

## SCHEDULE 1

### Amendments to the Electricity Capacity Regulations 2014

## PART 3

### Transfer of capacity obligations, volume reallocation and over-delivery payments

#### Regulation 2 (interpretation)

**20.** In regulation 2(1)—

- (a) in the definition of “capacity obligation”, insert at the end “(and, unless the context otherwise requires, includes a part of a capacity obligation)”;
- (b) after the definition of “capacity payment” insert—
  - ““capacity provider” means the holder of—
  - (a) a capacity agreement, or
  - (b) a transferred part;”;
- (c) in the definition of “termination fee”, after “capacity agreement” insert “or transferred part”; and
- (d) after the definition of “total system”, insert—
  - ““transferred part” has the meaning given in regulation 30A(3);”.

#### Regulation 30 (capacity agreements)

**21.**—(1) In regulation 30(1)(1), for “is the term used to describe” substitute “comprises”.

(2) In regulation 30(2)—

- (a) for “capacity agreement accrues” substitute “distinct capacity agreement accrues”; and
- (b) at the beginning of sub-paragraph (a) insert “a capacity obligation equal to”.

(3) In regulation 30(6), after “capacity market rules,” insert “and subject to any termination of a transferred part in accordance with regulation 30A(4),”.

#### New regulation 30A

**22.** After regulation 30 insert—

##### “Transfer of a capacity agreement

**30A.**—(1) A capacity agreement may be transferred in accordance with capacity market rules so as to apply in respect of a CMU—

- (a) for the entire delivery year, or period of delivery years, for which the capacity agreement has effect; or
  - (b) only for a specified number of calendar days in such a delivery year (“the transfer period”).
- (2) A transfer under paragraph (1) may be made—
- (a) in respect of the entire capacity obligation comprised in the capacity agreement; or

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(1) Regulation 30 is also amended by paragraph 50 of this Schedule.

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(b) in respect of a part only of that obligation.

(3) For the purposes of this regulation, a “transferred part” comprises the rights and obligations accruing to the transferee in respect of a CMU where the capacity agreement (“the related agreement”) is transferred under paragraph (1)(b) or (2)(b).

(4) A transferred part may be terminated, in accordance with capacity market rules, so as to extinguish the rights and obligations accruing to the transferee.

(5) But a termination of the transferred part does not—

(a) in itself amount to the termination of the related agreement; or

(b) affect any rights and obligations accruing—

(i) in a part of a delivery year that is not included in the transfer period; or

(ii) in relation to any part of the capacity obligation that is not transferred.

(6) A termination of the related agreement does not in itself amount to the termination of a transferred part, but extinguishes the rights and obligations accruing in respect of the transferred part.

(7) This regulation applies to the further transfer of a transferred part as it applies to a transfer of a capacity agreement.”.

#### **Regulation 32 (termination fee rates)**

23. After regulation 32(4) insert—

“(5) This regulation applies to the termination of a transferred part as it applies to the termination of a capacity agreement; but in that case, the reference in paragraph (4) to the de-rated capacity or DSR bid capacity for which the capacity agreement is issued is to be construed as a reference to the capacity obligation comprised in the transferred part.”.

#### **Regulation 39 (determination of adjusted load-following capacity obligation etc.)**

24. In regulation 39(5)(2)—

(a) in the definition of “volume reallocation”, omit both occurrences of “capacity committed”; and

(b) in the definition of “volume reallocation window”, for “capacity providers” substitute “persons qualified to do so (within the meaning given in regulation 42(2)(c))”.

#### **Regulation 41 (capacity provider penalty charges)**

25. In regulation 41(3)(a) and (b), for “SPPSA<sub>im</sub>” substitute “MPSA<sub>im</sub>”.

#### **Regulation 42 (over-delivery payments)**

26. For regulation 42 substitute—

##### **“Over-delivery payments**

42.—(1) A person (“P”) is entitled to receive from the Settlement Body an over-delivery payment in respect of a delivery year (“year X”) if—

(a) any capacity committed CMU (“CMU i”) for which P was the capacity provider over-delivered in any relevant settlement period in year X; or

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(2) Regulation 39 is also amended by paragraph 51 of this Schedule.

