

*Draft Regulations laid before Parliament under section 40(5) of the Energy Act 2013, for approval
by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

ELECTRICITY

**The Electricity Capacity (Supplier
Payment etc.) Regulations 2014**

*Made - - - - 2014
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⁽¹⁾ 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 to 33, 36 and 40(1) of the Energy Act 2013, makes the following Regulations:

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Electricity Capacity (Supplier Payment etc.) Regulations 2014.

(2) These Regulations come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Energy Act 2013;

- “EA 1989” means the Electricity Act 1989⁽²⁾;
- “the Principal Regulations” means the Electricity Capacity Regulations 2014⁽³⁾;
- “capacity market stage 2 credit default” has the meaning given by paragraph (2);
- “capacity market supplier charge” means the charge payable by electricity suppliers to the Settlement Body under regulation 6(1);
- “credit cover” has the meaning given in regulation 53(3) of the Principal Regulations;
- “credit default register” means the register maintained by the Settlement Body under regulation 30;
- “creditor” means an electricity supplier who is entitled to receive a payment from the Settlement Body;
- “draw down” has the meaning given in regulation 53(3) of the Principal Regulations;
- “electricity supplier” means—
- (a) a person supplying electricity to premises in Great Britain under a supply licence; or
 - (b) a person who has supplied electricity to premises in Great Britain under a supply licence and who, by virtue of regulation 16, is liable to make or entitled to receive a payment following the termination of that supply licence;
- “financial year” means a period of one year commencing with 1st April;
- “invoiced amount” means the total amount payable by a payer as stated in an invoice issued to that payer under regulation 6, 9, 20 or 21;
- “late payment interest”, unless specified otherwise, has the meaning given in regulation 11(3);
- “monthly capacity market supplier charge” means the charge payable by electricity suppliers to the Settlement Body under regulation 6(3) or (4);
- “mutualisation credit” has the meaning given in regulation 7(6);
- “net demand” has the meaning given by paragraphs (3) and (4);
- “payer” means an electricity supplier to whom an invoice is issued under regulation 6, 9, 20 or 21;
- “payment due date”, in relation to an invoiced amount, means the day specified in the invoice in accordance with regulation 5(2) as the day by which it is to be paid;
- “penalty residual supplier amount” has the meaning given in regulation 8(1);
- “period of high demand” means 4 p.m. to 7 p.m. on any working day in November, December, January or February;
- “reconciliation payment” means a payment under Part 5;
- “reconciliation run” means the process of recalculating and redetermining the amounts of payments due to or from electricity suppliers set out in Part 5;
- “relevant financial year” means a financial year commencing in 2015 or in any subsequent year;
- “settlement costs” means any costs incurred by the Settlement Body in connection with the performance of any function conferred on it by these Regulations, the Principal Regulations or capacity market rules, and includes the cost of payments made by the Settlement Body to any person who provides services to it in connection with the performance of its functions;
- “settlement costs levy” means the levy payable by electricity suppliers to the Settlement Body under regulation 9 to meet its settlement costs;

(2) 1989 c.29.

(3) S.I. 2014/2043.

“supplier credit cover” means credit cover provided, or required to be provided, by an electricity supplier under regulation 28;

“supply”, and cognate terms, are to be interpreted in accordance with the meaning given to “supply” in section 4(4) of EA 1989(4);

“supply licence” means a licence granted or treated as granted under section 6(1)(d) of EA 1989(5).

(2) For the purposes of these Regulations an electricity supplier is in capacity market stage 2 credit default, in relation to a month of a delivery year, if an entry in respect of that electricity supplier and that month has been made on the credit default register under regulation 29(2).

(3) In these Regulations “net demand”, in relation to an electricity supplier (“S”), means the difference (expressed in MWh) between—

- (a) the amount of electricity supplied by S to premises in Great Britain, and
- (b) the amount of generated electricity for which S is responsible,

except that where that difference is a negative amount the net demand is zero.

(4) For the purposes of paragraph (3), S is responsible for an amount of generated electricity if—

- (a) S is responsible for the export of that electricity, for the purposes of Section K of the Balancing and Settlement Code as it was in force on 8th September 2014, by virtue of paragraph 1.2.2(a)(ii) of that Section (Export from Exemptable Generating Plant); and
- (b) the electricity so exported is generated by a plant that is not directly connected to the GB transmission system.

(5) In these Regulations, the following expressions have the meanings given in regulation 2(1) of the Principal Regulations—

“the Balancing and Settlement Code”;

“capacity agreement”;

“capacity committed CMU”;

“capacity payment”;

“capacity provider penalty charge”;

“capacity year”;

“delivery year”;

“GB transmission system”;

“MWh”;

“Settlement Body”;

“working day”.

(6) Any reference in these Regulations to an amount to be paid or provided is a reference to an amount in pounds sterling and rounded to the nearest whole penny with any half of a penny being rounded upwards.

(7) For the purposes of these Regulations, an invoice, credit note or other document is issued or given when it is given in accordance with the provisions of Schedule 2 to the Principal Regulations.

(8) Where anything is required or permitted by these Regulations to be done on or by a working day—

(4) The definition of “supply” in section 4(4) of EA 1989 was substituted by section 179(1) of the Energy Act 2004 (c.20). Other amendments have been made to section 4 which are not relevant.

(5) Section 6(1)(d) of EA 1989 was substituted by section 30 of the Utilities Act 2000 (c.27). Other amendments have been made to section 6 which are not relevant.

- (a) such thing must be done by 5.00 p.m. on that day; and
- (b) if the thing is done—
 - (i) after 5.00 p.m. on a working day; or
 - (ii) on a day which is not a working day,
it is to be treated as having been done on the next working day.

PART 2

General

The supplier settlement calculations

3.—(1) The Settlement Body must make the calculations set out in Parts 3 and 5 and Schedule 1 (“the supplier settlement calculations”)—

- (a) by such date as may be specified in those provisions or, where no date is specified, by such time as is necessary to enable the Settlement Body to comply with these Regulations; and
- (b) so far as possible, using the required data.

(2) Where, by the time a supplier settlement calculation is to be made, the Settlement Body has not been provided with any required data which is necessary for that calculation, the calculation must be made using the best data available to the Settlement Body.

(3) In this regulation, “required data” means data which is required to be provided to the Settlement Body under these Regulations, the Principal Regulations or capacity market rules.

Forecast of net demand

4.—(1) Paragraph (2) applies to a person (“S”) who, on the 1st June before the start of a capacity year (“year X”), is an electricity supplier.

- (2) S must, by no later than the 1st June before the start of year X—
 - (a) forecast its total net demand during periods of high demand in year X; and
 - (b) provide the forecast to the Settlement Body.

Invoices and credit notes etc: general

5.—(1) An invoice or credit note issued by the Settlement Body must set out the determination of the amount which the recipient is liable to pay, or is entitled to receive, in such detail as will readily show the recipient how the determination has been made.

