

SCHEDULE

Regulation 2(1)

Amendments to the Electricity Capacity Regulations 2014

PART 1

Miscellaneous

Regulation 15 (general eligibility criteria)

1. In regulation 15(5), for “to 18”, substitute “and 17”.

PART 2

Effect of termination of a capacity agreement on transferred capacity agreement

Regulation 30A (transfer of a capacity agreement)

2. In regulation 30A(6), for “, but extinguishes” substitute “and does not extinguish”.

PART 3

Reduction of the duration of a capacity agreement

New regulation 33A

3. After regulation 33, insert—

“Reduction of the duration of capacity agreements: Secretary of State’s discretion

33A.—(1) This regulation applies where the Delivery Body gives a reduction notice to a capacity provider under the Rules.

(2) The Secretary of State may, if the Secretary of State thinks fit, within 3 months of the date on which the reduction notice is given—

- (a) direct the Delivery Body to extend the date by which the capacity provider must meet a specified requirement; or
- (b) direct the Delivery Body to withdraw the reduction notice.

(3) The date to which a requirement is extended by virtue of a direction under paragraph (2)(a) must not be later than 6 months after the date on which the reduction notice is given.

(4) If a capacity provider wishes the Secretary of State to exercise the discretion in paragraph (2), the capacity provider must make representations to the Secretary of State.

(5) Representations under paragraph (4) must—

- (a) be made in writing within 20 working days after the date on which the reduction notice is given;
- (b) request a direction under paragraph (2);
- (c) specify the reasons for requesting a direction under paragraph (2); and

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- (d) where a direction under paragraph (2)(a) is requested, specify a cure plan.
- (6) The Secretary of State must consider any representations made in accordance with paragraph (4).
- (7) In this regulation—
 - (a) a “cure plan” means proposals by the capacity provider demonstrating how it will comply with the specified requirement;
 - (b) a “specified requirement” means a requirement in the Rules, the noncompliance with which is specified in the reduction notice; and
 - (c) “reduction notice” has the meaning given in the Rules.”.

PART 4

Non-material errors or omissions in applications for prequalification

Regulation 69 (requesting reconsideration by the Delivery Body)

- 4. In regulation 69—
 - (a) in paragraph (3), for “15” substitute “20”;
 - (b) in paragraph (5), after “Subject to”, insert “paragraph (5A) and.”;
 - (c) after paragraph (5), insert—
 - “(5A) In reconsidering a prequalification decision, the Delivery Body may take into account information or evidence if the Delivery Body determines that:
 - (a) the relevant application for prequalification contained a non-material error or omission; and
 - (b) the information or evidence is capable of rectifying such non-material error or omission.”; and
 - (d) after paragraph (6), insert—
 - “(7) In this regulation—
 - “non-material error or omission” means an error or omission in an application for prequalification which is—
 - (a) manifest, and either inadvertent or the result of an honest mistake;
 - (b) clerical, typographical or trivial in nature; or
 - (c) determined by the Delivery Body to be inconsequential to the affected person’s compliance with, or the enforcement of, any requirement in these Regulations or the Rules to which the error or omission relates.”.

Regulation 70 (appeals to the Authority)

- 5. In regulation 70(4)—
 - (a) in sub-paragraph (b)(i), omit “and”;
 - (b) at the end of sub-paragraph (b)(ii), insert “and”; and
 - (c) after sub-paragraph (b)(ii), insert—
 - “(iii) any information or evidence submitted in accordance with regulation 69(5A).”.