- (b) P has made a qualifying delivery in any such settlement period.
- (2) For the purposes of this regulation—
  - (a) CMU i over-delivers in a relevant settlement period j if  $AE_{ij}$  is greater than  $ALFCO_{ij}$  in that settlement period;
  - (b) P makes a qualifying delivery in a relevant settlement period j if—
    - (i) P was a qualified person (but not a capacity provider) in respect of a CMU (“CMU i”) during that period, and
    - (ii) in that period,  $AE_{ij}$  is greater than zero;
  - (c) a “qualified person” is a person who—
    - (i) has registered with the delivery body under capacity market rules in respect of a CMU for the purpose of participating in volume reallocation, and
    - (ii) is an “acceptable transferee” within the meaning of capacity market rules; and
  - (d) “volume reallocation” has the meaning given in regulation 39(5).
- (3) The Settlement Body must, by not later than the 28<sup>th</sup> working day after the end of year X—
  - (a) determine the amount, if any, of the payments payable to each person under this regulation in respect of year X; and
  - (b) issue to each person who is entitled to such a payment a credit note for the amount determined for it.
- (4) The amount payable to P under paragraph (3)(a) is the sum of—
  - (a)  $TODP_{ix}$ , as calculated in accordance with paragraph 7 of Schedule 1, for each CMU—
    - (i) for which P was registered on the capacity market register as the capacity provider for the whole of year X, or
    - (ii) in respect of which P was a qualified person for the whole of year X; and
  - (b) P’s proportion of  $TODP_{ix}$ , as calculated in accordance with paragraphs 7 and 8 of Schedule 1, for each CMU—
    - (i) for which P was registered on the capacity market register as the capacity provider for part of year X, or
    - (ii) in respect of which P was a qualified person for part of year X.”.

**Regulation 43 (termination fees)**

27.—(1) After regulation 43(1) insert—

“(1A) A termination fee is payable in accordance with paragraph (1) if the capacity agreement is terminated in accordance with capacity market rules, notwithstanding that the termination does not take effect until after the expiry of the delivery year, or period of delivery years, to which the capacity agreement relates (“the relevant period”).”.

(2) After regulation 43(5) insert—

“(6) In this regulation, references to the termination of a capacity agreement include references to the termination of a transferred part; and for that purpose—

- (a) the reference to the relevant period in paragraph (1A) is to be construed as a reference to the transfer period as defined in regulation 30A(1)(b); and

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- (b) “CO” in paragraph (5) means the capacity obligation in MW comprised in that transferred part as specified on the capacity market register.”.

**Regulation 43B (repayment of capacity payments on termination)**

28. After regulation 43B(4) insert—

“(5) This regulation applies to the termination of a transferred part as it applies to the termination of a capacity agreement.”

**Regulation 68 (delivery body reviewable decisions)**

29.—(1) In the table in regulation 68(2), in the last entry in the first column, after “capacity agreement” insert “or a transferred part”.

(2) In regulation 68(3), for “has the meaning” substitute “, “termination notice” and “notice of intention to terminate” have the meaning”.

**Amendments to Schedule 1**

30.—(1) Schedule 1 (settlement calculations) is amended as follows.

(2) In the following provisions of this Part, any reference to a numbered paragraph is to the paragraph so numbered in that Schedule.