(2) An invoice must specify the day by which it is to be paid, which must be not less than 3 working days after the date on which the invoice is issued.

(3) Where an electricity supplier has provided the Settlement Body with an address for the electronic service of invoices and credit notes, the Settlement Body must in addition send an invoice or credit note electronically to the address provided.

(4) Any invoice, credit note or other document issued or given under these Regulations must be in writing and dated.

PART 3

Calculations, determinations and invoicing

Capacity market supplier charge

6.—(1) An electricity supplier (“S”) must pay a capacity market supplier charge to the Settlement Body in respect of a delivery year (“year X”), if S supplies electricity to premises in Great Britain in the period commencing with 1st November and ending with the last day of February in year X, or any part of that period.

(2) The capacity market supplier charge is a charge to meet the cost of making capacity payments to capacity providers under the Principal Regulations, calculated in accordance with paragraphs 2 and 3 of Schedule 1.

(3) Where, under regulation 4, S provided to the Settlement Body a forecast of net demand for year X (other than a forecast of zero net demand) S must make a monthly payment to the Settlement Body in each month of year X on account of its liability under paragraph (1) (a “monthly capacity market supplier charge”).

(4) Where, in respect of year X—

- (a) S supplies electricity as mentioned in paragraph (1), but
- (b) S did not provide to the Settlement Body a forecast as mentioned in paragraph (3) because it was not an electricity supplier on the 1st June before the start of year X,

S must pay a monthly capacity market supplier charge to the Settlement Body in each month of year X for which the calculation of such charges is carried out using actual supplier shares.

(5) The Settlement Body must, by no later than the first working day of each month of year X (“month M”)—

- (a) determine the amount of the monthly capacity market supplier charge payable by each electricity supplier for month M; and
- (b) issue to each electricity supplier an invoice for the amount determined for that supplier under sub-paragraph (a) and (where necessary) under regulation 7(3).

(6) The amount payable by S under paragraph (5)(a) is the amount of $MCMSC_{sm}$ calculated for S under paragraph 4 of Schedule 1.

(7) If the amount of the capacity market supplier charge payable under paragraph (1) by S for year X is greater or less than the total of the monthly capacity market supplier charges paid by S for each month of year X, the difference is to be calculated and paid as part of the annual reconciliation runs for year X to be carried out under Part 5.

(8) In paragraph (4), “actual supplier shares” means shares calculated under paragraph 3 of Schedule 1.

Capacity market supplier charge: mutualisation

7.—(1) Paragraphs (2) to (4) apply in relation to a month of a delivery year (“month M”) in respect of which an electricity supplier is in capacity market stage 2 credit default (a “defaulting supplier”).

(2) Where this paragraph applies, each electricity supplier who—

- (a) is liable to pay a monthly capacity market supplier charge in respect of month M; and
- (b) is not a defaulting supplier,

must make an additional payment (a “mutualisation payment”) to the Settlement Body in month M.

- (3) The Settlement Body must, by no later than the first working day of month M—
- (a) determine the amount of the mutualisation payment payable by each electricity supplier who is required to make such a payment; and
 - (b) include that amount in the invoice issued to that electricity supplier under regulation 6(5)(b).
- (4) The determination under paragraph (3)(a) must be made in accordance with paragraph 5 of Schedule 1.
- (5) Paragraphs (6) and (7) apply where, in relation to a month in respect of which mutualisation payments have been made (“month M”)—
- (a) the Settlement Body receives payment from a defaulting supplier of—
 - (i) all or part of the monthly capacity market supplier charge invoiced to it; or
 - (ii) late payment interest on such a charge; and
 - (b) as a result, the total amount of—
 - (i) monthly capacity market supplier charges,
 - (ii) late payment interest on such charges, and
 - (iii) mutualisation payments,
 received by the Settlement Body exceeds the total amount of capacity payments payable to capacity providers under regulation 40 of the Principal Regulations.
- (6) The Settlement Body must calculate the amount of that excess (the “surplus”) and each electricity supplier who made a mutualisation payment in respect of month M is entitled to be credited with a share of the surplus (a “mutualisation credit”), such that the surplus is distributed between such electricity suppliers in the same proportions as they made mutualisation payments.
- (7) The Settlement Body must calculate the amount of mutualisation credits to be credited to electricity suppliers under paragraph (6), and credit them with those amounts, as part of the next reconciliation run for month M or for the delivery year which includes month M.
- (8) In paragraph (5), “late payment interest” means interest payable by a capacity provider under regulation 46(2) of the Principal Regulations.

Penalty residual supplier amount

- 8.—**(1) An electricity supplier (“S”) who has paid capacity market supplier charges in respect of a delivery year (“year X”) is, subject to paragraph (2), entitled to receive from the Settlement Body following the end of year X payment of a share of the capacity provider penalty charges collected from capacity providers under regulation 41 of the Principal Regulations in respect of year X (a “penalty residual supplier amount”).
- (2) S is not entitled to receive a penalty residual supplier amount if, in respect of year X—
- (a) no capacity provider penalty charges are collected from capacity providers; or
 - (b) the total amount of over-delivery payments paid to capacity providers under regulation 42 of the Principal Regulations equals the total amount of capacity provider penalty charges collected from capacity providers.
- (3) The Settlement Body must, by no later than the 26th working day after the end of each delivery year—
- (a) determine the penalty residual supplier amount, if any, payable to each electricity supplier in respect of that delivery year; and
 - (b) issue to each electricity supplier—
 - (i) a credit note for the amount determined for that supplier under sub-paragraph (a); or

(ii) if paragraph (2) applies, a notice that no penalty residual supplier amount is payable in respect of year X.

(4) The determination required by paragraph (3)(a) must be made in accordance with paragraph 6 of Schedule 1.

(5) The amounts determined under paragraph (3)(a) are subject to reconciliation under Part 5.

Settlement costs levy

9.—(1) An electricity supplier (“S”) must pay a settlement costs levy to the Settlement Body in respect of a relevant financial year (“year Y”), if S supplies electricity to premises in Great Britain in periods of high demand in year Y.

(2) The total amount to be charged to all electricity suppliers in respect of the settlement costs levy for year Y is £1,374,000.

(3) An electricity supplier who supplied electricity to premises in Great Britain in periods of high demand in the financial year preceding year Y must make a monthly payment to the Settlement Body (a “monthly settlement costs levy payment”) in each month of year Y (“month M”) on account of its liability under paragraph (1).

(4) The Settlement Body must—

(a) before the start of year Y—

(i) calculate for each electricity supplier in accordance with paragraph 7 of Schedule 1 the amount of the monthly settlement costs levy payment to be paid by that electricity supplier in each month of year Y;

(ii) give notice to each electricity supplier of the amount calculated under paragraph (i) for that supplier for each month of year Y; and

(b) by no later than the first working day of month M, issue to each electricity supplier an invoice for the amount determined for it under sub-paragraph (a)(i) for month M.

