

1990 No. 263

ELECTRICITY

The Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1990

Made - - - - - *14th February 1990*

Laid before Parliament *16th February 1990*

Coming into force - *31st March 1990*

The Secretary of State, in exercise of the powers conferred by section 32(1) and (2) of the Electricity Act 1989(a), and of all other enabling powers, after consultation in accordance with the requirements of subsections (1) and (10) of that section, hereby makes the following Order:-

Citation, commencement and application

1.—(1) This Order may be cited as the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1990 and shall come into force on 31st March 1990.

(2) This Order does not apply to Scotland.

Interpretation

2. References in this Order to relevant non-fossil fuel generating stations are references to any such stations which are or may be fuelled by nuclear fuel.

Requirement to make arrangements etc

3. Each public electricity supplier in England and Wales (whose names are specified in column 1 of Schedule 1 (specified aggregate amounts of non-fossil fuel generating capacity) to this Order) shall, before 1st April 1990, make (in so far as he has not already done so) and produce to the Director evidence showing that he has made such arrangements as will secure that, subject to article 4 of this Order, for each period listed against the name of the supplier in column 2 of that Schedule, the aggregate amount of non-fossil fuel generating capacity available to him from relevant non-fossil fuel generating stations will not be less than that specified in column 3 of the Schedule in relation to that period.

4.—(1) Where any of the arrangements made by a public electricity supplier in compliance with article 3 of this Order—

- (a) provide that the availability to that supplier of some or all of the capacity of the relevant non-fossil fuel generating stations is conditional upon the satisfaction of any such requirement as is mentioned in Schedule 2 to this Order (whether the requirement in question is described in the terms of that Schedule or in terms to the like effect); and

(b) result, on the first day of any specified period, in some or all of that capacity not being available to that supplier, by reason of any such requirement not being satisfied as was then due under those arrangements to have been satisfied, then, in relation to any day during that or any subsequent specified period determined in accordance with paragraph (3) of this article, this Order shall have effect as if the relevant aggregate amount specified in relation to that period were the amount specified in relation to that supplier for the period which includes that day in column 3 of Schedule 1 to this Order, 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 requirement or requirements and any capacity which has ceased to be available at that time by reason of the occurrence of any such event or events as are referred to in paragraph (2) of this article:

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

(2) Where any arrangements made by a public electricity supplier in compliance with article 3 of this Order—

- (a) provide that some or all of the relevant generating capacity may reduce or cease to be available following the occurrence of any such event as is mentioned in Schedule 3 to this Order (whether the event in question is described in the terms of that Schedule or in terms to the like effect); and
- (b) result in some or all of that capacity not being available to that supplier, 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 determined in accordance with paragraph (3) of this article, this Order shall have effect as if the relevant aggregate amount specified in relation to that period were the amount specified on relation to that supplier for the period which includes that day in column 3 in Schedule 1 to this Order, 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 or events and any capacity whose availability is at that time conditional upon the satisfaction of any such requirement or requirements as are referred to in paragraph (1) of this article, but subject to the proviso contained in that paragraph.

(3) In this article “specified period” means, in relation to any public electricity supplier, each successive period commencing and ending on the dates specified in paragraphs (a) to (g) in column 2 of Schedule 1 to this Order but so that—

- (a) the first such period shall commence on 1st April 1990 or (where the supplier has made any arrangements as mentioned in paragraph (1)(a) of this article), on the date on which all applicable requirements mentioned in paragraphs (1) to (5) of Schedule 2 to this Order have been satisfied;
- (b) on any such day as is mentioned in paragraph (1)(b) of this article 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 paragraphs (3)(d) and (3)(e) of this article) on the day on which the relevant requirement is either wholly or partially satisfied;
- (c) upon the expiry of any specified period determined in accordance with this paragraph or with paragraph (3)(b) of this article, the next specified period shall commence on the following day and shall continue, subject to paragraphs (3)(d) and (3)(e) of this article, until the day on which the relevant requirement is either wholly satisfied or further satisfied in part;
- (d) on any such day as is mentioned in paragraph (2)(b) of this article, 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 any of the period end dates specified in column 2 of Schedule 1 to this Order shall expire on that date.

