



Department for Business, Energy & Industrial Strategy

Patrick Bibby
Low Carbon Contracts Company
10 South Colonnade
Canary Wharf
London
E14 4PU

14 December 2022

Dear Patrick,

As you will be aware the Electricity Capacity Regulations 2014 (“the Regulations”) set out that the Electricity Settlement Company (ESC) is responsible for determining the amount payable and issuing penalties under the Capacity Market (CM). Penalties are applied to Capacity Providers that do not operate when obliged to in a System Stress Event (SSE) as defined in the Capacity Market Rules.

Regulation 41(2) requires that the Settlement Body must by no later than the 21st working day after the end of the month determine the amount payable and issue each liable Capacity Provider with the penalty charges invoice using the formula as set out in Regulation 41(3).

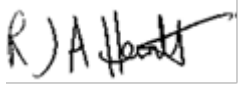
The process for determining the relevant penalties utilise data flows which are provided by the Electricity System Operator (ESO) under the obligations set out in Rule 8.4.5 in a prescribed timeframe. The Department understands on the basis of advice received from ESC that were a SSE to occur in the last week of the month, it is highly likely that these deadlines could not be met as the data may not be available. This is due to data needing to be validated by ESO and Capacity Providers. Therefore, if ESC were to issue penalty notices in such circumstances without validation, they are likely to be based on incomplete data which is likely to compromise their accuracy.

The ESC should, of course, continue to use best endeavours to comply its obligations under the Regulations. However, the Department recognises the dependency of the penalties process on the provision of relevant data, and in our view it is essential that the ESC and market participants are confident that any penalty notices issued are as accurate as possible based on the best information available, potentially at the expense of a small delay in issuing notices. We would expect all penalties to be issued within 35 working days after the end of the month in respect of which the penalties apply.

The Department requests that ESC provides prior notice and expected timelines to the Department, ESO and industry if it anticipates a delay in issuing penalty notices and to demonstrate that the Low Carbon Contracts Company is making every effort to carry out their obligations under Regulation 41 as quickly as possible – while maintaining accuracy.

We will continue to work with you and ESO to resolve the issue either through a technical or regulatory solution to ensure you can continue to support the proper functioning of the Capacity Market.

Kind Regards

A handwritten signature in black ink, appearing to read 'R) A Hewitt', enclosed in a thin black rectangular border.

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Deputy Director

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