
STATUTORY INSTRUMENTS

1998 No. 2353

ELECTRICITY

**The Electricity (Non-Fossil Fuel Sources)
(England and Wales) Order 1998**

<i>Made</i>	- - - -	<i>23rd September</i> <i>1998</i>
<i>Laid before Parliament</i>		<i>24th September 1998</i>
<i>Coming into force</i>	- -	<i>28th September 1998</i>

Whereas certain orders(1) under section 32 of the Electricity Act 1989(2) have had effect in relation to each public electricity supplier in England and Wales;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 32(1), (2), (2A), (2B) and (2C) of the said Act of 1989, after consultation in accordance with section 32(1), hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998 and shall come into force on 28th September 1998.

(2) This Order does not apply to Scotland.

Interpretation

2.—(1) In this Order—

“the Act” means the Electricity Act 1989;

“commissioning process” means the process consisting of such procedures and tests as from time to time constitute usual industry standards and practices for commissioning a non-fossil fuel generating station of any description specified in Schedule 1 or any generating set forming part of such station in order—

(a) to demonstrate that such a non-fossil fuel generating station or set is—

(i) capable of commercial operation; or

(1) S.I. 1990/263, as amended by S.I. 1990/494; S.I. 1990/1859; S.I. 1991/2490; S.I. 1994/3259, as amended by S.I. 1995/68; S.I. 1997/248.
(2) 1989 c. 29; subsections (2A), (2B) and (2C) were inserted in section 32 and a related definition was inserted in section 32(8) by the Environment Act 1995 (c. 25), Schedule 22, paragraph 39.

- (ii) in the case of a non-fossil fuel generating station which is the subject of relevant arrangements, capable of commercial operation for the purpose of such arrangements;
- (b) to establish the external physical conditions outside the control of the operator which are necessary for the operation of such station or set or which control the amount of electricity produced by the station or set; and
- (c) to establish the operating parameters within which such station or set can be operated in accordance with practices, methods and procedures which are or should be adopted by a person exercising that degree of judgment, skill, diligence and foresight which would ordinarily and reasonably be expected from a skilled and experienced operator engaged in the business of operating such a station or set lawfully;

“connected person”, in relation to any person, means a person connected to him within the meaning of section 839 of the Income and Corporation Taxes Act 1988(3);

“dry-weight basis” means the basis for calculating the weight of each fuel component by deducting from its weight the weight of any water in that fuel component that would be removed by heating it to a temperature of 120 °C for a period of not less than 30 minutes;

“energy content” of a fuel means the gross calorific value of that fuel (as expressed by weight or by volume) multiplied by the weight or volume of that fuel;

“generating set” means–

- (a) where it forms part of a landfill gas generating station, a prime mover and alternator;
- (b) where it forms part of a municipal and industrial waste generating station or a municipal and industrial waste with combined heat and power generating station, steam raising or equivalent plant, a prime mover and alternator; or
- (c) where it forms part of an on-shore wind generating station, a wind turbine, including an alternator and any tower on which they are supported together with its foundations;

“industrial waste” includes sawmill waste derived from sawmills located on permanent sites and food-processing waste;

“operator” means an operator of any relevant non-fossil fuel generating station;

“Order period” means the period from 25th November 1997 to 29th November 2018;

“the pooling and settlement agreement” means the pooling and settlement agreement to which an operator may be required to become a party by a licence granted to him under section 6 of the Act;

“premium price” means a fixed price per kilowatt-hour (kWh) and for this purpose–

- (a) where the operator of a generating station is a party to the pooling and settlement agreement, an arrangement between that operator and a public electricity supplier or person on behalf of a public electricity supplier shall be treated as if it is an arrangement to purchase electricity at a fixed price per kilowatt-hour (kWh) if it provides for such payments to be made by either party to the other as shall ensure that the aggregate price receivable by that operator under the arrangement and the pooling and settlement agreement for electricity generated in specified periods is equal to a fixed amount specified in the said arrangement; and
- (b) any provision for adjustment of the price by reference to any measure of inflation shall be disregarded;

“premium price arrangement” means an arrangement made before the day on which this Order is made under which a public electricity supplier or a person on behalf of a public electricity

(3) 1988 c. 1; section 839 was amended by the Finance Act 1995, section 74 and Schedule 17, Part II, paragraph 20.

supplier agrees to purchase electricity generated by a non-fossil fuel generating station at any time in the period commencing on 21st July 1993 and ending on 30th December 2016 (whether or not the arrangement covers other periods) for a premium price;

“relevant arrangements” means arrangements evidence of the making of which is produced to the Director in accordance with article 3(1);

“relevant non-fossil fuel generating station” means a generating station of a description specified in Schedule 1 and falling within the description of non-fossil fuel generating station specified in article 3(2).

(2) Where a definition in Schedule 1 refers to generating stations which are fuelled wholly by a particular non-fossil fuel or fuels, this includes generating stations which use fossil fuel for one or more of the following purposes—

- (a) the ignition of gases of low or variable calorific value;
- (b) the heating of the combustion system to its normal operating temperature or the maintenance of that temperature;
- (c) emission control;

provided that, in any period shown in Tables A to F in Schedule 1, the energy content of the fossil fuel used in the generating station does not exceed 10 per cent. of the energy content of all the fuel used.

(3) Where a definition in Schedule 1 refers to generating stations which are fuelled partly by a particular non-fossil fuel or fuels, this includes dual-fired projects and for this purpose “dual-fired projects” means ones where the balance of fuel is—

- (a) fossil fuel;
- (b) non-fossil fuel which is neither expressly included in that definition nor expressly excluded by that definition; or
- (c) a combination of the fuel mentioned in sub-paragraphs (a) and (b) above.

Requirement to make arrangements etc.