(5) The Settlement Body must, as soon as reasonably practicable after 16th March in year Y, calculate—

(a) in accordance with paragraph 8 of Schedule 1, the amount of the revised settlement costs levy payment payable by each electricity supplier in respect of month M; and

(b) for each electricity supplier (“S”), the difference between—

(i) the sum of S’s revised monthly settlement costs levy payments for each month of year Y (“TRML”); and

(ii) the sum of the amounts paid by S pursuant to invoices issued under paragraph (4) (b) for each month of year Y (“TPML”).

(6) The Settlement Body must—

(a) if TRML is greater than TPML, issue to S an invoice for the amount of the difference between TRML and TPML;

(b) if TRML is less than TPML, subject to paragraphs (7) and (8), issue to S a credit note for the amount of the difference between TRML and TPML; and

(c) if TRML is equal to TPML, give S a notice that no further payment is due to or from S in respect of settlement costs levy.

(7) Paragraph (8) applies where, by the end of the payment due date for invoices issued under paragraph (6)(a), the total amount received by the Settlement Body from payers in respect of such invoices (“TAR”) is less than the total of the amounts determined under paragraph (6)(b) for all electricity suppliers to whom paragraph (6)(b) applies (“TAP”).

- (8) Where this paragraph applies, the Settlement Body must—
- (a) recalculate the amount due to each creditor under paragraph (6)(b), by reducing each credit payable by the same proportion that TAP bears to TAR; and
 - (b) issue to each creditor a credit note for the amount recalculated under sub-paragraph (a).
- (9) A credit note under paragraph (6)(b) or (8)(b) must be issued as soon as reasonably practicable after the calculation or recalculation has been made under paragraph (5)(b) or (8)(a).

Settlement costs levy refund

- 10.**—(1) The Settlement Body must, after the end of each relevant financial year—
- (a) determine the amount of the settlement costs which it has incurred in respect of that financial year (“SC”); and
 - (b) calculate the total amount (“AR”) of—
 - (i) settlement costs levy payments which it has received in respect of that financial year (not including late payment interest on such payments); and
 - (ii) interest accrued by the Settlement Body in that period on settlement costs levy payments received by it.
- (2) If, in respect of a relevant financial year, AR is greater than SC, each electricity supplier who has paid a settlement costs levy payment is entitled to receive a payment (a “settlement costs levy refund”).
- (3) The Settlement Body must—
- (a) calculate the amount of the refund payable to each electricity supplier in accordance with paragraph 9 of Schedule 1; and
 - (b) issue a credit note to each electricity supplier for the amount calculated for it.
- (4) The Settlement Body must comply with paragraphs (1) to (3) as soon as reasonably practicable after the end of the relevant financial year.

PART 4

Payment of invoices and credit notes

Payment of invoices and accruing interest

- 11.**—(1) A payer must pay an invoiced amount to the Settlement Body by no later than 5.00 p.m. on the payment due date.
- (2) A payment made after 5.00 p.m. is to be treated as having been made on the following day.
- (3) Where a payer has not paid the invoiced amount to the Settlement Body in full as required by paragraph (1), the payer must pay the Settlement Body simple interest at the rate specified in paragraph (5) (“late payment interest”) on the outstanding balance of the invoiced amount from and including the payment due date until (but not including) the date of payment.
- (4) Where a payer disputes an invoiced amount under Chapter 2 of Part 10 of the Principal Regulations—
- (a) if the decision of the Settlement Body under that Part is that the invoiced amount is reduced but not extinguished, late payment interest accrues on the reduced amount from and including the payment due date until (but not including) the date of payment;

(b) if the decision of the Settlement Body under that Part is that the invoiced amount is extinguished, no late payment interest accrues in respect of the invoiced amount.

(5) The rate at which late payment interest is payable is 5 per cent per annum over the Bank of England base rate in force on the 30th June (in respect of interest which starts to run between 1st July and 31st December) or the 31st December (in respect of interest which starts to run between 1st January and 30th June) immediately before the date on which the interest starts to run.

(6) In paragraph (5), “Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets; or
- (b) where an order under section 19 of the Bank of England Act 1998⁽⁶⁾ is in force, any equivalent rate determined by the Treasury under that section.

Non-payment of invoices: draw down of credit cover

12.—(1) Paragraph (2) applies where an electricity supplier (“S”) is in default in respect of an invoiced monthly capacity market supplier charge.

(2) Where this paragraph applies the Settlement Body must—

- (a) give a notice (a “credit default notice”) to S which states that the Settlement Body intends to draw down on S’s supplier credit cover to pay the outstanding invoiced amount and the accruing interest which applies to that amount (“the debt plus interest”) if S does not pay the debt plus interest in full by no later than the 9th working day of the month to which the invoice relates; and
- (b) give the credit default notice by no later than the 7th working day of the month to which the invoice relates.

(3) Where S does not pay the debt plus interest in accordance with the credit default notice, the Settlement Body must draw down on S’s credit cover for the debt plus interest (or so much of it as is covered by the credit cover) by no later than the 11th working day of the month to which the invoice relates.

(4) Where supplier credit cover is drawn down under this regulation, the Settlement Body must treat the amount drawn down as a payment, or part payment, of the debt plus interest.

Payment of credit notes

13. Subject to regulation 14, the Settlement Body must pay the amount due to—

- (a) each electricity supplier issued with a credit note for a penalty residual supplier amount, by no later than the 29th working day after the end of the delivery year to which the payment relates; and
- (b) each electricity supplier issued with a credit note under regulation 9 (settlement costs levy) or regulation 10 (settlement costs levy refund), as soon as reasonably practicable after the credit note is issued.

Withholding credit payments to suppliers

14.—(1) This regulation applies where, at the time when a credit note is issued to an electricity supplier (“S”) under Part 3 or 5, S is in capacity market stage 2 credit default.

(2) The Settlement Body must ensure that—

(6) 1998 c.11.

- (a) the credit is withheld; and
- (b) the credit note states that the payment is to be withheld and states the reason why.

Payment of withheld credit

15.—(1) Paragraphs (2) and (3) apply where a credit is withheld from an electricity supplier (“S”) under regulation 14.

(2) If an invoice is due to be issued to S, the Settlement Body may deduct all or part of the withheld credit from the amount invoiced.

(3) Except where the withheld credit has been deducted in accordance with paragraph (2), the Settlement Body must pay the withheld credit on the next occasion which the Settlement Body considers practicable when—

- (a) credit payments are made under these Regulations; and
- (b) S is not in capacity market stage 2 credit default.

Consequences of termination of licence

16.—(1) This regulation applies if the supply licence of an electricity supplier (“S”) is terminated.