14th February 1990

John Wakeham
Secretary of State for Energy

SCHEDULE 1

Article 3

SPECIFIED AGGREGATE AMOUNTS OF NON-FOSSIL FUEL GENERATING CAPACITY

(1)	(2)	(3)
<i>Name of supplier</i>	<i>Periods</i>	<i>Aggregate amounts of non-fossil fuel generating capacity</i>
1. London Electricity plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 855.300 MW (b) 846.300 MW (c) 821.800 MW (d) 785.800 MW (e) 738.800 MW (f) 813.900 MW (g) 771.900 MW
2. SEEBOARD plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 709.899 MW (b) 702.429 MW (c) 682.094 MW (d) 652.214 MW (e) 613.204 MW (f) 675.537 MW (g) 640.677 MW
3. Southern Electric plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 1060.572 MW (b) 1049.412 MW (c) 1019.032 MW (d) 974.392 MW (e) 916.112 MW (f) 1009.236 MW (g) 957.156 MW
4. South Western Electricity plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 487.521 MW (b) 482.391 MW (c) 468.426 MW (d) 447.906 MW (e) 421.116 MW (f) 463.923 MW (g) 439.983 MW
5. Eastern Electricity plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 1171.761 MW (b) 1159.431 MW (c) 1125.866 MW (d) 1076.546 MW (e) 1012.156 MW (f) 1115.043 MW (g) 1057.503 MW
6. East Midlands Electricity plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 769.770 MW (b) 761.670 MW (c) 739.620 MW (d) 707.220 MW (e) 664.920 MW (f) 732.510 MW (g) 694.710 MW

SCHEDULE 1 – *continued*

(1)	(2)	(3) <i>Aggregate amounts of non-fossil fuel generating capacity</i>
<i>Name of supplier</i>	<i>Periods</i>	
7. Midlands Electricity plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 829.641 MW (b) 820.911 MW (c) 797.146 MW (d) 762.226 MW (e) 716.636 MW (f) 789.483 MW (g) 748.743 MW
8. South Wales Electricity plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 299.355 MW (b) 296.205 MW (c) 287.630 MW (d) 275.030 MW (e) 258.580 MW (f) 284.865 MW (g) 270.165 MW
9. Manweb plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 496.074 MW (b) 490.854 MW (c) 476.644 MW (d) 455.764 MW (e) 428.504 MW (f) 472.062 MW (g) 447.702 MW
10. Yorkshire Electricity Group plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 701.346 MW (b) 693.966 MW (c) 673.876 MW (d) 644.356 MW (e) 605.816 MW (f) 667.398 MW (g) 632.958 MW
11. Northern Electric plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 453.309 MW (b) 448.539 MW (c) 435.554 MW (d) 416.474 MW (e) 391.564 MW (f) 431.367 MW (g) 409.107 MW
12. NORWEB plc	(a) 1 April 1990 to 31 March 1992 (b) 1 April 1992 to 30 September 1992 (c) 1 October 1992 to 31 March 1995 (d) 1 April 1995 to 30 April 1995 (e) 1 May 1995 to 31 March 1996 (f) 1 April 1996 to 30 June 1996 (g) 1 July 1996 to 31 March 1998	(a) 718.452 MW (b) 710.892 MW (c) 690.312 MW (d) 660.072 MW (e) 620.592 MW (f) 683.676 MW (g) 648.396 MW

SCHEDULE 2

Article 4(1)

CONDITIONS PRECEDENT

The requirements referred to in article 4(1)(a) of this Order are—

(1) that the property, rights and liabilities of the Area Boards established under the Electricity Act 1947 have been transferred to the public electricity suppliers;

