
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Electricity Capacity (No. 1) Regulations 2019

PART 5

Conditional agreement auction

Termination fees: modifications

- 41.**—(1) Regulation 43 (termination fees) of the Principal Regulations applies as if—
- (a) in paragraph (1)—
 - (i) for sub-paragraphs (a) and (b), there were substituted—
 - “(a) a conditional capacity agreement or capacity agreement is terminated on a ground specified in capacity market rules; and
 - (b) capacity market rules specify that a termination fee is payable in the event of the conditional capacity agreement or capacity agreement being terminated on that ground.”;
 - (b) in paragraph (1A), after “the”, in the first and fifth place it occurs, there were inserted “conditional capacity agreement or”;
 - (c) after paragraph (1A), there were inserted—
 - “(1B) Where a conditional capacity agreement is terminated, any termination fee which would be payable under paragraph (1) in respect of this termination only becomes payable if the T-1 capacity agreement event occurs.”;
 - (d) in paragraph (2)—
 - (i) at the start, there were inserted “Subject to paragraph (2A).”;
 - (ii) after “termination of a”, there were inserted “conditional capacity agreement or”;
 - (iii) in sub-paragraph (a), after “payable” there were inserted “(or which would be payable if the T-1 capacity agreement trigger event occurred)”;
 - (e) after paragraph (2), there were inserted—
 - “(2A) An invoice under paragraph (2)(b) must only be issued on or after the date on which the T-1 capacity agreement trigger event occurred.”;
 - (f) in paragraph (5)—
 - (i) for the definition of “CO”, there were substituted—
 - ““CO” means the capacity obligation in MW for which the conditional capacity agreement was issued (and applying to the capacity agreement which the conditional capacity agreement has become under regulation 30(2A)), as specified in the capacity market register);”;
 - (ii) in the definition of “TF_{xrate}”, after “under the”, there were inserted “conditional capacity agreement or”;

- (g) in paragraph (6), after “a”, in the first place it occurs, there were inserted “conditional capacity agreement or”.
- (2) Regulation 43ZA (termination fees: adjustment for DSR providers) of the Principal Regulations applies as if—
 - (a) in paragraph (1)—
 - (i) for sub-paragraph (b), there were substituted—
 - “(b) before that termination fee became payable the DSR provider has paid a DSR unproven capacity fee in accordance with regulation 43ZB;”;
 - (ii) in sub-paragraph (c), for “applicant credit cover” there were inserted “DSR unproven capacity fee”; and
 - (iii) for sub-paragraph (d), there were substituted—
 - “(d) the termination fee and the DSR unproven capacity fee relate to the same unproven demand side response CMU; and”;
 - (b) in paragraph (2), for “credit cover drawn down”, there were substituted “DSR unproven capacity fee paid”; and
 - (c) after paragraph (2), there were inserted—
 - “(3) In this regulation, draw down of applicant credit cover in respect of the DSR unproven capacity fee by the Settlement Body under regulation 61(1)(c) is treated as payment of that fee by the relevant DSR provider.”.