(2) Notwithstanding the termination of S’s supply licence—

- (a) S remains liable to pay any invoices (whether issued before or after the termination of its licence) for amounts payable—
 - (i) under regulation 9, in respect of the financial year in which its supply licence is terminated or any preceding financial year; or
 - (ii) under any other provision of these Regulations, in respect of the delivery year in which its supply licence is terminated or any preceding delivery year;
- (b) S remains liable to provide supplier credit cover under Part 6 in respect of each month of the delivery year in which its supply licence is terminated; and
- (c) S remains entitled, subject to paragraph (3), to receive any payment—
 - (i) under regulation 10, in respect of the financial year in which its supply licence is terminated or any preceding financial year, or
 - (ii) under any other provision of these Regulations, in respect of the delivery year in which its supply licence is terminated or any preceding delivery year,
 to which it would have been entitled if its licence had not been terminated.

(3) Any payment to which S is entitled following the termination of its supply licence must be made in the last scheduled reconciliation run for the delivery year in which its supply licence is terminated.

- (4) In this regulation, references to a licence being terminated include the licence—
 - (a) being revoked by the Authority;
 - (b) being surrendered by the licensee; or
 - (c) expiring by effluxion of time.

PART 5

Reconciliation

General

17. In this Part—

“annual reconciliation run” means a reconciliation run under regulation 21 in respect of payments relating to a delivery year;

“monthly reconciliation run” means a reconciliation run under regulation 20 in respect of payments relating to a month of a delivery year;

“month M” means a month of a delivery year;

“T” has the meaning given in regulation 18(5);

“T-n” means the nth working day before T, where “n” is a whole number.

Reconciliation runs

18.—(1) The Settlement Body must, subject to paragraphs (6) and (7), carry out—

(a) at least 3 monthly reconciliation runs (“scheduled monthly reconciliation runs”) in respect of each month of a delivery year (“month M”), which must be commenced no later than—

(i) 90 working days;

(ii) 160 working days; and

(iii) 295 working days,

after the last day of month M; and

(b) at least 3 annual reconciliation runs (“scheduled annual reconciliation runs”) in respect of a delivery year (“year X”), which must be commenced no later than—

(i) 90 working days;

(ii) 160 working days; and

(iii) 295 working days,

after the last day of year X.

(2) The Settlement Body may also carry out further reconciliation runs (“ad hoc reconciliation runs”) at any time, except that—

(a) no monthly reconciliation run in respect of month M may be commenced more than 28 months after the last day of month M; and

(b) no annual reconciliation run in respect of year X may be commenced more than 28 months after the last day of year X.

(3) The Settlement Body must, before the start of each delivery year (“year X”)—

(a) set a timetable for—

(i) the scheduled monthly reconciliation runs for each month of year X; and

(ii) the scheduled annual reconciliation runs for year X; and

(b) publish the timetable.

(4) The Settlement Body must, before commencing an ad hoc reconciliation run—

(a) set a timetable for the reconciliation run; and

(b) publish the timetable.

(5) A timetable under paragraph (3) or (4) must, in particular, specify in respect of each reconciliation run a date (“T”) by which reconciliation payments due from the Settlement Body to an electricity supplier are to be made.

(6) The Settlement Body is not required—

- (a) to carry out a scheduled reconciliation run, if it does not have any data which could affect any calculations or determinations previously made; or
- (b) to remake any calculation or determination as part of a reconciliation run, if it does not have any data which could affect that calculation or determination as previously made.

(7) The Settlement Body is not required to carry out any monthly reconciliation runs in respect of month M after it has carried out the first annual reconciliation run in respect of the delivery year which includes month M.

Recalculation of payments: general

19. The redeterminations and recalculations required by regulations 20 and 21 must—

- (a) make use of any revised or additional data provided to the Settlement Body under capacity market rules, in place of the data previously used or estimates made to make a calculation or determination; and
- (b) take account of—
 - (i) any decision under Part 10 of the Principal Regulations (dispute resolution and appeals) which affects a calculation or determination previously made by the Settlement Body;
 - (ii) any entitlements to mutualisation credits which have arisen under regulation 7(6) and (7);
 - (iii) any payments made by payers after the payment due date;
 - (iv) any payments made in previous reconciliation runs; and
 - (v) any adjustment to the total amount of capacity payments payable in respect of the delivery year, as a result of a capacity agreement being terminated, or capacity payments being reduced or forfeited, under the Principal Regulations or capacity market rules.

Monthly reconciliation runs: recalculation of payments

20.—(1) By no later than T-21 the Settlement Body must make a redetermination of the amount of the monthly capacity market supplier charge payable by each electricity supplier in respect of month M.

(2) For the purpose of paragraph (1), the Settlement Body must remake the calculations under paragraphs 2 to 4 of Schedule 1.

(3) For each electricity supplier (“S”), the Settlement Body must calculate the difference between—

- (a) the amount of the capacity market supplier charge S has paid in respect of month M before the redetermination under paragraph (1) is made (“SCP”); and
- (b) the amount redetermined for S under paragraph (1) (“SCRDA”).

(4) The Settlement Body must calculate the total amount of reconciliation payments payable by the Settlement Body (“TAP”).

(5) TAP must be calculated as the sum of the differences between SCP and SCRDA for each electricity supplier for which SCRDA is less than SCP.

- (6) The Settlement Body must, subject to paragraph (7)—
- (a) if SCRDA is greater than SCP, issue to S an invoice for the amount of the difference between SCRDA and SCP; and
 - (b) if SCRDA is less than SCP, subject to regulation 24, issue to S a credit note for the amount of the difference between SCRDA and SCP; and
 - (c) if SCRDA is equal to SCP, give S a notice that no reconciliation payment is due to or from S.
- (7) If S is entitled to a mutualisation credit under regulation 7(6) and (7), the Settlement Body must adjust the amount of the invoice or credit note to be issued under paragraph (6) by the amount of that credit.

Annual reconciliation runs: recalculation of payments

21.—(1) By no later than T-21 the Settlement Body must make a redetermination in respect of year X of—

- (a) the capacity market supplier charge payable by each electricity supplier; and
 - (b) the penalty residual supplier amount (if any) payable to each electricity supplier.
- (2) For the purpose of paragraph (1), the Settlement Body must remake the calculations under—
- (a) paragraphs 2 to 6 of Schedule 1; and
 - (b) paragraph 7 of Schedule 1 to the Principal Regulations.
- (3) For each electricity supplier (“S”), the Settlement Body must calculate the amount of the reconciliation payment which, subject to regulation 24, is due to or from S (“RAS”).
- (4) RAS must be calculated in accordance with the formula—
- $$RAS = (ASCRDA - TMSC) + (PRSAR - PRSARDA).$$
- (5) For the purposes of paragraph (4)—
- “ASCRDA” means the amount of the capacity market supplier charge re-determined for S under paragraph (1)(a);
- “PRSAR” means the penalty residual supplier amount which S has received before the re-determination under paragraph (1) is made;
- “PRSARDA” means the amount re-determined for S under paragraph (1)(b);
- “TMSC” means the total amount of monthly capacity market supplier charges paid by S in respect of year X before the re-determination under paragraph (1) is made, adjusted by adding the amounts of any reconciliation payments paid by S and subtracting the amounts of any reconciliation payments for which credit notes have been issued to S pursuant to monthly reconciliation runs for the months of year X.
- (6) The Settlement Body must calculate the total amount of reconciliation payments payable by the Settlement Body (“TAP”).
- (7) TAP must be calculated as the positive amount which corresponds to the sum of RAS for all electricity suppliers for which RAS is a negative amount.
- (8) The Settlement Body must, subject to paragraph (9)—
- (a) if RAS is a positive amount, issue to S an invoice for that amount; and
 - (b) if RAS is a negative amount, subject to regulation 24, issue to S a credit note for the corresponding positive amount; and
 - (c) if RAS is equal to zero, give to S a notice that no reconciliation payment is due to or from S.