3.—(1) Each public electricity supplier in England and Wales shall before 1st November 1998 make, in so far as he has not already done so, and produce to the Director evidence showing that he has made such additional arrangements as will secure that for each period shown in Tables A to F in Schedule 1 the aggregate amount of generating capacity available to him from non-fossil fuel generating stations of the description specified in relation to each particular Table and falling within the description of non-fossil fuel generating station specified in paragraph (2) below will not be less than the amount specified in that Table in relation to him for that period.

(2) The description of non-fossil fuel generating station specified in this paragraph is one which either—

- (a) in the case of a hydro generating station, is a station in respect of which—
 - (i) the commissioning process was not satisfactorily completed before 25th November 1997, except that the station may include structures or works for holding or channelling water which were completed before that date, provided they have not been used for a purpose directly related to the generation of electricity in the period commencing on 1st January 1989 and ending on 24th November 1997;
 - (ii) there is not and has not been a premium price arrangement (other than a relevant arrangement) under which any payment has been or may be made in respect of electricity generated before 30th December 2016 by such station; and
 - (iii) the commissioning and operation of which has not caused and would not be likely to cause during the Order period, in relation to any other generating station driven wholly or mainly by water and which was in operation on 25th November 1997,

either a significant reduction in the amount of electricity which is capable of being generated by such other generating station or such other generating station to cease to operate; or

- (b) in the case of any other non-fossil fuel generating station, must have one or more generating sets all of which fulfil the following conditions—
- (i) the generating set must be new, that is to say not previously used, save in the case of a generating set which forms part of a landfill gas generating station where, if the generating set is not new it must, in the opinion of an independent consulting engineer, be likely to have a useful life (provided that the generating set is installed, commissioned, maintained and operated in accordance with the manufacturer's recommendations) of at least 15 years from its date of commissioning as part of the generating station; and
 - (ii) the commissioning and operation of the generating set has not caused and must not be likely to cause during the Order period, in relation to any other generating set fuelled or driven by a non-fossil fuel (other than water) which was in operation on 25th November 1997, either a significant reduction in the amount of electricity which is capable of being generated by such other generating set or such other generating set to cease to operate.

4.—(1) Where—

- (a) any relevant arrangements provide that the availability to a public electricity supplier of some or all of the capacity of a non-fossil fuel generating station is conditional upon the satisfaction of any requirement mentioned in Schedule 2 (conditions precedent) (whether the requirement is described in the terms of that Schedule or in terms to the like effect); and
- (b) on the first day of any specified period, some or all of that capacity is not available to the supplier, by reason of any such requirement not being satisfied as was then due, or had previously been due on or prior to such date, under those arrangements to have been satisfied,

then, in relation to any day during that or any subsequent specified period ascertained in accordance with paragraph (3) below, this Order shall have effect as if the relevant aggregate amount specified in relation to that period were the amount specified in relation to that supplier for the period which includes that day in the Table in question in Schedule 1, less (subject to the following proviso) an amount equal to the sum of any capacity whose availability is at that time conditional upon the satisfaction of such requirement or requirements and any capacity which has ceased to be available at that time by reason of the occurrence of any such event or events as are referred to in paragraph (2) below:

Provided that the amount so specified shall not be reduced so as to be less than the relevant aggregate amount actually available to that supplier under the relevant arrangements during that specified period.

(2) Where—

- (a) any relevant arrangements provide that some or all of the generating capacity to be made available under those arrangements may reduce or cease to be available to a public electricity supplier following the occurrence of any such event as is mentioned in Schedule 3 (termination events) (whether the event is described in the terms of that Schedule or in terms to the like effect); and
- (b) some or all of that capacity is not available to the supplier, on a day during a specified period, because such an event has occurred,

the specified period shall forthwith terminate and, in relation to any day during any subsequent specified period ascertained in accordance with paragraph (3) below, this Order shall have effect

as if the relevant aggregate amount specified in relation to that subsequent period were the amount specified in relation to that supplier for the period which includes that day in the Table in question in Schedule 1, less an amount equal to the sum of any capacity which has ceased to be available at that time by reason of the occurrence of any such event or events and any capacity whose availability is at that time conditional upon the satisfaction of any such requirement or requirements as are referred to in paragraph (1) above, but subject to the proviso contained in that paragraph.

(3) In this article “specified period” means, in relation to any public electricity supplier, a period commencing and ending on the dates specified in a Table in Schedule 1 but so that—

- (a) on any such day as is mentioned in paragraph (1)(b) above there shall be substituted, in place of any specified period that would otherwise have commenced on that day, a period commencing on such day and expiring (subject to sub-paragraphs (c) and (d) below) on the day on which the requirement mentioned in paragraph (1)(b) above is satisfied either wholly or in part;
- (b) upon the expiry of any specified period ascertained in accordance with this sub-paragraph or with sub-paragraph (a) above, the next specified period shall commence on the following day and shall continue, subject to sub-paragraphs (c) and (d) below, until the day on which the requirement mentioned in paragraph (1)(b) above is either wholly satisfied or further satisfied in part;
- (c) on any such day as is mentioned in paragraph (2)(b) above, the then current specified period shall forthwith terminate and shall be followed by a new period commencing immediately upon such termination; and
- (d) any specified period which is current on any of the period end dates specified in the Table shall expire on that date.