(2) that such of the property, rights and liabilities of the Central Electricity Generating Board and the Electricity Council as are to be transferred to the operators of the relevant non-fossil fuel generating stations have been transferred in accordance with schemes made under section 66 of the Act;

(3) that the operator of any relevant non-fossil fuel generating station or stations has entered into, and there has come into force, agreements with the National Grid Company plc (registered in England No. 2366977) and, where applicable, any relevant public electricity supplier in relation to for the connection of such non-fossil fuel generating station or stations to the national grid system and, where applicable, to any other relevant system of electric lines and electrical plant;

(4) that the operator of any relevant non-fossil fuel generating station or stations and all public electricity suppliers have entered into, and there has come into force, a pooling and settlement agreement, as required by the licences granted to them under section 6 of the Act, for the purpose of calculating the payments due to or owing by the parties thereto in respect of their production and consumption of electricity;

(5) that section 33 regulations have been made and have come into force;

(6) to the extent that the arrangements relate to a relevant non-fossil fuel generating station which has not generated electricity before the coming into force of this Order—

(i) that the operator of the relevant non-fossil fuel generating station has been granted consent by the Nuclear Installations Inspectorate to take the station to commercial power in accordance with the site licence granted under the Nuclear Installations Act 1965 in respect of that generating station; and

(ii) that the declared net capacity of the relevant non-fossil fuel generating station has not been reduced, prior to being taken to commercial power in accordance with such a site licence, below the amount attributed to that station in the relevant arrangements.

Note: In the above provisions—

“the Act” means the Electricity Act 1989;

“section 33 regulations” means regulations under section 33 of the Act; and

the reference to the Nuclear Installations Inspectorate is a reference to the part so known of the Health and Safety Executive, established under the Health and Safety at Work etc. Act 1974.

SCHEDULE 3

Article 4(2)

TERMINATION EVENTS

The events referred to in article 4(2)(a) of this Order are—

(1) the operator of any relevant non-fossil fuel generating station ceasing for any reason to be authorised by a licence or exemption granted under the Act 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 any material respect in the performance of any of its obligations to make non-fossil fuel generating capacity available under the arrangements and in the case of a default which is, in the opinion of the relevant public electricity supplier (acting reasonably), capable of remedy continuing to be in default at the expiry of 60 days following the date on which the supplier 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 generation station (otherwise than for the purposes of reconstruction or amalgamation on terms previously approved in writing by the relevant public electricity supplier (whose approval shall not unreasonably be withheld) and within 60 days of his

appointment the liquidator of the operator not having provided to the supplier a guarantee of performance of the obligations of the operator under the arrangements in such form and amount as the supplier (acting reasonably) may require.

Note: In the above provisions, "the Act" means the Electricity Act 1989.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order imposes on public electricity suppliers in England and Wales an obligation to make arrangements to secure the availability during specified periods of specified aggregate amounts of generating capacity from 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, before 1st April 1990.

Article 2 requires that the capacity come from nuclear generating stations. Article 3 imposes the obligation and introduces Schedule 1 in which are specified, in relation to each public electricity supplier, the periods and amounts of capacity whose availability is to be secured. The amounts are specified in megawatts (one megawatt equals one million watts). Article 4 provides a mechanism whereby, if certain conditions are not satisfied (see Schedule 2) or if certain events occur (see Schedule 3), the Order is to have effect as if the relevant period specified in column 2 of Schedule 1 were replaced by a different period and, as a consequence of that, as if the relevant amount of capacity specified in column 3 of Schedule 1 were a reduced amount, the amount of the reduction being the amount of capacity which has ceased to be available by reason of (as the case may be) the condition not having been satisfied or the event having occurred.

£1.35 net

ISBN 0 11 003263 2

Printed in the United Kingdom for HMSO

833 WO307 C11 2/90 452/3 4235 46378 900442