(9) If S is entitled to a mutualisation credit under regulation 7(6) and (7), the Settlement Body must adjust the amount of the invoice or credit note to be issued under paragraph (7) by the amount of that credit.

Reconciliation invoices and payment

22.—(1) The Settlement Body must issue each invoice under regulation 20(6)(a) or 21(8)(a) to the payer by no later than T-19.

(2) A payer must pay the amount invoiced by no later than T-16.

Draw down of credit cover

23.—(1) Paragraph (2) applies where an electricity supplier (“S”) does not pay an invoiced amount by the date required under regulation 22(2).

(2) Where this paragraph applies, the Settlement Body must by T-9 draw down on any existing credit cover of S for the amount due.

(3) In paragraph (2), “existing credit cover” means the supplier credit cover (if any) of S which applies at the time the draw down is made.

Recalculation of credit amounts

24.—(1) Paragraph (2) applies where by T-7 the total amount received (“TAR”) by the Settlement Body from payers (including by draw down of supplier credit cover) in respect of invoices issued under regulation 22 for a reconciliation run is less than TAP as calculated under regulation 20(5) or 21(7) (as appropriate to the reconciliation run being carried out).

(2) Where this paragraph applies, the Settlement Body must—

- (a) recalculate the amounts due to each creditor as calculated under regulation 20 or 21 before making any adjustments under regulation 20(7) or 21(9), by reducing each credit payable by the same proportion that TAP bears to TAR; and
- (b) make any adjustments under regulation 20(7) or 21(9) in respect of mutualisation credits to the amount recalculated under sub-paragraph (a).

(3) The Settlement Body must issue to each creditor a credit note for the amount recalculated under paragraph (2).

Reconciliation credit notes and payment

25. The Settlement Body must, subject to regulation 14, pay the amount shown in a credit note issued to an electricity supplier under regulation 20, 21 or 24 by no later than T.

PART 6

Supplier credit cover

Application of Principal Regulations and interpretation

26.—(1) Chapter 1 of Part 7 of the Principal Regulations (credit cover: general) applies in relation to the provision of supplier credit cover under this Part, except that—

(a) in regulation 53(3)—

- (i) the definition of “credit obligation period” has effect as if the words “, under regulation 60,” were omitted;

- (ii) the definition of “the required amount” has effect as if, for the words “in accordance with regulation 59(1) or, if applicable, regulation 60(2)”, there was substituted “in accordance with Part 6 of the Supplier Payment Regulations”;
 - (b) regulations 55(3) and 56(2) do not apply; and
 - (c) regulation 58(1)(a) applies as if the words “, under regulation 60,” were omitted.
- (2) In this Part—
- “month M” means a month of a delivery year; and
 - “S” means an electricity supplier who is required to provide supplier credit cover.

Calculation of supplier credit cover

27.—(1) The Settlement Body must, by no later than 2 months before the commencement of a delivery year—

- (a) determine for each month of the delivery year the amount of credit cover which each electricity supplier is required to provide for that month;
- (b) provide the determination for each electricity supplier in the form of a schedule (a “schedule of monthly credit cover”); and
- (c) give a notice to each electricity supplier of the schedule of monthly credit cover which applies to it.

(2) The Settlement Body must, as soon as reasonably practicable after making the calculations in paragraph 3 of Schedule 1—

- (a) make, for each month of the delivery year after the month in which those calculations are made, a revised determination of the amount of credit cover which each electricity supplier is required to provide for that month;
- (b) produce a revised schedule of monthly credit cover for each electricity supplier; and
- (c) give a notice to each electricity supplier of the revised schedule of monthly credit cover which applies to it.

(3) The amount of credit cover to be determined under paragraph (1)(a) or (2)(a) for S in respect of month M is 110% of the monthly capacity market supplier charge which the Settlement Body estimates will be payable by S in respect of month M.

Requirement to provide supplier credit cover

28.—(1) By no later than 12 working days before the commencement of month M, each electricity supplier who has been given notice of a schedule of monthly credit cover must provide to the Settlement Body credit cover—

- (a) to at least the amount specified in the schedule for month M (“the required amount”); and
- (b) which the Settlement Body may draw down at any time during the period commencing with the date it is provided and ending with the 11th working day of month M.

(2) By no later than 9 working days before the commencement of month M, the Settlement Body must—

- (a) if S has not provided credit cover, or has provided credit cover for less than the required amount, give S notice of that fact;
- (b) if S has provided credit cover—
 - (i) determine in accordance with regulation 55(1)(a) of the Principal Regulations whether the credit cover is approved; and

(ii) give S the notice required by regulation 55(1)(b) of the Principal Regulations.

(3) Where a notice is given under paragraph (2)(a), or a notice is given under paragraph (2)(b) that credit cover is not approved or approved only in part—

(a) S must be entered by the Settlement Body on the credit default register as being in “capacity market stage 1 credit default” in respect of month M; and

(b) S must provide credit cover (or further credit cover) to the Settlement Body by no later than 5 working days after the notice is given under paragraph (2).

(4) Where credit cover is provided under paragraph (3)(b), the Settlement Body must by no later than 2 working days before the commencement of month M—

(a) determine in accordance with regulation 55(1)(a) of the Principal Regulations whether the credit cover is approved; and

(b) give S the notice required by regulation 55(1)(b) of the Principal Regulations.

Effect of non-compliance

29.—(1) Paragraph (2) applies where—

(a) S has been entered on the credit default register as being in capacity market stage 1 credit default in respect of month M; and

(b) either—

(i) S does not comply with regulation 28(3)(b); or

(ii) the Settlement Body gives S notice under regulation 28(4)(b) that credit cover provided by S under regulation 28(3)(b) is not approved, or approved only in part.

(2) Where this paragraph applies, S must be entered by the Settlement Body on the credit default register as being in “capacity market stage 2 credit default” in respect of month M.