**Paragraph 1 (interpretation)**

31.—(1) For paragraph 1(1) substitute—

“(1) In this Schedule—

“AE<sub>ij</sub>”, “ALFCO<sub>ij</sub>” and “E<sub>ij</sub>”, in relation to a capacity committed CMU *i* and a relevant settlement period *j*, are to be interpreted in accordance with regulation 39 and mean the amounts determined in accordance with that regulation;

“CO<sub>ix</sub>” means the capacity obligation in MW, as recorded on the capacity market register, awarded in respect of CMU *i* for year *X* in a capacity auction;

“ICO<sub>ij</sub>” means the whole or part of any capacity obligation CO<sub>zx</sub> in MW, as recorded on the capacity market register, which applies to CMU *i* in relevant settlement period *j*;

“WF<sub>mx</sub>” means the weighting factor determined under paragraph 2 for month *M* in capacity year *X*.”.

(2) After paragraph 1(2) insert—

“(3) Where, in a formula, the symbol  $\sum$  is used, it denotes that a value is to be determined from the summation of the sequence of elements found immediately to its right; these elements may be derived from one variable or a collection of variables contained in parentheses.

(4) In this Schedule, if not otherwise defined, subscript suffixes used in a term refer to the following things unless the context requires otherwise—

“*i*” refers to a specific CMU which is the subject of the provision the term appears in (“the relevant provision”);

“*j*” refers to a relevant settlement period which is the subject of the relevant provision;

“*k*” refers to any relevant settlement periods in a given month that precede the relevant settlement period which is the subject of the relevant provision;

“*m*” refers to a given month;

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“y” refers to any capacity obligation awarded in a capacity auction in respect of a CMU; and

“z” refers to a specific capacity obligation awarded in a capacity auction in respect of a CMU.”.

**Paragraph 3 (calculations to be made annually)**

32.—(1) In paragraph 3(1)(a), for “CMU i for year X” substitute “CO<sub>ix</sub>”.

(2) For paragraph 3(2) and (3) substitute—

“(2) ACP<sub>yx</sub> (for any value y) must be calculated in accordance with the formula—

$$ACP_{yx} = CO_{yx} \times PE_{yx}$$

(3) MCP<sub>im</sub> must be calculated in accordance with the formula—

$$MCP_{im} = WF_{mx} \times \left( ACP_{ix} + \sum_N tACP_N \times \frac{DT_{mN}}{D_m} \right)$$

$$ACP_{zx} \times \frac{tCO_{in}}{CO_{zx}}$$

(3A) For the purpose of sub-paragraph (3) tACP<sub>N</sub> is the amount

where—

“tCO<sub>in</sub>” is any obligation, being the whole or part of the capacity obligation CO<sub>zx</sub>, that has been transferred so as to—

- (a) apply to CMU i for all or part of month M, or
- (b) cease to apply to CMU i for all or part of month M (in which case tACP<sub>N</sub> is to be expressed as a negative number);

“DT<sub>mN</sub>” means the number of days in month M for which that capacity obligation has been transferred;

“D<sub>m</sub>” means the total number of days in month M.”.

(3) In paragraph 3(4), for “PE<sub>ix</sub>” substitute “PE<sub>yx</sub>”, and for “CMU i for year X” substitute “CO<sub>yx</sub>”.

(4) In paragraph 3(5) and (6), wherever it occurs for the subscript “i” substitute the subscript “y”.

(5) In paragraph 3(7)—

(a) for the definition of “CCP<sub>i</sub>”, substitute—

““CCP<sub>y</sub>” means the capacity cleared price for CO<sub>yx</sub>, as recorded on the capacity market register”;

(b) omit the definition of “CO<sub>ix</sub>”;

(c) in the definition of “CPI<sub>base</sub>”, for “determined under” substitute “referred to in”;

(d) in the definition of “relevant capacity auction”, for “the capacity obligation applying to CMU i” substitute “CO<sub>yx</sub>”; and

(e) omit the definition of “WF<sub>mx</sub>”.

**Paragraph 5 (calculation of settlement period penalty)**

33.—(1) In paragraph 5(2), for “PR<sub>ix</sub>” substitute “PR<sub>ij</sub>”.

