

1994 No. 132

ELECTRICITY

**Electricity (Non-Fossil Fuel Sources) Order
(Northern Ireland) 1994**

<i>Made</i>	<i>31st March 1994</i>
<i>Coming into operation</i>	<i>31st March 1994</i>

The Department of Economic Development, in exercise of the powers conferred on it by Article 35(1) of the Electricity (Northern Ireland) Order 1992(a) and of every other power enabling it in that behalf, after consultation in accordance with the requirements of that article, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1994 and shall come into operation on 31st March 1994.

(2) In this Order—

“the Company” means Northern Ireland Electricity plc;

“condition precedent” means a condition described in the terms set out in Schedule 2 or in terms to the like effect;

“specified period” in relation to the Company means each successive period commencing and ending on the dates specified in Schedule 1 but so that—

(a) the first such period shall commence on 31 March 1994 or, where all the relevant arrangements made by the Company make provision as is mentioned in Article 3(1)(a), on the date on which all applicable conditions precedent have been satisfied in respect of any such arrangements;

(b) on any such day as is mentioned in Article 3(1)(b) there shall be substituted, in place of any specified period that would otherwise have commenced on that day, a period commencing on such day and expiring (subject to sub-paragraphs (d) and (e)) on the day on which the applicable condition precedent is satisfied either wholly or in part;

(a) S.I. 1992/231 (N.I. 1)

(c) upon the expiry of any specified period ascertained in accordance with this sub-paragraph or with sub-paragraph (b) the next specified period shall commence on the following day and shall continue, subject to sub-paragraphs (d) and (e), until the day on which the applicable condition precedent is either wholly satisfied or further satisfied in part;

(d) on any such day as is mentioned in Article 3(2)(b) the then current specified period shall forthwith terminate and shall be followed by a new period commencing immediately upon such termination; and

(e) any specified period which is current on the date of the end of any of the periods specified in Schedule 1 shall expire on that date;

“termination event” means an event described in the terms set out in Schedule 3 or in terms to the like effect.

(3) Any reference in this Order to relevant arrangements shall be construed as a reference to any arrangements evidence of the making of which is produced to the Director General of Electricity Supply for Northern Ireland in accordance with Article 2.

Requirement to make arrangements in relation to generating capacity from non-fossil fuel generating stations

2. The Company shall before 31st March 1994 make (in so far as it has not already done so) and produce to the Director evidence showing that it has made such arrangements as will secure that for each period shown in Schedule 1 (specified aggregate amounts of generating capacity) the aggregate amount of generating capacity available to it from non-fossil fuel generating stations of the descriptions specified in that Schedule will be not less than the amount for that period shown opposite each such description.

3.—(1) Where any relevant arrangements—

(a) provide that the availability of some or all of the capacity of the non-fossil fuel generating station in question is conditional upon the satisfaction of any condition precedent; and

(b) result, on the first day of any specified period, in part or all of such condition precedent not being satisfied as was due to have been satisfied under those arrangements on or prior to that day,

then, in relation to any day during that specified period or any subsequent specified period ascertained in accordance with Article 1(2), this Order shall have effect as if the relevant aggregate amount specified in relation to that period were the amount specified for the period which includes that day in Schedule 1, less (subject to the following proviso) an amount equal to the sum of any capacity whose availability is at that time conditional upon the satisfaction of such condition precedent and any capacity which has ceased to be available at that time by reason of the occurrence of any termination event:

Provided that the amount so specified shall not be reduced so as to be less than the relevant aggregate amount actually available to the Company under the relevant arrangements during the period in question.

- (2) Where any relevant arrangements—
- (a) provide that some or all of the generating capacity in question may reduce or cease to be available following the occurrence of any termination event; and
 - (b) result in some or all of that capacity not being available to the Company, on any day during any specified period, by reason of the occurrence of any such event,

then the specified period then current shall forthwith terminate and, in relation to any day during any subsequent specified period ascertained in accordance with Article 1(2), this Order shall have effect as if the relevant aggregate amount specified in relation to that period were the amount specified for the period which includes that day in Schedule 1, less an amount equal to the sum of any capacity which has ceased to be available at that time by reason of the occurrence of any such event and any capacity whose availability is at that time conditional upon the satisfaction of any condition precedent, but subject to the proviso contained in paragraph (1).

Sealed with the Official Seal of the Department of Economic Development on 31st March 1994.

(L.S.)