The credit default register

30.—(1) The Settlement Body must maintain a register (“the credit default register”) which includes—

(a) where supplier credit cover has been drawn down under regulation 12 or 23—

(i) the name of the electricity supplier whose credit cover has been drawn down;

(ii) the date of draw down;

(iii) the amount of credit cover drawn down; and

(iv) whether or not the electricity supplier disputes that the credit cover was required to be drawn down; and

(b) the entries on the register required by regulations 28(3)(a) and 29(2), including—

(i) the month to which an entry on the register relates; and

(ii) whether or not the electricity supplier disputes that entry.

(2) The Settlement Body must ensure as far as reasonably practicable that the register is kept up to date.

(3) The Settlement Body must remove an entry from the register as soon as reasonably practicable—

(a) if the Settlement Body makes a decision under Chapter 2 of Part 10 of the Principal Regulations that the entry on the register should not have been made;

- (b) if capacity market stage 1 credit default is entered against S pursuant to regulation 28(3) (a) and supplier credit cover is subsequently approved under regulation 28(4), after that credit cover is approved;
 - (c) if capacity market stage 2 credit default is entered against S pursuant to regulation 29(2) in relation to month M, after the Settlement Body has received payment of the monthly capacity market supplier charge and any late payment interest due from S for month M; or
 - (d) if no previous sub-paragraph applies, after the last annual reconciliation run under Part 5 for the delivery year in respect of which the credit cover was drawn down.
- (4) The Settlement Body must publish the information contained in the credit default register on a website.

Interest

31. The Settlement Body must pay to S any interest received by the Settlement Body on supplier credit cover provided by S and held by the Settlement Body as a cash deposit in a bank account.

PART 7

Miscellaneous

Disputes

32.—(1) Subject to paragraph (2), an electricity supplier may use the procedure in Chapter 2 of Part 10 of the Principal Regulations to dispute any calculation or determination made by the Settlement Body under these Regulations.

(2) The procedure in that Chapter may not be used to dispute the correctness of any data used in making a calculation or determination, which has been provided to the Settlement Body by another person under these Regulations, the Principal Regulations or capacity market rules.

Duties of the Settlement Body to enforce and notify

33.—(1) The Settlement Body must exercise its functions in the manner best calculated to ensure the collection of all amounts which are required to be paid by electricity suppliers under these Regulations.

(2) The Settlement Body must take such steps as it considers necessary to ensure that electricity suppliers are—

- (a) informed of their obligations under these Regulations; and
- (b) provided with information about liabilities which they may incur under these Regulations.

(3) If the Settlement Body writes off any debt owed to it by an electricity supplier, it must give a notice of that fact to any electricity supplier who was required to make a mutualisation payment in relation to that debt.

Documents

34. The provisions of Schedule 2 to the Principal Regulations (documents) apply to a document given, or required to be given, under these Regulations.

Amendments to the Principal Regulations

35. Schedule 2 (amendments to the Principal Regulations) has effect.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK
Statutory Instrument: The Electricity Capacity (Supplier Payment etc.) Regulations 2014 No. 3354

Date

Name
Minister of State
Department of Energy and Climate Change

SCHEDULE 1

Regulations 3, 6 to 10, 20 and 21

Calculation of amounts

Interpretation

1. In this Schedule—

- (a) “WF_{mx}”, in relation to a month of a delivery year, means the weighting factor calculated for that month under paragraph 2 of Schedule 1 to the Principal Regulations; and
- (b) a term preceded by “∑_s” means the sum of the amounts represented by that term for all electricity suppliers.

Capacity market supplier charge: provisional annual calculations

2.—(1) The Settlement Body must, by no later than three months before the start of a delivery year (“year X”), for each electricity supplier (“S”) calculate—

- (a) S’s provisional share of capacity market supplier charges in respect of year X (“PSC_{sx}”);
- (b) S’s provisional capacity market supplier charge in respect of year X (“PACMSC_{sx}”);
- (c) S’s provisional monthly capacity market supplier charge in respect of each month of year X (“PMCMSC_{sm}”).

(2) PSC_{sx} must be calculated in accordance with the formula—

$$PSC_{sx} = \frac{FSSPD_{sx}}{\sum_s FSSPD_{sx}}$$

(3) PACMSC_{sx} must be calculated in accordance with the formula—

$$PACMSC_{sx} = \sum_i ACP_{ix} \times PSC_{sx}$$

(4) PMCMSC_{sm} must be calculated in accordance with the formula—

$$PMCMSC_{sm} = PACMSC_{sx} \times WF_{mx}$$

(5) In this paragraph—

“∑_iACP_{ix}” means the sum of ACP_{ix} (the total amount of capacity payments payable in respect of a capacity committed CMU), as calculated under paragraph 3 of Schedule 1 to the Principal Regulations, for all capacity committed CMUs in respect of year X; and

“FSSPD_{sx}” means the amount of the forecast given by S to the Settlement Body for year X under regulation 4(2).

Capacity market supplier charge: revised annual calculations

3.—(1) The Settlement Body must, as soon as reasonably practicable after net demand data for all periods of high demand in year X is available, calculate for each electricity supplier (“S”)—

- (a) S’s revised share of capacity market supplier charges in respect of year X (“RSC_{sx}”);
- (b) S’s revised capacity market supplier charge in respect of year X (“RACMSC_{sx}”);
- (c) S’s revised monthly capacity market supplier charge in respect of each month of year X (“RMCMSC_{sm}”).

(2) RSC_{sx} must be calculated in accordance with the formula—

$$RSC_{sx} = \frac{ASSPD_{sx}}{\sum_s ASSPD_{sx}}$$

(3) $RACMSC_{sx}$ must be calculated in accordance with the formula—

$$RACMSC_{sx} = \sum_i AACP_{ix} \times RSC_{sx}$$

(4) $RMCMSC_{sm}$ must be calculated in accordance with the formula—

$$RMCMSC_{sm} = RACMSC_{sx} \times WF_{mx}$$

(5) In this paragraph—

“ $\sum_i AACP_{ix}$ ” means $\sum_i ACP_{ix}$, within the meaning given in paragraph 2(5), minus any reductions in the total amount of capacity payments payable to capacity providers in respect of year X as a result of—

- (a) a capacity agreement being terminated; or
- (b) a capacity payment being reduced or forfeited under the Principal Regulations;

“ $ASSPD_{sx}$ ” means the actual net demand of S during periods of high demand in year X.

Capacity market supplier charge: monthly calculations

4.—(1) The Settlement Body must, by no later than the first day of each month (“month M”) of a delivery year calculate for each electricity supplier (“S”) the monthly capacity market supplier charge (“ $MCMSC_{sm}$ ”) payable by S in respect of month M.

(2) If the date on which the Settlement Body calculates $MCMSC_{sm}$ (“the calculation date”) is before the date on which the Settlement Body makes the calculations required by paragraph 3, then $MCMSC_{sm}$ is equal to $PMCMSC_{sm}$.

(3) If the calculation date is on or after the date on which the Settlement Body makes the calculations required by paragraph 3, then $MCMSC_{sm}$ is equal to $RMCMSC_{sm}$.