(2) After paragraph 5(2) insert—

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“(2A) For the purpose of sub-paragraph (2), “PR<sub>ij</sub>” is the penalty rate in pounds per MWh applying to CMU i in respect of settlement period j, and is to be calculated in accordance with the formula—

$$PR_{ij} = \frac{\sum_N (PR_N \times ICO_{ijN})}{\sum_N ICO_{ijN}}$$

where—

“ICO<sub>ijN</sub>” is the whole or a part of any capacity obligation CO<sub>zx</sub> applying to CMU i in settlement period j, and

“PR<sub>N</sub>” is the penalty rate applying to that capacity obligation.”.

(3) For paragraph 5(3) substitute—

“(3) For the purpose of sub-paragraph (2A), PR<sub>N</sub> is to be calculated in accordance with the formula—

$$PR_N = PE_{zx} \times \left( \frac{1}{24} \right).$$

(4) In paragraph 5(4), for the definition of “PE<sub>ix</sub>” substitute—

““PE<sub>zx</sub>” means the price in pounds per MW determined for CO<sub>zx</sub> in accordance with paragraph 3(4) to (6)”.

### **Paragraph 6 (calculation of monthly penalty charge)**

**34.**—(1) For paragraph 6(1) and (2) substitute—

“(1) The Settlement Body must, after the end of each month of a delivery year (“year X”) in which one or more relevant settlement periods occur (“month M”), calculate for each relevant CMU (“CMU i”)—

- (a) for each relevant settlement period in month M (“settlement period j”), the settlement period penalty settlement amount for CMU i in settlement period j (“SPPSA<sub>ij</sub>”); and
- (b) the monthly penalty charge to be paid in respect of month M (“MPSA<sub>im</sub>”).

(2) For the purpose of sub-paragraph (1)—

- (a) SPPSA<sub>ij</sub> is—
  - (i) equal to the amount P<sub>ij</sub> (calculated in accordance with paragraph (3)) unless paragraph (2A) applies; and
  - (ii) equal to the lesser of the amount P<sub>ij</sub> and the amount Q<sub>ij</sub> (calculated in accordance with paragraph (5)) if paragraph (2A) applies; and
- (b) MPSA<sub>im</sub> is equal to the value of SPPSA<sub>ij</sub> for the last relevant settlement period j in month M in which the value of ALFCO<sub>ij</sub> for CMU i was greater than zero.

(2A) This paragraph applies where—

- (a) a capacity provider penalty charge has been incurred in respect of CMU i in at least 48 relevant settlement periods, and
- (b) those periods together comprise at least 8 relevant settlement periods in each of at least 6 months in delivery year X.”.

(2) For paragraph 6(3) substitute—

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“(3)  $P_{ij}$  must be calculated in accordance with the formula—

$$P_{ij} = \left( \frac{SP_i}{MaxSP_i} \right) \times \min (MaxSP_i, MPC_{ij})$$

(3) For paragraph 6(4) substitute—

“(4) For the purposes of the calculation in sub-paragraph (3),  $MPC_{ij}$  is the monthly penalty cap in pounds applying to CMU i in respect of relevant settlement period j in month M, and is to be calculated in accordance with the formula—

$$MPC_{ij} = RMCP_{ij} + \sum ASPPA'$$

where—

(a)  $RMCP_{ij}$  is to be calculated in accordance with the formula—

$$RMCP_{ij} = (ACP_{ix} \times WF_{mx} \times F_i) + \sum_N (tACP_N \times WF_{mx} \times F_z), \text{ and}$$

(b)  $\sum ASPPA'$  is to be calculated in accordance with the formula—

$$\sum ASPPA' = \sum_A ASPPA_A - \sum_B ASPPA_B$$

where—

(i)  $\sum_A ASPPA_A$  is the sum of each amount  $ASPPA_{ikA}$  calculated under paragraph 6A(4) for any obligation  $ICO_{ikA}$  applying to CMU i in any relevant settlement period k in month M preceding settlement period j; and

(ii)  $\sum_B ASPPA_B$  is the sum of each amount  $ASPPA_{ijB}$  calculated under paragraph 6A(4) for any obligation  $ICO_{ijB}$  applying to CMU i in both—

(aa) settlement period j, and

(bb) any relevant settlement period k in month M preceding settlement period j.”.