Douglas B. McIlldoon
Assistant Secretary

Specified aggregate amounts of generating capacity

Description— Generating Stations Driven or Fuelled by	Period					
	1	2	3	4	5	6-17
Wind	—	6.426	12.664	12.664	12.664	12.664
Sewage Gas	—	0.100	0.560	0.560	0.560	0.560
Water	0.030	0.030	1.890	2.374	2.374	2.374

(a) Period 1 means 31st March 1994 to 30th September 1994.

Period 2 means 30th September 1994 to 31st March 1995.

Period 3 means 31st March 1995 to 30 September 1995.

Period 4 means 30th September 1995 to 31st March 1996.

Period 5 means 31st March 1996 to 31st March 1997.

Period 6 to Period 17 means each succeeding period of 12 months commencing on 31st March of one year and ending on 31st March of the following year, so that Period 17 commences on 31st March 2008 and ends on 31st March 2009.

(b) Amounts of generating capacity are expressed in megawatts (MW).

Conditions precedent

The conditions precedent are—

(1) that planning permission and all necessary consents (including any necessary wayleave consents), easements and rights to enable any relevant non-fossil fuel generating station to be constructed and operated in accordance with and as contemplated by the terms of the relevant arrangements have been granted;

(2) that planning permission and all necessary consents (including any necessary wayleave consents), easements and rights to enable the Company to comply with its obligations as contemplated by the terms of the relevant arrangements have been granted;

(3) that the operator of any relevant non-fossil fuel generating station has entered into, and there has come into force, an agreement providing for the connection of such station to a system of electric lines and electrical plant operated by the Company;

(4) that the operator of any relevant non-fossil fuel generating station is authorised by exemption or licence granted under Part II of the Electricity (Northern Ireland) Order 1992 to generate electricity and to convey electricity from the place at which it is generated to the point of delivery for the purposes of the relevant arrangements;

(5) that there have been satisfactorily completed such procedures and tests as from time to time constitute usual industry standards and practices for commissioning a relevant non-fossil fuel generating station in order to:—

- (a) demonstrate that the relevant non-fossil fuel generating station is capable of commercial operation for the purposes of the relevant arrangements;
- (b) establish the external physical conditions outside the control of the operator which are necessary for the operation of such station or which control the amount of electricity produced by the station; and
- (c) establish the operating parameters within which such station can be operated in accordance with practices, methods and procedures which are or should be adopted by a person exercising that degree of judgement, skill, diligence and foresight which would ordinarily and reasonably be expected from a skilled and experienced operator engaged in the business of operating such a station lawfully.

Termination events

The termination events are:—

(1) the operator of any relevant non-fossil fuel generating station ceasing for any reason to be authorised by exemption or licence granted under Part II of the Electricity (Northern Ireland) Order 1992 to generate electricity for the purposes of giving a supply to any premises or enabling a supply to be given;

(2) the operator of any relevant non-fossil fuel generating station defaulting in the performance of any of his material obligations under the relevant arrangements and in the case of a default which is, in the opinion of the Company (acting reasonably), capable of remedy continuing to be unremedied at the expiry of 60 days following the date on which the Company shall have given notice thereof to the operator;

(3) a binding order being made or an effective resolution being passed for the winding up of the operator of any relevant non-fossil fuel generating station (otherwise than for the purposes of reconstruction or amalgamation on terms previously approved in writing by the Company (whose approval shall not unreasonably be withheld) and within 28 days of his appointment the liquidator of the operator not having provided to the Company a guarantee of performance of the obligations of the operator under the relevant arrangements in such form and amount as the Company (acting reasonably) may require.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order imposes on Northern Ireland Electricity plc ("NIE") an obligation to make arrangements to secure the availability, during specified periods, of specified amounts of generating capacity from certain non-fossil fuel generating stations. The arrangements must be made, and evidence of their making must be produced to the Director General of Electricity Supply for Northern Ireland, before 31st March 1994.

Article 2, read with Schedule 1, imposes on NIE an obligation to make arrangements to secure the availability, during specified periods, of specified amounts of generating capacity from non-fossil fuel generating stations of the descriptions specified in Schedule 1. The amounts of generating capacity are specified in megawatts (one megawatt equals one million watts).

Article 3 makes provision whereby, if certain conditions precedent described in Schedule 2 are not satisfied or if certain termination events described in Schedule 3 occur, the Order is to have effect as if the relevant period specified in Schedule 1 were replaced by a different period and, as a consequence, as if the relevant amount of capacity specified in that Schedule were a reduced amount. The amount of that reduction will be the amount of capacity which has ceased to be available by reason of the condition precedent not having been satisfied or the termination event having occurred.