23rd September 1998

John Battle,
Minister for Energy and Industry,
Department of Trade and Industry

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SCHEDULE 1

Article 3(1)

SPECIFIED AGGREGATE AMOUNTS OF GENERATING CAPACITY

PART I

HYDRO GENERATING STATIONS

1. Table A below relates to hydro generating stations—

Table A

Name of Supplier	Period																						
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21		
East Electricity plc	0.000	0.000	0.200	0.440	0.920	1.134	2.114	2.114	2.114	2.114	2.114	2.114	2.114	2.114	2.114	2.114	2.114	2.114	0.000	0.390	0.160	0.070	0.000
East Midlands Electricity plc	0.000	0.000	0.130	0.290	0.600	0.740	0.790	0.790	0.790	0.790	0.790	0.790	0.790	0.790	0.790	0.790	0.790	0.790	0.660	0.250	0.110	0.050	0.000
London Electricity plc	0.000	0.000	0.140	0.320	0.670	0.820	0.880	0.880	0.880	0.880	0.880	0.880	0.880	0.880	0.880	0.880	0.880	0.880	0.730	0.280	0.120	0.050	0.000
Man plc	0.000	0.000	0.080	0.180	0.380	0.480	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.420	0.160	0.070	0.030	0.000
Mid Electricity plc	0.000	0.000	0.140	0.310	0.650	0.800	0.850	0.850	0.850	0.850	0.850	0.850	0.850	0.850	0.850	0.850	0.850	0.850	0.710	0.270	0.110	0.050	0.000
North Electric plc	0.000	0.000	0.070	0.170	0.350	0.430	0.460	0.460	0.460	0.460	0.460	0.460	0.460	0.460	0.460	0.460	0.460	0.460	0.390	0.150	0.060	0.030	0.000
NOR plc	0.000	0.120	0.270	0.560	0.690	0.740	0.740	0.740	0.740	0.740	0.740	0.740	0.740	0.740	0.740	0.740	0.740	0.740	0.610	0.240	0.100	0.040	0.000
SE plc	0.000	0.120	0.270	0.550	0.680	0.730	0.730	0.730	0.730	0.730	0.730	0.730	0.730	0.730	0.730	0.730	0.730	0.730	0.610	0.230	0.100	0.040	0.000
South Electric plc	0.000	0.180	0.400	0.830	1.020	0.980	0.980	0.980	0.980	0.980	0.980	0.980	0.980	0.980	0.980	0.980	0.980	0.980	0.910	0.350	0.150	0.070	0.000
South Wales Electricity plc	0.000	0.000	0.050	0.110	0.230	0.280	0.300	0.300	0.300	0.300	0.300	0.300	0.300	0.300	0.300	0.300	0.300	0.300	0.250	0.100	0.040	0.010	0.000
South Western	0.000	0.000	0.080	0.180	0.380	0.470	0.500	0.500	0.500	0.500	0.500	0.500	0.500	0.500	0.500	0.500	0.500	0.500	0.410	0.160	0.070	0.030	0.000

Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Electricity plc																					
York Electricity Group plc	31.000	0.000	1.120	2.260	3.550	5.670	8.720	12.720	17.720	23.720	30.720	38.720	47.720	57.720	69.600	83.230	98.100	114.040	131.000	149.000	168.000

In Table A—

- (a) period 1 means 1 December 1998 to 31 March 1999
 - period 2 means 1 April 1999 to 31 March 2000
 - period 3 means 1 April 2000 to 31 March 2001
 - period 4 means 1 April 2001 to 31 March 2002
 - period 5 means 1 April 2002 to 31 March 2003
 - period 6 means 1 April 2003 to 31 March 2004
 - period 7 means 1 April 2004 to 31 March 2005
 - period 8 means 1 April 2005 to 31 March 2006
 - period 9 means 1 April 2006 to 31 March 2014
 - period 10 means 1 April 2007 to 31 March 2008
 - period 11 means 1 April 2008 to 31 March 2009
 - period 12 means 1 April 2009 to 31 March 2010
 - period 13 means 1 April 2010 to 31 March 2011
 - period 14 means 1 April 2011 to 31 March 2012
 - period 15 means 1 April 2012 to 31 March 2013
 - period 16 means 1 April 2013 to 31 March 2014
 - period 17 means 1 April 2014 to 31 March 2015
 - period 18 means 1 April 2015 to 31 March 2016
 - period 19 means 1 April 2016 to 31 March 2017
 - period 20 means 1 April 2017 to 31 March 2018
 - period 21 means 1 April 2018 to 31 November 2018
- (b) capacity amounts are expressed in megawatts.

2. In this Order, “hydro generating stations” means generating stations of less than 5 megawatts declared net capacity which are driven by any form of water power (other than tidal or wave power) provided that if power is used in order that the pressure of the water is artificially increased at the entry point into the turbine, such power must derive from the station itself.

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PART II

LANDFILL GAS GENERATING STATIONS

1. Table B below relates to landfill gas generating stations—

Table B

Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
East Electricity plc	0.000	0.961	3.222	2.269	9.902	9.906	9.988	8.166	7.739	1.394	9.832	7.935	7.167	0.043	1.919	7.749	5.239	0.000	0.000	0.000	0.000
East Midlands Electricity plc	0.000	0.638	8.691	5.929	2.300	0.624	2.225	0.023	4.426	7.723	9.235	2.524	9.934	4.426	6.628	3.308	0.339	1.470	0.000	0.000	0.000
London Electricity plc	0.000	0.709	9.658	7.712	4.534	0.028	9.925	8.828	2.228	5.688	8.263	2.347	7.074	1.126	3.074	7.787	4.885	4.630	0.000	0.000	0.000
Man plc	0.000	0.408	8.601	0.273	3.083	9.936	6.616	1.157	3.998	5.660	7.110	4.330	0.068	7.735	2.258	3.666	2.056	9.940	0.000	0.000	0.000
Mid Electricity plc	0.000	0.689	3.369	7.183	8.829	2.276	1.857	0.027	4.225	7.717	9.817	7.426	8.276	3.255	2.044	1.434	3.958	0.000	0.000	0.000	0.000
North Electric plc	0.000	0.375	1.118	3.881	9.952	7.729	3.307	7.649	8.145	2.273	0.024	6.883	3.378	9.943	1.167	0.888	8.879	0.866	0.000	0.000	0.000
NOR plc	0.000	0.598	1.134	8.880	9.926	1.123	6.623	4.007	9.924	2.223	8.809	2.222	7.888	0.028	8.821	6.509	7.378	0.000	0.000	0.000	0.000
SEE plc	0.000	0.588	8.016	4.708	7.729	9.933	4.023	1.223	4.673	7.723	9.923	5.228	9.924	5.217	8.826	5.935	3.941	3.560	0.000	0.000	0.000
South Electric plc	0.000	0.873	1.927	9.967	9.989	7.823	4.345	4.039	9.425	7.744	1.147	3.353	6.630	0.620	7.736	2.453	9.020	0.000	0.000	0.000	0.000
South Wales Electricity plc	0.000	0.246	3.386	1.199	8.898	4.406	4.759	9.899	9.998	0.089	9.296	9.499	2.208	6.674	0.020	2.240	5.570	0.000	0.000	0.000	0.000
South Western Electricity plc	0.000	0.405	5.505	0.092	8.836	6.696	3.868	7.011	5.284	4.316	1.156	7.795	4.463	9.994	1.188	4.820	9.930	0.000	0.000	0.000	0.000
York Electricity	0.000	0.577	9.920	4.518	4.996	2.132	8.823	1.883	4.426	6.633	2.222	7.722	2.246	5.520	3.325	4.207	3.400	0.000	0.000	0.000	0.000

Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Group plc																					

In Table B—

- (a) period 1 means 1 December 1998 to 31 March 1999
- period 2 means 1 April 1999 to 31 March 2000
- period 3 means 1 April 2000 to 31 March 2001
- period 4 means 1 April 2001 to 31 March 2002
- period 5 means 1 April 2002 to 31 March 2003
- period 6 means 1 April 2003 to 31 March 2004
- period 7 means 1 April 2004 to 31 March 2005
- period 8 means 1 April 2005 to 31 March 2006
- period 9 means 1 April 2006 to 31 March 2007
- period 10 means 1 April 2007 to 31 March 2008
- period 11 means 1 April 2008 to 31 March 2009
- period 12 means 1 April 2009 to 31 March 2010
- period 13 means 1 April 2010 to 31 March 2011
- period 14 means 1 April 2011 to 31 March 2012
- period 15 means 1 April 2012 to 31 March 2013
- period 16 means 1 April 2013 to 31 March 2014
- period 17 means 1 April 2014 to 31 March 2015
- period 18 means 1 April 2015 to 31 March 2016
- period 19 means 1 April 2016 to 31 March 2017
- period 20 means 1 April 2017 to 31 March 2018
- period 21 means 1 April 2018 to 31 November 2018
- (b) capacity amounts are expressed in megawatts.

2. In this Order, “landfill gas generating stations” means generating stations which are fuelled wholly by gas derived from landfill sites on which, at any time before 25th November 1997, activities were carried on in accordance with a licence issued under section 5 of the Control of Pollution Act 1974(4), or a resolution passed by the relevant disposal authority pursuant to section 11(3)(e) of that Act, or a waste management licence issued under section 36 of the Environmental Protection Act 1990(5).

(4) 1974 c. 40; sections 5 and 11 were repealed by the Environmental Protection Act 1990 (c. 43), section 162 and Schedule 16, Part II.

(5) 1990 c. 43; relevant amendments to section 36 have been made by the Environment Act 1995 (c. 25), section 120, Schedule 22, paragraph 68 and Schedule 24.

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PART III
MUNICIPAL AND INDUSTRIAL WASTE WITH
COMBINED HEAT AND POWER GENERATING STATIONS

1. Table C below relates to municipal and industrial waste with combined heat and power generating stations–

Table C

Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
East Electricity plc	0.000	0.000	0.000	0.354	3.874	7.770	11.589	15.589	19.589	23.589	27.589	31.589	35.589	39.589	43.589	47.589	51.588	55.178	58.714	62.800	66.000
East Midlands Electricity plc	0.000	0.000	0.000	0.882	1.543	2.137	2.796	3.296	3.796	4.296	4.796	5.296	5.796	6.296	6.796	7.296	7.796	8.296	8.753	9.150	9.000
London Electricity plc	0.000	0.000	0.000	0.988	1.828	2.486	3.096	3.696	4.296	4.896	5.496	6.096	6.696	7.296	7.896	8.496	9.096	9.696	10.296	10.900	11.500
Man plc	0.000	0.000	0.000	0.573	1.032	1.632	2.057	2.457	2.857	3.257	3.657	4.057	4.457	4.857	5.257	5.657	6.057	6.457	6.857	7.257	7.657
Mid Electricity plc	0.000	0.000	0.000	0.958	1.743	2.386	2.986	3.586	4.186	4.786	5.386	5.986	6.586	7.186	7.786	8.386	8.986	9.586	10.186	10.786	11.386
North Electric plc	0.000	0.000	0.000	0.523	0.947	1.347	1.703	2.037	2.357	2.673	2.987	3.297	3.613	3.927	4.243	4.557	4.873	5.187	5.503	5.817	6.133
NOR plc	0.000	0.000	0.000	0.830	1.372	1.928	2.478	3.028	3.578	4.128	4.678	5.228	5.778	6.328	6.878	7.428	7.978	8.528	9.078	9.628	10.178
SEE plc	0.000	0.000	0.000	0.820	1.342	1.893	2.403	2.903	3.403	3.903	4.403	4.903	5.403	5.903	6.403	6.903	7.403	7.903	8.403	8.903	9.403
South Electric plc	0.000	0.000	0.000	0.223	0.504	0.738	1.018	1.298	1.578	1.858	2.138	2.418	2.698	2.978	3.258	3.538	3.818	4.098	4.378	4.658	4.938
South Wales Electricity plc	0.000	0.000	0.000	0.340	0.988	1.612	2.212	2.792	3.372	3.952	4.532	5.112	5.692	6.272	6.852	7.432	8.012	8.592	9.172	9.752	10.332
South Western Electricity plc	0.000	0.000	0.000	0.563	1.010	1.483	1.983	2.483	2.983	3.483	3.983	4.483	4.983	5.483	5.983	6.483	6.983	7.483	7.983	8.483	8.983

Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
York Electricity Group plc	0.000	0.000	0.000	0.810	1.312	2.858	5.733	7.733	7.733	7.733	7.733	7.733	7.733	7.733	7.733	7.733	7.733	7.733	7.733	7.733	7.733
	4.894	4.418	8.870	0.000																	

In Table C–

- (a) period 1 means 1 December 1998 to 31 March 1999
 - period 2 means 1 April 1999 to 31 March 2000
 - period 3 means 1 April 2000 to 31 March 2001
 - period 4 means 1 April 2001 to 31 March 2002
 - period 5 means 1 April 2002 to 31 March 2003
 - period 6 means 1 April 2003 to 31 March 2004
 - period 7 means 1 April 2004 to 31 March 2005
 - period 8 means 1 April 2005 to 31 March 2006
 - period 9 means 1 April 2006 to 31 March 2007
 - period 10 means 1 April 2007 to 31 March 2008
 - period 11 means 1 April 2008 to 31 March 2009
 - period 12 means 1 April 2009 to 31 March 2010
 - period 13 means 1 April 2010 to 31 March 2011
 - period 14 means 1 April 2011 to 31 March 2012
 - period 15 means 1 April 2012 to 31 March 2013
 - period 16 means 1 April 2013 to 31 March 2014
 - period 17 means 1 April 2014 to 31 March 2015
 - period 18 means 1 April 2015 to 31 March 2016
 - period 19 means 1 April 2016 to 31 March 2017
 - period 20 means 1 April 2017 to 31 March 2018
 - period 21 means 1 April 2018 to 31 November 2018

(b) capacity amounts are expressed in megawatts.

2. In this Order, “municipal and industrial waste with combined heat and power generating stations” means generating stations which–

- (a) are fuelled wholly or partly by one or more of the following–
 - (i) municipal waste;
 - (ii) industrial waste; and
 - (iii) fuel derived from either or both of the types of waste mentioned in sub-paragraphs (i) and (ii) above;

including stations fuelled partly by sewage matter where, in any period of the Order, such sewage matter used makes up no more than 10 per cent. of the weight of all the above fuel used including the sewage matter (all on a dry-weight basis), but excluding any such station as is partly fuelled by–

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- (aa) gas derived from a landfill site of any description; or
 - (bb) gas derived from sewage; or
 - (cc) sewage matter in excess of the proportion set out above; and
- (b) are combined heat and power stations–
- (i) which are built with all the equipment, up to and including the meter for measuring heat supplied from the generating station, necessary to maintain and measure a continuous heat output at least equal to 200 per cent. of the declared net capacity of the generating station;
 - (ii) in respect of which there are, or there are reasonable prospects of obtaining, contracts with third parties to supply heat which would–
 - (aa) require the station to supply at least the required annual heat output in relevant Period 7; and
 - (bb) require at least 50 per cent. of the heat actually supplied in each period of the Order to be used within buildings for the purposes of heating space or (other than for industrial purposes) heating water;
 - (iii) in respect of which there are prospects of the station supplying at least the required annual heat output to a third party in periods of the Order subsequent to relevant Period 7, where at least 50 per cent. of the heat actually supplied would be for the purposes of heating space or (other than for industrial purposes) heating water; and
 - (iv) which are subject to contractual arrangements in relation to the supply of their electricity which only entitle that electricity to receive a premium price in respect of a period of the Order where, in the previous period of the Order, the station has supplied at least either the required annual heat output or the adjusted annual heat output to a third party and where at least 50 per cent. of the heat actually supplied has been used within buildings for the purposes of heating space or (other than for industrial purposes) heating water;

and for the purpose of this sub-paragraph (b)–

“adjusted annual heat output” means the required annual heat output with the following adjustments–

- (aa) if in any relevant Period the generating station fails to supply the required annual heat output, then the table (set out in the definition of “required annual heat output”) shall be adjusted so that the value of H for that relevant Period shall also apply to the next relevant Period, and the value of H for all subsequent relevant Periods shall be adjusted in each case to be equal to the value of H (prior to such adjustment) for the relevant Period preceding each such period; and
- (bb) if in any relevant Period the generating station fails to supply the adjusted annual heat output, then the table (set out in the definition of “required annual heat output”) shall be further adjusted so that the value of H (as last adjusted) for that relevant Period shall also apply to the next relevant Period, and the value of H for all subsequent relevant Periods shall be further adjusted in each case to be equal to the value of H (as last adjusted) for the relevant Period preceding each such period;

“period of the Order” means a period commencing and ending on the dates specified in relation to Table C;

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particular “relevant Periods” are ascertained by taking the first period of the Order as being relevant Period 1, the next period of the Order as relevant Period 2, and so forth;

“required annual heat output” means B kilowatt-hours of heat, where B is ascertained by the application of the formula–

$$B = \text{declared net capacity expressed in kilowatts} \times 8760 \text{ hours} \times 11$$

where–

H has the value set out in the table below–

<i>Relevant Period</i>	<i>Value of H</i>
1–6	0
7	0.09
8	0.18
9	0.27
10	0.36
11 and subsequent periods	0.4

“third party” means a person who is not a connected person to any person (other than a public electricity supplier contracting in pursuance of an obligation imposed by this Order or his agent) who is party to the contractual arrangements referred to in sub-paragraph (iv) above.