(4) In this paragraph—

“ $PMCMSC_{sm}$ ” means the amount calculated under paragraph 2(1)(c) for electricity supplier S and month M;

“ $RMCMSC_{sm}$ ” means the amount calculated under paragraph 3(1)(c) for electricity supplier S and month M.

Capacity market supplier charge: mutualisation payments

5.—(1) If, in respect of a month of a delivery year (“month M”), one or more electricity suppliers is in capacity market stage 2 credit default, the Settlement Body must calculate in accordance with sub-paragraphs (2) and (3) the mutualisation payment to be made by each electricity supplier (“S”) who is not in such default (“ MP_{sm} ”).

(2) If the calculation date is before the date on which the Settlement Body makes the calculations required by paragraph 3, then MP_{sm} must be calculated in accordance with the formula—

$$MP_{sm} = \left(\sum_d PMCMSC_{dm} \times \frac{PSC_{sx}}{\sum_n PSC_{nx}} \right)$$

(3) If the calculation date is on or after the date on which the Settlement Body makes the calculations required by paragraph 3, then MP_{sm} must be calculated in accordance with the formula—

$$MP_{sm} = \left(\sum_d RMCMS_{dm} \times \frac{RSC_{sx}}{\sum_n RSC_{nx}} \right)$$

(4) In this paragraph—

“ $\sum_d PMCMS_{dm}$ ” means the sum of the amounts calculated under paragraph 2(1)(c) for month M for every electricity supplier who is in capacity market stage 2 credit default in respect of month M;

“ PSC_{sx} ” means the amount calculated under paragraph 2(1)(a) for supplier S and year X;

“ $\sum_n PSC_{nx}$ ” means the sum of the amounts calculated under paragraph 2(1)(a) for year X for every electricity supplier who is not in capacity market stage 2 credit default in respect of month M;

“ $\sum_d RMCMS_{dm}$ ” means the sum of the amounts calculated under paragraph 3(1)(c) for month M for every electricity supplier who is in capacity market stage 2 credit default in respect of month M;

“ RSC_{sx} ” means the amount calculated under paragraph 3(1)(a) for supplier S and year X;

“ $\sum_n RSC_{nx}$ ” means the sum of the amounts calculated under paragraph 3(1)(a) for year X for every electricity supplier who is not in capacity market stage 2 credit default in respect of month M; and

“year X” means the delivery year in which month M falls.

Penalty residual supplier amount

6.—(1) The Settlement Body must, as soon as reasonably practicable after the end of a delivery year (“year X”), calculate for each electricity supplier (“S”) the penalty residual supplier amount (“ $PRSA_{sx}$ ”) which is due to S in respect of year X.

(2) $PRSA_{sx}$ must be calculated in accordance with the formula—

$$PRSA_{sx} = \left(TPR_x - \sum_i ODP_{ix} \right) \times \frac{CMSCP_{sx}}{\sum_s CMSCP_{sx}}$$

(3) In paragraph (2)—

“ $CMSCP_{sx}$ ” means the total amount of capacity market supplier charges paid by S in respect of year X;

“ $\sum_i ODP_{ix}$ ” means the sum of the amounts calculated under paragraph 7(1)(c) of Schedule 1 to the Principal Regulations for all relevant CMUs (within the meaning given in that paragraph) for year X;

“ TPR_x ” means the total amount of capacity market penalty charge payments received by the Settlement Body under the Principal Regulations in respect of year X.

Settlement costs levy: provisional calculations

7.—(1) The Settlement Body must, by no later than the start of a relevant financial year (“year Y”), for each electricity supplier (“S”) calculate—

(a) S’s provisional share of the settlement costs levy in respect of year Y (“ PSL_{sy} ”);

(b) S’s provisional monthly settlement costs levy in respect of each month of year Y (“ PML_{sm} ”).

(2) PSL_{sy} must be calculated in accordance with the formula—

$$PSL_{sy} = \frac{ASSPD_{sr}}{\sum_s ASSPD_{sr}}$$

(3) PML_{sm} must be calculated for each month of year Y (“month M”) in accordance with the formula—

$$PML_{sm} = ASCL_y \times PSL_{sy} \times \frac{1}{12}$$

(4) In this paragraph—

“ $ASCL_y$ ” is the amount specified in regulation 9(2) as the total amount which may be charged to all electricity suppliers in respect of the settlement costs levy for year Y;

“ $ASSPD_{sr}$ ” means—

- (a) subject to paragraph (b), the actual net demand of S is responsible during periods of high demand (“AD”) in the relevant months; or
- (b) if, at the date on which the calculation in sub-paragraph (2) is to be made, the Settlement Body does not have the data necessary to calculate AD for all electricity suppliers for one or more of the relevant months, AD in the relevant months for which the Settlement Body has that data;

“the relevant months” means November to February of the financial year preceding year Y.

Settlement costs levy: revised calculations

8.—(1) The Settlement Body must, as soon as reasonably practicable after 16th March in a relevant financial year (“year Y”), calculate for each electricity supplier (“S”)—

- (a) S’s revised share of the settlement costs levy in respect of each month of year Y for which S is liable to pay settlement costs levy (“ RSL_{sm} ”);
- (b) S’s revised monthly settlement costs levy in respect of each month of year Y (“ RML_{sm} ”).

(2) RSL_{sm} must be calculated in accordance with the formula—

$$RSL_{sm} = \frac{ASSPD_{sy}}{\sum_l ASSPD_{ly}}$$

(3) RML_{sm} must be calculated in accordance with the formula—

$$RML_{sm} = ASCL_y \times RSL_{sm} \times \frac{1}{12}$$

(4) In this paragraph—

“ $ASCL_y$ ” has the same meaning as in paragraph 7;

“ $ASSPD_{sy}$ ” means the actual net demand of S during periods of high demand in year Y;

“ $\sum_l ASSPD_{ly}$ ” means the sum of those amounts of actual net demand for every electricity supplier who is liable to pay settlement costs levy in the relevant month.

Settlement costs levy refund

9.—(1) The Settlement Body must calculate the amount (“ $SCLR_{sy}$ ”) of the refund payable to each electricity supplier (“S”) who has paid a settlement costs levy payment in a relevant financial year (“year Y”) in accordance with the formula—

$$SCLR_{sy} = (AR - SC) \times \frac{SCLP_{sy}}{\sum_s SCLP_{sy}}$$

(2) In this paragraph—

“AR” and “SC” have the meanings given in regulation 10;

“SCLP_{sy}” means the amount of settlement costs levy paid by S in respect of year Y.

