
STATUTORY INSTRUMENTS

2014 No. 2014

**The Contracts for Difference (Electricity
Supplier Obligations) Regulations 2014**

PART 2

Supplier obligation

CHAPTER 7

Collateral

Requirement to provide collateral

19.—(1) This regulation applies at all times after an electricity supplier makes an electricity supply in a quarterly obligation period in respect of which it is required to make an interim rate payment.

(2) Where this regulation applies the supplier must ensure that, on any day, the CFD counterparty holds sufficient collateral from the supplier to meet the supplier's collateral requirement for that day.

(3) The supplier's collateral requirement for a day ("the relevant day") is determined by reference to the period beginning 26 days, and ending 5 days, before that day ("the relevant period").

(4) For each day in the relevant period, the amount of electricity supplied by the supplier on that day (as determined on the day before the relevant day) multiplied by the interim levy rate which applies in relation to the relevant day gives a relevant amount.

(5) The sum of the relevant amounts is the supplier's collateral requirement for the relevant day.

(6) The supplier is not to be treated as having breached its obligation under paragraph (2) where, after the first occasion on which it provided sufficient collateral to the CFD counterparty to meet its collateral requirement for a day—

- (a) the amount of that supplier's collateral held by the CFD counterparty fell below that supplier's collateral requirement for a subsequent day; and
- (b) by the second working day ("the cure day") after that subsequent day, the supplier provides sufficient collateral to the CFD counterparty to meet its collateral requirement for the cure day.

(7) Collateral may be provided in the form of—

- (a) cash;
- (b) appropriate letters of credit; or
- (c) a combination of the two.

(8) For the purposes of this regulation—

- (a) collateral is held by the CFD counterparty where it is provided to the CFD counterparty and not called (within the meaning of regulation 22);

- (b) the amount of electricity supplied by a supplier on any day is the amount which the BSCCo determines, on the basis of the most recent BSC reconciliation run carried out by the BSCCo in relation to that day, as the amount of electricity that the supplier supplied on that day; and
 - (c) the interim levy rate which applies in relation to a day is the interim levy rate which applies in relation to that day by virtue of regulation 8(3).
- (9) In this regulation “appropriate letter of credit” is to be construed in accordance with regulation 20(1).

Appropriate letters of credit

- 20.**—(1) For the purposes of regulation 19, a letter of credit is appropriate if—
- (a) it is issued by a person who holds a required rating; and
 - (b) it is provided on terms which the CFD counterparty considers are appropriate.
- (2) The terms which the CFD counterparty may consider are appropriate under paragraph (1)(b) include terms relating to—
- (a) the manner in which any demand for payment under a letter of credit is to be made;
 - (b) the manner in which any payment under a letter of credit is to be made;
 - (c) requirements about the holding of funds to meet demands for payment under a letter of credit.
- (3) Where an electricity supplier has provided the CFD counterparty with a letter of credit issued by a person who ceases to hold a required rating that letter will not constitute an appropriate letter of credit from the 10th working day after the day on which that person ceases to hold that rating.
- (4) Subject to paragraph (5), a person holds a required rating if that person has been assessed by—
- (a) Fitch Ratings as having a short term debt rating of “F1” or better;
 - (b) Moody’s as having a short term debt rating of “P-1” or better; or
 - (c) Standard and Poor’s as having a short term debt rating of “A-1” or better.
- (5) Where the CFD counterparty is of the opinion that the requirement that appropriate letters of credit must be issued by persons holding a short term debt rating mentioned in paragraph (4)(a) to (c) is too onerous in the circumstances, and subject to having regard to its duty under regulation 28(1), it may issue a notice to electricity suppliers specifying alternative short term debt ratings, and that notice shall remain in force until such time as it is withdrawn.
- (6) The CFD counterparty may withdraw a notice under paragraph (5) (“the first notice”) by issuing a further notice (“the withdrawal notice”) to electricity suppliers setting out the date from which the first notice is to be withdrawn (that date being no earlier than 10 working days after the day on which the withdrawal notice is issued).
- (7) The CFD counterparty must, before 1st December 2014, publish a document setting out the terms of letters of credit which it is likely to regard as appropriate for the purposes of paragraph (1)(b), and must keep any such document under review and publish any revision from time to time.
- (8) In this regulation—
- “Fitch Ratings” means Fitch Ratings Limited (registered company number 01316230);
 - “Moody’s” means the corporation known as Moody’s Investors Service Inc. incorporated in the US State of Delaware with the file number 0577904;
 - “Standard and Poor’s” means the corporation known as Standard & Poor’s Financial Services LLC. incorporated in the US State of Delaware with the file number 4621989.

Calling of collateral

21.—(1) Collateral provided by an electricity supplier is called by the CFD counterparty where the CFD counterparty issues a notice to that supplier which sets out the amount of collateral which is to be called.

(2) The CFD counterparty may issue a notice under in paragraph (1) to an electricity supplier if that supplier has failed to make a relevant payment and—

- (a) 2 working days have passed since the day on which that supplier should have made that payment; or
- (b) the CFD counterparty is of the opinion that there is no prospect of that supplier making that payment by 2 working days after the day on which that supplier should have made that payment.

(3) The amount of collateral which may be called by the CFD counterparty where a supplier has failed to make a relevant payment is the lesser of—

- (a) the amount of collateral provided by that supplier; or
- (b) the amount of that relevant payment or, where there is more than one relevant payment which that supplier has failed to make and in respect of which a notice under paragraph (1) could be issued, the sum of all relevant payments in respect of which a notice under paragraph (1) could be issued.

(4) Where the whole or part of a supplier's collateral which was provided in the form of cash has been called by the CFD counterparty that amount is to be treated as a payment made by that supplier to the CFD counterparty at the time that collateral was called.

(5) Where the whole or part of a supplier's collateral which was provided in the form of a letter of credit has been called by the CFD counterparty—

- (a) the CFD counterparty must take steps to demand payment from the person who provided the letter in the amount of the lesser of—
 - (i) the amount which can be demanded under that letter, or
 - (ii) the amount of collateral which has been called; and
- (b) the amount which has been paid to the CFD counterparty under that letter is to be treated as a payment by that supplier to the CFD counterparty made at the time that amount is received by the CFD counterparty.

(6) In this regulation—

“relevant payment” means any payment which a supplier is required to make by virtue of regulation 8(1), 9(2), 11(1), 14(3), 16(3)(a) or 17(5) which has not been made by that supplier by the time that payment should have been made, and which remains unpaid.

Withdrawal of collateral and payment of interest

22.—(1) Where the collateral provided by an electricity supplier and held by the CFD counterparty is more than that supplier's collateral requirement, that supplier may make a request that the CFD counterparty repay or return as much collateral as exceeds the supplier's collateral requirement by giving a notice to the CFD counterparty.

(2) Where a request under paragraph (1) has been received by the CFD counterparty, it must, before the 2nd working day after the day on which the request was received, repay or return the lesser of—

- (a) the amount requested by the supplier; or
- (b) the amount of collateral which the CFD counterparty determines exceeds that supplier's collateral requirement at the time the payment is to be made.

(3) Where a supplier has provided collateral in the form of cash, and the CFD counterparty holds that sum in an account which bears interest, it must pay to that supplier an amount equal to any such interest earned in relation to that sum within 5 working days of receiving that interest.