PART IV

MUNICIPAL AND INDUSTRIAL WASTE GENERATING STATIONS

1. Table D below relates to municipal and industrial waste generating stations–

Table D

<i>Name of Supplier</i>	<i>Period</i>																						
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21		
Easton Electricity plc	0.000	0.000	0.000	0.000	1.42	1.88	2.55	3.56	4.95	6.75	8.95	11.56	14.56	17.95	21.75	25.95	30.56	35.56	40.95	46.75	52.95	59.43	
East Midlands Electricity plc	0.000	0.000	0.000	0.000	0.49	0.65	0.89	1.23	1.67	2.21	2.86	3.61	4.46	5.41	6.46	7.61	8.86	10.21	11.66	13.21	14.86	16.61	18.46
London Electricity plc	0.000	0.000	0.000	0.000	0.32	0.43	0.57	0.74	0.91	1.10	1.31	1.54	1.79	2.06	2.34	2.64	2.96	3.30	3.66	4.04	4.44	4.86	5.30

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Name of Supplier	Period																					
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
Manchester plc	0.000	0.000	0.000	0.830	0.120	4.03	4.03	4.12	4.12	4.12	4.12	4.12	4.12	4.12	4.12	4.12	4.12	4.12	4.12	4.12	4.12	4.12
Midland Electricity plc	0.000	0.000	0.000	0.079	6.909	9.795	7.946	3.240	3.240	3.240	3.240	3.240	3.240	3.240	3.240	3.240	3.240	3.240	3.240	3.240	3.240	3.240
North Electric plc	0.000	0.000	0.000	0.419	2.239	9.539	5.528	0.324	0.324	0.324	0.324	0.324	0.324	0.324	0.324	0.324	0.324	0.324	0.324	0.324	0.324	0.324
NORWICH plc	0.000	0.000	0.000	0.996	4.639	9.998	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924	9.924
SEEBOROUGH plc	0.000	0.000	0.000	0.913	4.488	6.629	6.245	0.504	0.504	0.504	0.504	0.504	0.504	0.504	0.504	0.504	0.504	0.504	0.504	0.504	0.504	0.504
South Electric plc	0.000	0.000	0.000	0.328	6.446	7.749	7.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551	5.551
South Wales Electricity plc	0.000	0.000	0.000	0.915	1.101	2.912	2.914	5.510	5.510	5.510	5.510	5.510	5.510	5.510	5.510	5.510	5.510	5.510	5.510	5.510	5.510	5.510
South Western Electricity plc	0.000	0.000	0.000	0.749	9.938	1.024	0.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223	6.223
York Electricity Group plc	0.000	0.000	0.000	0.830	4.290	2.260	2.260	0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.090	0.090

In Table D–

- (a) period 1 means 1 December 1998 to 31 March 1999
- period 2 means 1 April 1999 to 31 March 2000
- period 3 means 1 April 2000 to 31 March 2001
- period 4 means 1 April 2001 to 31 March 2002
- period 5 means 1 April 2002 to 31 March 2003
- period 6 means 1 April 2003 to 31 March 2004
- period 7 means 1 April 2004 to 31 March 2005
- period 8 means 1 April 2005 to 31 March 2006
- period 9 means 1 April 2006 to 31 March 2007
- period 10 means 1 April 2007 to 31 March 2008
- period 11 means 1 April 2008 to 31 March 2009

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- period 12 means 1 April 2009 to 31 March 2010
- period 13 means 1 April 2010 to 31 March 2011
- period 14 means 1 April 2011 to 31 March 2012
- period 15 means 1 April 2012 to 31 March 2013
- period 16 means 1 April 2013 to 31 March 2014
- period 17 means 1 April 2014 to 31 March 2015
- period 18 means 1 April 2015 to 31 March 2016
- period 19 means 1 April 2016 to 31 March 2017
- period 20 means 1 April 2017 to 31 March 2018
- period 21 means 1 April 2018 to 31 November 2018

(b) capacity amounts are expressed in megawatts.

2. In this Order, “municipal and industrial waste generating stations” means generating stations which are fuelled wholly or partly by any one or more of the following–

- (a) municipal waste;
- (b) industrial waste; and
- (c) fuel derived from either or both of the types of waste mentioned in sub-paragraphs (a) and (b) above,

including stations fuelled partly by sewage matter where, in any period of the Order, such sewage matter used makes up no more than 10 per cent. of the weight of all the above fuel used including the sewage matter (all on a dry-weight basis);

but excluding any such station as is partly fuelled by–

- (i) gas derived from a landfill site of any description; or
- (ii) gas derived from sewage; or
- (iii) sewage matter in excess of the proportion set out above.

PART V

ON-SHORE WIND GENERATING STATIONS

1. Table E below relates to on-shore wind generating stations exceeding 0.995 MW–

Table E

Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
East Electricity plc	0.000	0.000	0.000	0.908	2.975	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605	6.605
East Midlands Electricity plc	0.000	0.000	0.000	0.222	1.660	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630	6.630

