
STATUTORY INSTRUMENTS

2014 No. 2043

The Electricity Capacity Regulations 2014

PART 10

Dispute resolution and appeals

CHAPTER 2

Settlement Body decisions

Disputes

74.—(1) Subject to paragraph (2), a disputing party may use the procedure in this Chapter to dispute any calculation or determination made by the Settlement Body under Part 6 or 7.

(2) The procedure in this Chapter may not be used to dispute the correctness of any data used in making a calculation or determination, which has been provided to the Settlement Body by another person under these Regulations or capacity market rules, except for non-BSC data provided by a capacity provider.

(3) In this Chapter, “disputing party” means, as appropriate, a supplier or a capacity provider.

(4) In paragraph (2), “non-BSC data” means data provided by or on behalf of a capacity provider which is not provided under the Balancing and Settlement Code, irrespective of whether the capacity provider is a party to the Balancing and Settlement Code.

Disputes notice

75.—(1) A disputing party may give a notice (“a disputes notice”) to the Settlement Body of a dispute.

(2) A disputes notice must—

- (a) set out the matters giving rise to the dispute and the outcome sought by the disputing party; and
- (b) be given not later than 28 days after the disputing party receives notice of the calculation or determination giving rise to the dispute.

Determination of disputes

76.—(1) After receiving a disputes notice which complies with regulation 75(2), the Settlement Body must, subject to paragraph (2), review the disputed calculation or determination, and decide whether to uphold it or to substitute a different calculation or determination.

(2) The Settlement Body may, to assist in determining a dispute, appoint an independent person to consider the matter in dispute and provide a report on the matter, or an audit of any disputed calculation.

(3) The Settlement Body must, as soon as reasonably practicable after receiving a disputes notice, give notice to the disputing party whether it—

- (a) is considering the disputed matter;
 - (b) has appointed an independent person to consider the disputed matter under paragraph (2);
or
 - (c) has rejected the disputes notice on the ground that it does not comply with regulation 75(2).
- (4) The Settlement Body must determine a dispute—
- (a) where it commissions a report or audit under paragraph (2), not later than 28 days after receiving the report or audit; and
 - (b) in any other case, not later than 28 days after receiving the disputes notice.
- (5) The Settlement Body must as soon as reasonably practicable after determining a dispute give a notice to the disputing party of its decision and the reason for that decision.
- (6) The references in this regulation to “an independent person” include a panel of persons, either—
- (a) established under an industry code; or
 - (b) appointed by the Settlement Body for the purpose of considering disputes under this Chapter,
- provided that all the panel members who consider the dispute are independent from the Settlement Body and the disputing party.