(4) For paragraph 6(5) substitute—

“(5)  $Q_{ij}$  must be calculated in accordance with the formula—

$$Q_{ij} = APC_{ij} - \sum_{k=1}^{m-1} MPSA_{ik}$$

and where that calculation would give a negative number, the value of  $Q_{ij}$  is to be taken to be zero.”.

(5) For paragraph 6(5A) substitute—

“(5A) For the purposes of the calculation in sub-paragraph (5),  $APC_{ij}$  is the annual penalty cap in pounds applying to CMU i in respect of relevant settlement period j, and is to be calculated in accordance with the formula—

$$APC_{ij} = ACP_{ix} \times G_i + \sum_N \left( tACP_N \times G_z \times WF_{mx} \times \frac{DT_{mN}}{D_m} \right)$$

where “ $DT_{mN}$ ” and “ $D_m$ ” have the meanings given in paragraph 3(3A)”.

(6) In paragraph 6(6)—

(a) for the definitions of “F” and “G” substitute—

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“F<sub>y</sub>” (for any value y) means the percentage stated on the capacity market register under regulation 31(2)(f), at the date of issue of the capacity agreement, as the monthly penalty cap percentage for the capacity obligation CO<sub>yX</sub> awarded in respect of CMU y for year X;

“G<sub>y</sub>” (for any value y) means the percentage stated on the capacity market register under regulation 31(2)(f), at the date of issue of the capacity agreement, as the annual penalty cap percentage for the capacity obligation CO<sub>yX</sub> awarded in respect of CMU y for year X;”;

- (b) in the definitions of “MaxSP<sub>i</sub>” and “SP<sub>i</sub>”, after “paragraph 5” insert “up to and including the settlement period for which the calculation is being made”;
- (c) omit the definition of “ $\sum SPPSA_{i(m-1)}$ ”;
- (d) insert after the definition of “MCP<sub>im</sub>”—

$$\text{““} \sum_{k=1}^{m-1} MPSA_{ik} \text{””}$$

means the sum of the monthly penalty charges paid or payable in respect of CMU i for each of the months of year X preceding month M (or where M is the first such month, zero); and”;

- (e) insert at the end—
- ““tACP<sub>N</sub>” has the meaning given in paragraph 3(3A)”.

**New paragraph 6A**

35. After paragraph 6 insert—

**“Capacity provider penalty charges: apportionment**

6A.—(1) Immediately after calculating SPPSA<sub>ij</sub> for a relevant CMU i and any relevant settlement period j in month M under paragraph 6, the settlement body must also calculate D in accordance with the formula—

$$D = SPPSA_{ij} - SPPSA_{i(j-1)},$$

where “SPPSA<sub>i(j-1)</sub>” is the settlement period penalty settlement amount for CMU i in the relevant settlement period preceding period j (or, where j is the first such period in month M, zero).

(2) For each relevant settlement period j in month M, the settlement body must then determine for each obligation ICO<sub>ij</sub> applying to CMU i in that settlement period (“ICO<sub>ijN</sub>”) —

- (a) the monthly penalty cap applying in respect of ICO<sub>ijN</sub> (“MPC<sub>ijN</sub>”); and
- (b) the apportioned settlement period penalty amount for ICO<sub>ijN</sub> (“ASPPA<sub>ijN</sub>”) as determined in accordance with sub-paragraph (4).

