
STATUTORY INSTRUMENTS

2023 No. 873

The Electricity and Gas (Energy
Company Obligation) Order 2023

PART 8

Transfers

Transfer of measures

33.—(1) A participant may apply to the Administrator with another participant for one or more measures which are promoted by the participant (“A”) to be treated as promoted by the other participant (“B”) (a “proposed transfer”).

(2) An application under paragraph (1) must—

- (a) be made by A and B, in writing, on or before 30th June 2026;
- (b) be made in respect only of measures which have been notified to the Administrator in accordance with article 25(a) to (e);
- (c) if the application is made in respect of an in-fill measure or a primary measure with which an in-fill measure is linked, be made in respect of—
 - (i) the in-fill measure; and
 - (ii) all of the primary measures with which the in-fill measure is linked;
- (d) if the application is made in respect of a heating control measure or a measure that is a related insulation measure for a heating control measure, be made in respect of—
 - (i) the heating control measure; and
 - (ii) its related insulation measure; and
- (e) include such information relating to the proposed transfer as the Administrator may require.

(3) The Administrator must reject the application if—

- (a) the requirements in paragraph (2) are not met; or
- (b) where A and B are not members of the same group, the Administrator considers that, if the application were approved, there is a significant risk that A would be—
 - (i) unable to achieve its total home-heating cost reduction obligation; or
 - (ii) unable to achieve its total home-heating cost reduction obligation in a manner that complies with article 9(3) to (7).

(4) If the Administrator rejects the application it must in writing—

- (a) notify A of the rejection and of any reasons for that decision relating to A; and
- (b) notify B of the rejection and of any reasons for that decision relating to B.

(5) If the Administrator approves the application—

- (a) for the purposes of articles 9, 20(1)(c)(ii), 21(1)(c)(ii), 23(c), 28(2)(a) and Parts 7 to 9, the measures in respect of which the application was made are treated as promoted by B and not A; and
 - (b) the Administrator must notify A and B in writing of the date on which the application was approved.
- (6) For the purposes of this article—
- “linked”—
- (a) in relation to a flat in-fill measure, has the meaning given in article 20(2);
 - (b) in relation to a house in-fill measure, has the meaning given in article 21(2);
- “primary measure”—
- (a) in relation to a flat in-fill measure, has the meaning given in article 20(1);
 - (b) in relation to a house in-fill measure, has the meaning given in article 21(1);
- “related insulation measure”, in relation to a heating control measure, means an insulation measure installed at the same domestic premises as the heating control measure.

Transfer of obligations

34.—(1) A participant may apply to the Administrator with another participant for all or part of its home-heating cost reduction obligation for an ECO4A phase or low-income minimum requirement for an ECO4A phase to be transferred from the participant (“A”) to the other participant (“B”) (a “proposed transfer”).

- (2) An application under paragraph (1) must—
- (a) be made by A and B, in writing, on or before the relevant deadline;
 - (b) state in respect of which one of the following the application is being made (the “relevant obligation”)—
 - (i) a home-heating cost reduction obligation for phase A;
 - (ii) a home-heating cost reduction obligation for phase B;
 - (iii) a home-heating cost reduction obligation for phase C;
 - (iv) a low-income minimum requirement for phase A;
 - (v) a low-income minimum requirement for phase B;
 - (vi) a low-income minimum requirement for phase C;
 - (c) state the amount of its relevant obligation that A intends to transfer to B (“the proposed transfer amount”); and
 - (d) include such other information relating to the proposed transfer as the Administrator may require.
- (3) In paragraph (2)(a), the “relevant deadline” is, where the application is made in respect of a home-heating cost reduction obligation or low-income minimum requirement for—
- (a) phase A, 31st December 2023;
 - (b) for phase B, 31st December 2024;
 - (c) for phase C, 31st December 2025.
- (4) The Administrator must reject the application if—
- (a) the requirements in paragraph (2) are not met;
 - (b) the proposed transfer amount exceeds A’s relevant obligation;

- (c) having regard to section 300 of the Gas Act 1986(1) or section 270 of the Electricity Act 1989(2), as applicable, the Administrator considers that, if the application were approved, there is a significant risk that it would adversely affect the Administrator's ability to enforce the requirements placed on B under this Order;
 - (d) after taking into account any other application made by A and B under paragraph (1), the Administrator considers that, if the application were approved, A or B's total low-income minimum requirement would exceed their total home-heating cost reduction obligation; or
 - (e) where A and B are not members of the same group, the Administrator considers that, if the application were approved, there is a significant risk that B would be—
 - (i) unable to achieve its total home-heating cost reduction obligation; or
 - (ii) unable to achieve its total home-heating cost reduction obligation in a manner that complies with article 9(3) to (7).
- (5) If the Administrator rejects the application, it must in writing—
- (a) notify A of the rejection and of any reasons for that decision relating to A; and
 - (b) notify B of the rejection and of any reasons for that decision relating to B.
- (6) If the Administrator approves the application—
- (a) for the purposes of this Order, A's relevant obligation is treated as reduced by the proposed transfer amount, and the Administrator must notify A in writing of—
 - (i) its reduced relevant obligation; and
 - (ii) the date on which the application was approved; and
 - (b) for the purposes of this Order, B's relevant obligation is treated as increased by the proposed transfer amount, and the Administrator must notify B in writing of—
 - (i) its increased relevant obligation; and
 - (ii) the date on which the application was approved.

(1) 1986 c. 44. Section 300 was inserted by paragraph 1 of Schedule 14 to the Energy Act 2013 (c. 32).

(2) 1989 c. 29. Section 270 was inserted by paragraph 2 of Schedule 14 to the Energy Act 2013.