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Name of Supplier	Period																					
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
London Electricity plc	0.000	0.000	0.000	0.582	4.064	9.034	14.034	19.034	24.034	29.034	34.034	39.034	44.034	49.034	54.034	59.034	64.034	69.034	74.034	79.034	84.034	89.034
Manchester Electricity plc	0.000	0.000	0.000	0.071	3.969	7.719	11.470	15.170	18.870	22.570	26.270	29.970	33.670	37.370	41.070	44.770	48.470	52.170	55.870	59.570	63.270	66.970
Midland Electricity plc	0.000	0.000	0.000	0.472	3.342	6.684	10.026	13.368	16.710	20.052	23.394	26.736	30.078	33.420	36.762	40.104	43.446	46.788	50.130	53.472	56.814	60.156
North of Scotland Electric plc	0.000	0.000	0.000	0.898	2.756	5.512	8.268	11.024	13.780	16.536	19.292	22.048	24.804	27.560	30.316	33.072	35.828	38.584	41.340	44.096	46.852	49.608
NORWICH Electric plc	0.000	0.000	0.000	0.002	0.228	0.456	0.684	0.912	1.140	1.368	1.596	1.824	2.052	2.280	2.508	2.736	2.964	3.192	3.420	3.648	3.876	4.104
SEEBOROUGH Electric plc	0.000	0.000	0.000	0.973	2.920	5.840	8.760	11.680	14.600	17.520	20.440	23.360	26.280	29.200	32.120	35.040	37.960	40.880	43.800	46.720	49.640	52.560
South of Scotland Electric plc	0.000	0.000	0.000	0.442	3.846	7.692	11.538	15.384	19.230	23.076	26.922	30.768	34.614	38.460	42.306	46.152	49.998	53.844	57.690	61.536	65.382	69.228
South Wales Electricity plc	0.000	0.000	0.000	0.253	4.241	8.482	12.723	16.964	21.205	25.446	29.687	33.928	38.169	42.410	46.651	50.892	55.133	59.374	63.615	67.856	72.097	76.338
South Western Electricity plc	0.000	0.000	0.000	0.042	3.719	7.438	11.157	14.876	18.595	22.314	26.033	29.752	33.471	37.190	40.909	44.628	48.347	52.066	55.785	59.504	63.223	66.942
Yorkshire Electricity Group plc	0.000	0.000	0.000	0.937	2.812	5.624	8.436	11.248	14.060	16.872	19.684	22.496	25.308	28.120	30.932	33.744	36.556	39.368	42.180	44.992	47.804	50.616

In Table E-

- (a) period 1 means 1 December 1998 to 31 March 1999
- period 2 means 1 April 1999 to 31 March 2000
- period 3 means 1 April 2000 to 31 March 2001
- period 4 means 1 April 2001 to 31 March 2002
- period 5 means 1 April 2002 to 31 March 2003
- period 6 means 1 April 2003 to 31 March 2004
- period 7 means 1 April 2004 to 31 March 2005
- period 8 means 1 April 2005 to 31 March 2006
- period 9 means 1 April 2006 to 31 March 2007

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- period 10 means 1 April 2007 to 31 March 2008
- period 11 means 1 April 2008 to 31 March 2009
- period 12 means 1 April 2009 to 31 March 2010
- period 13 means 1 April 2010 to 31 March 2011
- period 14 means 1 April 2011 to 31 March 2012
- period 15 means 1 April 2012 to 31 March 2013
- period 16 means 1 April 2013 to 31 March 2014
- period 17 means 1 April 2014 to 31 March 2015
- period 18 means 1 April 2015 to 31 March 2016
- period 19 means 1 April 2016 to 31 March 2017
- period 20 means 1 April 2017 to 31 March 2018
- period 21 means 1 April 2018 to 31 November 2018

(b) capacity amounts are expressed in megawatts.

2. Table F below relates to on-shore wind generating stations not exceeding 0.995 MW–

Table F

Name of Supplier	Period																						
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21		
East Electricity plc	0.000	0.000	0.523	0.093	1.663	0.923	0.923	0.923	0.923	0.923	0.923	0.923	0.923	0.923	0.923	0.923	0.923	0.050	0.830	0.250	0.000	0.000	
East Midlands Electricity plc	0.000	0.000	0.340	0.030	0.402	0.580	0.580	0.580	0.580	0.580	0.580	0.580	0.580	0.580	0.580	0.580	0.580	0.000	0.540	0.170	0.000	0.000	
London Electricity plc	0.000	0.000	0.382	0.250	0.672	0.860	0.860	0.860	0.860	0.860	0.860	0.860	0.860	0.860	0.860	0.860	0.860	0.220	0.600	0.180	0.000	0.000	
Man plc	0.000	0.000	0.223	0.308	0.552	0.662	0.662	0.662	0.662	0.662	0.662	0.662	0.662	0.662	0.662	0.662	0.662	0.290	0.350	0.100	0.000	0.000	
Mid Electricity plc	0.000	0.000	0.373	0.188	0.590	0.780	0.780	0.780	0.780	0.780	0.780	0.780	0.780	0.780	0.780	0.780	0.780	0.160	0.590	0.180	0.000	0.000	
North Electric plc	0.000	0.000	0.203	0.193	0.418	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.510	0.180	0.320	0.090	0.000	0.000	
NOR plc	0.000	0.000	0.323	0.892	0.248	0.402	0.402	0.402	0.402	0.402	0.402	0.402	0.402	0.402	0.402	0.402	0.402	0.140	0.870	0.510	0.150	0.000	0.000
SEE plc	0.000	0.000	0.319	0.872	0.222	0.372	0.372	0.372	0.372	0.372	0.372	0.372	0.372	0.372	0.372	0.372	0.372	0.372	0.840	0.500	0.150	0.000	0.000

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Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
South Electric plc	0.000	0.000	0.472	7.793	3.319	5.553	5.553	5.553	5.553	5.553	5.553	5.553	5.553	5.553	5.553	5.553	2.769	9.756	2.230	0.000	0.000
South Wales Electricity plc	0.000	0.000	0.134	0.789	6.003	6.003	6.003	6.003	6.003	6.003	6.003	6.003	6.003	6.003	6.003	6.003	0.779	9.219	0.069	0.000	0.000
South Western Electricity plc	0.000	0.000	0.219	2.283	5.523	6.633	6.633	6.633	6.633	6.633	6.633	6.633	6.633	6.633	6.633	6.633	2.269	9.347	0.107	0.000	0.000
York Electricity Group plc	0.000	0.000	0.311	1.850	1.192	0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.350	0.820	0.500	0.150	0.000	0.000