(3) For the purpose of sub-paragraph (2)(a), MPC<sub>ijN</sub> is to be determined in accordance with the formula—

$$MPC_{ijN} = ICO_{ijN} \times PE_{zx} \times WF_{mx} \times F_z - \sum_{k=1}^{j-1} ASPPA_{ikN},$$

where—



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“ICO<sub>ijN</sub>” is the whole or a part of the capacity obligation CO<sub>zX</sub> awarded in respect of CMU z for year X,

“PE<sub>zX</sub>” means the price in pounds per MW determined for CO<sub>zX</sub> in accordance with paragraph 3(4) to (6),

“F<sub>z</sub>” is to be interpreted in accordance with paragraph 6(6), and

“
$$\sum_{k=1}^{j-1} ASPPA_{ikN}$$
”

means the sum of all apportioned settlement period penalty amounts calculated for ICO<sub>ijN</sub> when that obligation applies to CMU i in any relevant settlement period in month M that precedes period j (or, where j is the first such period, zero).

(4) For the purpose of sub-paragraph (2)(b) ASPPA<sub>ijN</sub> is to be determined as follows (where D is the result of the calculation referred to in sub-paragraph (1))—

(a) for each obligation ICO<sub>ijN</sub> referred to in sub-paragraph (2), calculate PR<sub>N</sub> in accordance with paragraph 5(3), and arrange those obligations in a series (beginning with ICO<sub>ij1</sub>) as described in paragraph (b);

(b) each such obligation ICO<sub>ijN</sub> is ranked according to the magnitude of its corresponding PR<sub>N</sub> (in descending order with the highest corresponding penalty rate first), except that where the same penalty rate corresponds to more than one such obligation those obligations are ranked between themselves—

(i) according to the date on which the obligation was awarded in respect of CMU i, or transferred so as to apply to CMU i (with the latest such date first), and

(ii) for obligations awarded or transferred on the same date, according to the time at which a request to transfer the obligation was received by the Delivery Body (with the latest such time first), and with an awarded obligation ranking prior to any transferred obligation;

(c) then for any such ICO<sub>ijN</sub>—

(i) if  $\sum_{k=1}^N MPC_{ijk} > D$ ,  $ASPPA_{ijN} = MPC_{ijN}$ ;

(ii) if  $\sum_{k=1}^{N-1} MPC_{ijk} < D$  and  $\sum_{k=1}^N MPC_{ijk} > D$ ,  $ASPPA_{ijN} = D - \sum_{k=1}^{N-1} MPC_{ijk}$ ;

(iii) otherwise,  $ASPPA_{ijN} = 0$ .

**Paragraph 7 (over-delivery payments)**

36.—(1) In paragraph 7(1)(a), for the words from “relevant” to the end substitute “each relevant settlement period in year X (“ODR<sub>ij</sub>”)”.

(2) In paragraph 7(2) and (3), for “ODR<sub>ix</sub>” (wherever it occurs) substitute “ODR<sub>ij</sub>”.

(3) In paragraph 7(2)—

(a) insert at the beginning “Subject to sub-paragraph (2A),”; and

(b) for “PR<sub>ix</sub>” substitute “PR<sub>ij</sub>”.

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(4) After paragraph 7(2) insert—

“(2A) For the purposes of the calculation in paragraph (2), where the over-delivery payment is to be made to a qualified person who is not a capacity provider in settlement period  $j$ , the value of  $PR_{ij}$  is deemed to be equal to the penalty rate applying to a capacity obligation awarded in the T-4 auction for year  $X$  and calculated in accordance with paragraph 5.”

(5) In paragraph 7(5)—

(a) for the definition of “ $PR_{ix}$ ” substitute—

““ $PR_{ij}$ ” means the penalty rate in pounds per MWh applying to CMU  $i$  in respect of settlement period  $j$ , as calculated in accordance with paragraph 5”; and

(b) after that definition insert—

““qualified person” has the meaning given in regulation 42(2);”.