SCHEDULE 2

Regulation 35

Amendments to the Principal Regulations

Amendments to the Principal Regulations

1. The Principal Regulations are amended in accordance with paragraphs 2 to 14.
2. In regulation 2(1), after the definition of “the Rules” insert—

““the Supplier Payment Regulations” means the Electricity Capacity (Supplier Payment etc.) Regulations 2014;”.
3. In regulation 3—
 - (a) in paragraph (1)(a), after “electrical output by a generating unit” insert “or through an electricity interconnector”; and
 - (b) in paragraph (2)—
 - (i) omit “section 28(3) of the Act and”; and
 - (ii) for “customers” substitute “premises”.
4. In regulation 4(9), for “1st April 2014” substitute “8th September 2014”.
5. In regulation 41, after paragraph (3) insert—

“(3A) The percentages to be included in the capacity market register under regulation 31(2)(f) are—

 - (a) for the annual penalty cap, 100%; and
 - (b) for the monthly penalty cap, 200%.”.
 6. In regulation 44(6), in the definition of “liable electricity supplier”, for “customers” substitute “premises”.
 7. In regulation 45(1), in the definition of “payer”, before “means” insert “, subject to regulation 47(7),”.
 8. In regulation 47, at the end insert—

“(7) In this regulation, “payer” means a person to whom an invoice is issued under these Regulations or the Supplier Payment Regulations.”.
 9. In regulation 67, in paragraph (1)(b), after “these Regulations” insert “, the Supplier Payment Regulations”.
 10. In regulations 77(3)(a) and 80(3)(b), after “these Regulations” insert “or the Supplier Payment Regulations”.
 11. In regulation 81, in paragraphs (1)(a)(i) and (2)(a), after “these Regulations” insert “and the Supplier Payment Regulations”.
 12. In paragraph 2(2) of Schedule 1, for “3 decimal” substitute “10 decimal”.
 13. In paragraph 6 of Schedule 1—

- (a) in sub-paragraph (4), for the formula substitute—

$$MPC_{im} = MCP_{im} \times F,$$

- (b) after sub-paragraph (5) insert—

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

$$APC_{ix} = ACP_{ix} \times G.$$

- (c) in sub-paragraph (6)—

(i) omit the definition of “ APC_{ix} ”; and

(ii) before the definition of “ $MaxSP_i$ ” insert—

““ ACP_{ix} ” means the amount of annual capacity payments calculated under paragraph 3 for CMU i in respect of year X;

“F” means the percentage stated on the capacity market register under regulation 31(2)(f) as the monthly penalty cap percentage for CMU i in respect of year X;

“G” means the percentage stated on the capacity market register under regulation 31(2)(f) as the annual penalty cap percentage for CMU i in respect of year X.”.

14. In paragraph 1(b) of Schedule 2, after “Regulations” insert “, the Supplier Payment Regulations”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for payments to be made by, and to, electricity suppliers for the purposes of the Capacity Market established under Part 2, Chapter 3 of the Energy Act 2013 by the Electricity Capacity Regulations 2014 (S.I. 2104/2043) (“the Principal Regulations”) and by capacity market rules⁽⁷⁾. Under the Principal Regulations, the Secretary of State is required to appoint a Settlement Body, and persons awarded capacity agreements in an auction (“capacity providers”) are entitled to receive payments from the Settlement Body (“capacity payments”) for generating or reducing demand for electricity at times of system stress, and are liable to make penalty payments to the Settlement Body where the capacity agreement is breached.

These Regulations require electricity suppliers to make two types of payments: a “capacity market supplier charge” to fund capacity payments, and a “settlement costs levy” to fund the Settlement Body’s costs of performing its functions in relation to the Capacity Market. They also provide for payments to be made to electricity suppliers in certain circumstances, for the recalculation and adjustment of payments (“reconciliation”) where further data is obtained after determinations have

(7) See the Capacity Market Rules 2014, the Capacity Market (Amendment) Rules 2014 and the Capacity Market (Amendment) (No. 2) Rules 2014: <https://www.gov.uk/government/publications/capacity-market-rules>.

been made, and for electricity suppliers to provide credit cover as surety for their obligation to pay the capacity market supplier charge.

Parts 1 and 2 contain definitions and general provisions, including provision about the manner in which the Settlement Body is to make the calculations set out in these Regulations (“supplier settlement calculations”) (regulation 3), and the contents of invoices and credit notes (regulation 5).

Part 3 and Schedule 1 make provision about calculations, determinations and invoicing.

Regulation 6 requires electricity suppliers to pay a capacity market supplier charge to the Settlement Body in respect of each delivery year, and to pay monthly charges on account of that liability, and provides for the calculation of such charges by the Settlement Body. Regulation 7 provides for an additional payment (a “mutualisation payment”) to be made by electricity suppliers where a supplier is in default of its obligation under Part 6 to provide credit cover as surety for the payment of its monthly capacity market supplier charge. It also provides for any surplus which arises when payment is subsequently made by the defaulting supplier to be redistributed to the electricity suppliers who have made mutualisation payments.

Regulation 8 provides for the Settlement Body to calculate and pay to electricity suppliers a share of any capacity provider penalty charges received from capacity providers under the Principal Regulations (a “penalty residual supplier amount”).

Regulation 9 provides for the calculation and invoicing of the settlement costs levy, and regulation 10 provides for refunds to be made to electricity suppliers after the end of a financial year in the event that the total amount of settlement costs levy collected for the year exceeds the Settlement Body’s actual costs.

Part 4 contains general provisions about payment of invoices and credit notes, including provision about the accrual of interest for late payment by electricity suppliers (regulation 11) and the consequences of the termination of an electricity supplier’s supply licence (regulation 16).

Part 5 makes provision about reconciliation. The Settlement Body is required, if it obtains further data after making calculations and determinations, to carry out monthly reconciliation runs after each month of a delivery year in respect of the determinations made for that month, and annual reconciliation runs after the end of each delivery year in respect of all the determinations made for that year.

Part 6 requires each electricity supplier to provide credit cover to the Settlement Body, in the form of a letter of credit or a cash deposit, which is available to be drawn down by the Settlement Body in the event that the supplier fails to pay a monthly capacity market supplier charge or a reconciliation payment by the due date. It also requires the Settlement Body to maintain a register (“the credit default register”) of instances in which an electricity supplier’s credit cover is drawn down for non-payment of an invoice, or the supplier fails to provide credit cover in accordance with the Regulations (regulation 30).

Part 7 contains miscellaneous provisions. Among other matters it extends the application of provisions about disputes in the Principal Regulations to cover disputes about calculations or determinations made by the Settlement Body under these Regulations (regulation 32), it requires the Settlement Body to exercise its functions in the manner best calculated to ensure the collection of all amounts which are required to be paid or provided by electricity suppliers under these Regulations (regulation 33) and it introduces Schedule 2 which contains minor and consequential amendments to the Principal Regulations (regulation 35). In addition, the amendment made by paragraph 3(a) of Schedule 2 will enable provision to be made in future for electricity interconnectors to become capacity providers.

A full impact assessment of the effect that this instrument and the Principal Regulations will have on the costs of business and the voluntary sector is available from the Department of Energy and Climate Change at 3 Whitehall Place, London SW1A 2AW and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Electricity Capacity (Supplier Payment etc.) Regulations 2014 No. 3354