In Table F–

- (a) period 1 means 1 December 1998 to 31 March 1999
 - period 2 means 1 April 1999 to 31 March 2000
 - period 3 means 1 April 2000 to 31 March 2001
 - period 4 means 1 April 2001 to 31 March 2002
 - period 5 means 1 April 2002 to 31 March 2003
 - period 6 means 1 April 2003 to 31 March 2004
 - period 7 means 1 April 2004 to 31 March 2005
 - period 8 means 1 April 2005 to 31 March 2006
 - period 9 means 1 April 2006 to 31 March 2007
 - period 10 means 1 April 2007 to 31 March 2008
 - period 11 means 1 April 2008 to 31 March 2009
 - period 12 means 1 April 2009 to 31 March 2010
 - period 13 means 1 April 2010 to 31 March 2011
 - period 14 means 1 April 2011 to 31 March 2012
 - period 15 means 1 April 2012 to 31 March 2013
 - period 16 means 1 April 2013 to 31 March 2014
 - period 17 means 1 April 2014 to 31 March 2015
 - period 18 means 1 April 2015 to 31 March 2016
 - period 19 means 1 April 2016 to 31 March 2017
 - period 20 means 1 April 2017 to 31 March 2018
 - period 21 means 1 April 2018 to 31 November 2018
- (b) capacity amounts are expressed in megawatts.

3. In this Order–

“declared net capacity”, in the case of an on-shore wind generating station, means the declared net capacity ascertained by the application to such a station of the formula specified in subsection (8A) of section 32 of the Act⁽⁶⁾;

“on-shore wind generating stations” means generating stations which are driven by wind and are located on land above mean high water level;

“on-shore wind generating stations exceeding 0.995 MW” means on-shore wind generating stations each of which has a declared net capacity exceeding 0.995 megawatts; and

“on-shore wind generating stations not exceeding 0.995 MW” means on-shore wind generating stations each of which has a declared net capacity of 0.995 megawatts or less.

SCHEDULE 2

Article 4(1)

CONDITIONS PRECEDENT

1. The requirements referred to in article 4(1)(a) are–

- (a) that planning permission and all necessary consents (including any necessary wayleave consents), easements and rights to enable any relevant non-fossil fuel generating station to be constructed and operated in accordance with and as contemplated by the terms of the relevant arrangements have been granted;
- (b) that planning sion and all necessary consents (including any necessary wayleave consents), easements and rights to enable any public electricity supplier to whose electricity distribution system any relevant non-fossil fuel generating station is to be connected to comply with his obligations as contemplated by the terms of the relevant arrangements have been granted;
- (c) that the operator has entered into, and there has come into force, a connection agreement;
- (d) that the operator holds a licence or has the benefit of an exemption under Part I of the Act authorising him to generate electricity and to convey electricity from the place at which it is generated to the point of delivery for the purposes of the relevant arrangements;
- (e) (to the extent that the arrangements relate to a relevant non-fossil fuel generating station whose operator is so required) that the operator has become a party to the pooling and settlement agreement;
- (f) that the commissioning process has been satisfactorily completed.

2. In this Schedule–

“connection agreement” means an agreement providing for the connection of any relevant non-fossil fuel generating station to a system of electric lines and electrical plant through which generating capacity will be made available to a public electricity supplier.

SCHEDULE 3

Article 4(2)

TERMINATION EVENTS

The events referred to in article 4(2)(a) are–

⁽⁶⁾ Subsection (8A) was inserted by regulation 2 of the Electricity Act 1989 (Modifications of Section 32(5) to (8)) Regulations 1990 (S.I. 1990/264).

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(1) the operator ceasing for any reason to be authorised by a licence or exemption granted under the Act to generate electricity for the purposes of giving a supply to any premises or enabling a supply to be given;

(2) the operator defaulting in the performance of any of his material obligations under the relevant arrangements and in the case of a default which is, in the opinion of the relevant public electricity supplier (acting reasonably), capable of remedy continuing to be unremedied at the expiry of 28 days following the date on which the supplier shall have given notice thereof to the operator;

(3) a binding order being made or an effective resolution being passed for the winding up of the operator (otherwise than for the purposes of reconstruction or amalgamation on terms previously approved in writing by the relevant public electricity supplier (whose approval shall not unreasonably be withheld)) and within 28 days of his appointment the liquidator of the operator not having provided to the supplier a guarantee of performance of the obligations of the operator under the relevant arrangements in such form and amount as the supplier (acting reasonably) may require.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order imposes on public electricity suppliers in England and Wales obligations to make arrangements to secure the availability during specified periods of specified aggregate amounts of generating capacity from non-fossil fuel generating stations of particular descriptions. The arrangements must be made, and evidence of their making must be produced to the Director General of Electricity Supply, before 1st November 1998.

Article 3, read with the Tables in Schedule 1, imposes on the suppliers obligations to secure the availability during specified periods, of specified amounts of capacity from non-fossil fuel generating stations of the descriptions (hydro, landfill gas, municipal and industrial waste, municipal and industrial waste with combined heat and power, on-shore wind exceeding 0.995 megawatts of capacity and wind of or not exceeding that amount) specified in Schedule 1 and falling within the description of such stations specified in article 3(2). The amounts are specified in megawatts (one megawatt equals one million watts).

Article 4 provides a mechanism whereby, if certain conditions are not satisfied (see Schedule 2) or if certain events occur (see Schedule 3), the Order is to have effect as if the relevant period specified in the appropriate Table in Schedule 1 were replaced by a different period and as if the relevant amount of capacity specified in that Table were a reduced amount, the amount of the reduction being the amount of capacity which has ceased to be available by reason of (as the case may be) the condition not having been satisfied or the event having occurred.

A compliance cost assessment has been prepared, a copy of which has been placed in the library of each House of Parliament. Copies of the assessment may be obtained free of charge by postal application to the Department of Trade and Industry, Energy Technologies Directorate, Room 1.A.48, 1 Victoria Street, London, SW1H 0ET.