation 48 (payment of credit notes)

42. In regulation 48(a) and (b), for “the 29th” substitute “the end of the 33rd”.

Regulation 50 (reducing capacity payments: failure to demonstrate satisfactory performance)

43. In regulation 50—

- (a) in paragraph (4)(a), after “year X” insert “less the total amount of any capacity provider penalty charges that C has paid in respect of CMU i and year X”; and
- (b) in paragraph (4)(b), for “of those capacity payments” substitute “due under sub-paragraph (a)”.

SCHEDULE 2

Regulation 3

Amendments to the Electricity Capacity (Supplier Payment etc.) Regulations 2014

Regulation 2 (interpretation)

44. In regulation 2—

- (a) in paragraph (1) in the definition of “late payment interest”, omit “, unless specified otherwise,”; and
- (b) in paragraph (8), after “by a working day” insert “, unless specified otherwise”.

Regulation 7 (capacity market supplier charge: mutualisation)

45. Omit regulation 7(8).

Regulation 8 (penalty residual supplier amount)

46. In regulation 8(3), for “26th” substitute “28th”.

Regulation 11 (payment of invoices and accruing interest)

47. In regulation 11—

- (a) in paragraph(1), for “5.00 p.m. on” substitute “the end of”; and
- (b) omit paragraph(2).

Regulation 12 (non-payment of invoices: draw down of credit cover)

48. In regulation 12(2)(a), before “the 9th working day” insert “the end of”.

Regulation 13 (payment of credit notes)

49. In regulation 13(a)—

- (a) after “than” insert “the end of”; and
- (b) for “29th” substitute “33rd”.

Regulation 22 (reconciliation invoices and payment)

50.—(1) In regulation 22(2), for “T-16” substitute “the end of T-14”.

Regulation 23 (draw down of credit cover)

51. In regulation 23(1), for “by the date required under” substitute “in accordance with”.

Regulation 25 (reconciliation credit notes and payment)

52. In regulation 25, after “than” insert “the end of”.

Regulation 30 (the credit default register)

53.—(1) For regulation 30(1) substitute—

“(1) The Settlement Body must maintain a register (“the credit default register”) which includes the entries on the register required by regulations 28(3)(a) and 29(2), including—

- (a) the month to which an entry on the register relates; and
- (b) whether or not the electricity supplier disputes that entry.”.

(2) In regulation 30(3)(d), for “credit cover was drawn down” substitute “entry was made”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

[...].