
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Electricity Market Reform (General) Regulations 2014

PART 2

Secretary of State requiring information from the delivery body

Provision of information

3.—(1) The Secretary of State may require the delivery body to provide information (including advice and analysis) to the Secretary of State in relation to the strike price applicable (or to be applicable) to any form of low carbon electricity generation.

(2) The information which may be required under paragraph (1) includes information about how such strike prices may affect any of the following—

- (a) the reduction of the carbon intensity of electricity generation in the United Kingdom;
- (b) the security of electricity generation;
- (c) the cost of operation of low carbon electricity generation;
- (d) the price of energy payable by consumers; or
- (e) the funding available to the Secretary of State to support forms of low carbon electricity generation.

(3) The information which may be required under paragraph (1) may include the modelling of the impacts of such strike prices on different markets within the United Kingdom.

Notice to the delivery body

4.—(1) Where the Secretary of State requires information under regulation 3(1), the Secretary of State must give a notice (“an advice notice”) to the delivery body which sets out—

- (a) the information required;
- (b) the date by which the information, or parts of it, is to be provided;
- (c) whether or not the delivery body must provide a written report (“a progress report”) to the Secretary of State stating the progress being made by the delivery body to comply with sub-paragraphs (a) and (b); and
- (d) where a progress report is required, the date by which it is to be provided.

(2) An advice notice may—

- (a) describe or refer to assumptions which the delivery body must apply when providing information;
- (b) require a methodology described or referred to in the notice to be used by the delivery body when providing any of the information required by the notice;
- (c) require the information to be provided in a particular form; and
- (d) be withdrawn by notice by the Secretary of State to the delivery body.

(3) The delivery body must comply with an advice notice which is given to it.

(4) The Secretary of State may in writing require the delivery body to have regard to such other matters not described or referred to in the advice notice as the Secretary of State considers relevant to the provision of information set out in the notice.

(5) A written requirement under paragraph (4) must be made as soon as practicable after an advice notice is given to the delivery body.

(6) The Secretary of State and the delivery body may agree a variation of any of the matters set out in an advice notice or a written requirement made under paragraph (4).

(7) The Secretary of State must make publicly available an advice notice.

(8) So far as practicable, the Secretary of State must consult the delivery body about the intended content of—

- (a) an advice notice before the notice is given; or
- (b) a written requirement under paragraph (4) before the requirement is made.

Non-compliance

5.—(1) The requirements imposed under regulation 4 on the delivery body to provide by the date required by an advice notice—

- (a) the information required by the notice; or
- (b) any progress report required by the notice,

subject to paragraph (3), are to be treated as relevant requirements on the delivery body as a regulated person for the purposes of section 25 of the Electricity Act 1989⁽¹⁾.

(2) Reference in paragraph (1) to a matter required by an advice notice is a reference to that requirement—

- (a) subject to any written requirement made under regulation 4(4); and
- (b) as may be varied further to regulation 4(6).

(3) Where—

- (a) to comply with an advice notice requires the delivery body to be provided with information further to a counterparty notice or a generator notice;
- (b) the delivery body has given, as applicable, a counterparty notice or a generator notice; and
- (c) the delivery body is not provided with the information required by the counterparty notice or generator notice (“missing information”),

there is no failure to comply with paragraph (1)(a) to the extent of the missing information.

Provision of information by a CFD counterparty to the delivery body

6.—(1) Paragraph (2) applies where the delivery body has been given an advice notice.

(2) The delivery body may give a notice (“a counterparty notice”) to a CFD counterparty, requiring it to provide to the delivery body information which the delivery body reasonably believes that the CFD counterparty holds (or is entitled to obtain) and which the delivery body reasonably requires to comply with the advice notice.

(3) A counterparty notice must set out—

- (a) the information required; and
- (b) the date by which the information is to be provided.

(1) 1989 c. 29.

(4) The information required by a counterparty notice may include information in relation to the capital costs and operational costs in respect of an eligible generator who is a party to a CFD.

(5) A counterparty notice may be varied or withdrawn by notice by the delivery body to the CFD counterparty.

(6) A CFD counterparty must comply with a counterparty notice which is given to it.

(7) Subject to paragraph (8), the requirement imposed under paragraph (6) is to be treated as a relevant requirement on the CFD counterparty as a regulated person for the purposes of section 25 of the Electricity Act 1989.

(8) Where—

(a) the CFD counterparty has been given a counterparty notice but to comply with that notice the CFD counterparty needs to obtain information from an eligible generator who is a party to a CFD; and

(b) the CFD counterparty is not provided with that information from the eligible generator (“missing information”),

there is no failure to comply with paragraph (6) to the extent of the missing information.

Provision of information by generators to the delivery body

7.—(1) Paragraph (2) applies where—

(a) by virtue of a counterparty notice, the delivery body has sought to obtain information from a CFD counterparty;

(b) some or all of the information sought has not been provided; and

(c) the delivery body reasonably believes that the information may be obtained from an eligible generator who is a party to a CFD (“a relevant generator”).

(2) The delivery body may give a notice (“a generator notice”) to a relevant generator requiring the relevant generator to provide to the delivery body information which the delivery body reasonably believes that the relevant generator holds (or is entitled to obtain) and which the delivery body reasonably requires to comply with an advice notice.

(3) A generator notice must set out—

(a) the information required; and

(b) the date by which the information is to be provided.

(4) The information required by a generator notice may include information in relation to the capital costs and operational costs of the electricity generating station which is the subject of the CFD to which the relevant generator is a party.

(5) A generator notice may be varied or withdrawn by notice by the delivery body to the relevant generator.

(6) A relevant generator must comply with a generator notice which is given to it.

(7) The requirement imposed under paragraph (6) is to be treated as a relevant requirement on the relevant generator as a regulated person for the purposes of section 25 of the Electricity Act 1989.

Confidentiality

8.—(1) This regulation applies only to a delivery body which is not the national system operator.

(2) Where the delivery body obtains information further to a generator notice (“generation information”), the delivery body must not process that information for any purpose other than to comply with an advice notice except—

- (a) with the consent of the generator who provided the information; or
 - (b) as required by or under—
 - (i) an order of the court;
 - (ii) an enactment; or
 - (iii) an EU obligation;
 - (c) as required or permitted by or under—
 - (i) a licence condition which applies to the delivery body; or
 - (ii) a condition of an industry document to which the delivery body is a party.
- (3) The restriction in paragraph (2) does not apply to generation information which is publicly available (other than by breach of this regulation).
- (4) The restriction in paragraph (2) imposed on the delivery body is to be treated as a relevant requirement on the delivery body as a regulated person for the purposes of section 25 of the Electricity Act 1989.
- (5) In this regulation—
- (a) “industry document” means any of the following documents maintained under a licence—
 - (i) the Balancing and Settlement Code;
 - (ii) the Connection and Use of System Code; or
 - (iii) the Grid Code; and
 - (b) “licence” means a licence under section 6 of the Electricity Act 1989.