

SCHEDULE 4

Regulation 6

Amendments to the Capacity Allocation Mechanisms Code

1. In Article 1, in the second sentence, for “This Regulation shall set out how adjacent transmission system operators cooperate in”, substitute “This Regulation set outs how transmission system operators cooperate with adjacent TSOs in”.

2.—(1) Article 2 is amended as follows.

(2) In paragraph 1—

- (a) at the end of the first sentence, insert “where transmission system operators carry out functions or activities that are regulated by a national regulatory authority”; and
- (b) in the second sentence, for “third”, substitute “other”.

(3) In paragraph 2, in the first sentence—

- (a) for “set up in accordance with”, substitute “provided for in”; and
- (b) omit “within the Union”.

(4) In paragraph 3, for the second sentence, substitute—

“This Regulation does not apply to interconnection points where, immediately before exit day, either the UK or relevant member State held a derogation on the basis of Article 49 of [Directive 2009/73/EC](#)(1), as it had effect in EU law.”.

(5) In paragraph 6, omit “within a Member State”.

3.—(1) Article 3 is amended as follows.

(2) In the words before paragraph 1, omit “and Article 2 [Directive 2009/73/EC](#)”.

(3) In paragraph 13, for “adjacent transmission system operators”, substitute “a transmission system operator with an adjacent TSO”.

(4) In paragraph 15, for “by ENTSOG”, substitute “jointly by, or on behalf of, all transmission system operators”.

(5) In paragraph 16, for “5.00 to 5.00 UTC the following day for winter time and from 4.00 to 4.00 UTC the following day when daylight saving is applied”, substitute “5.00 a.m. to 5.00 a.m. the following day”.

(6) After paragraph 25, insert—

“26. ‘non-UK regulatory authority’ means a regulatory authority for a country or territory other than the UK.

27. ‘adjacent TSO’ means a transmission system operator or a non-UK TSO which operates a transmission system which is directly connected to a transmission system operated by the relevant transmission system operator.”.

4.—(1) Article 4 is amended as follows.

(2) For “adjacent transmission system operator(s)”, substitute “adjacent TSOs”.

(3) At the end of the Article, insert “Where an adjacent TSO is a non-UK TSO, the transmission system operator must endeavour to fully cooperate with the non-UK TSO regarding their respective maintenance plans.”.

(1) [Directive 2009/73/EC](#) of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing [Directive 2003/55/EC](#) J L 211 14.8.2009, p.94-136.

5. In Article 5, at the end of paragraph 1, insert “Transmission system operators must also endeavour to coordinate this with any adjacent and affected non-UK TSOs.”.

6.—(1) Article 6 is amended as follows.

(2) In paragraph 1(a)(1), in the last sentence, for “[Regulation \(EU\) No 994/2010](#)”, substitute “[Regulation \(EU\) No. 2017/1938](#)”.

(3) In paragraph 1(a)(3), omit “the Union-wide 10-year network development plan pursuant to Article 8 of Regulation [\(EC\) No. 715/2009](#),”.

(4) In paragraph 1(a)(5)—

(a) omit “adjacent”; and

(b) after “transmission system operators”, add “and non-UK TSOs”.

(5) After paragraph 1(a)(6), insert—

“(7) this in-depth analysis must also take into account any obligations of a non-UK TSO in relation to the Union-wide 10-year network development plan pursuant to Article 8 of Regulation [\(EC\) No 715/2009](#)(2) as it has effect in EU law.”.

(6) Before paragraph 2, insert—

“**1A.** In relation to interconnection points at which any adjacent TSO is a non-UK TSO, transmission system operators must comply with paragraph 1 in so far as they are able to do so and must endeavour to cooperate with the non-UK TSO to comply with paragraph 1.”.

(7) In paragraph 2, omit the words from “Article 42” to the end.

(8) Omit paragraph 4.

7.—(1) Article 7 is amended as follows.

(2) In paragraph 1—

(a) omit “Adjacent”;

(b) for “exchange”, substitute “provide”; and

(c) after “regular basis”, insert “to their adjacent TSOs.”.

(3) In paragraph 2—

(a) omit “adjacent”;

(b) for “exchange”, substitute “provide”;

(c) after “individual transmission network”, insert “to their adjacent TSOs”; and

(d) for the last sentence, substitute “Transmission system operators must integrate the procedures to exchange data in their respective interconnection agreement. Where an adjacent TSO is a non-UK TSO, transmission system operators must endeavour to integrate the procedures in the interconnection agreement.”.

8.—(1) Article 8 is amended as follows.

(2) For paragraph 2, substitute—

“**2.** At all interconnection points the same auction design is to apply. The relevant auction processes are to start simultaneously for all concerned interconnection points. Each auction process, relating to a single standard capacity product, must allocate capacity independently of every other auction process except where incremental capacity is offered or where,

(2) Regulation [\(EC\) No 715/2009](#) of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation [\(EC\) No 1775/2005](#) OJ L 211, 14.8.2009, p. 36-54.

subject to the agreement of the directly involved transmission system operators and, if applicable, agreement of any directly involved non-UK TSO, and the approval of the national regulatory authorities, competing capacity is allocated. In considering whether to grant approval, the national regulatory authorities must consider any representations made by a non-UK regulatory authority of any adjacent and affected country. In case incremental capacity is offered, the independent allocation is not to apply to the simultaneous auction processes for the respective offer levels, since these are dependent on each other, as only one offer level can be allocated.”.

(3) In paragraph 9, after the first sentence, insert “If there is a directly involved non-UK TSO, transmission system operators must endeavour to cooperate with the non-UK TSO to agree on alignment.”.

9. In Article 11, in paragraph 9, for “8.00 UTC to 17.00 UTC (winter time) or 7.00 UTC to 16.00 UTC (daylight saving)”, substitute “8.00 a.m. to 5.00 p.m.”.

10. In Article 12, in paragraph 7, for “8.00 UTC to 17.00 UTC (winter time) or 7.00 UTC to 16.00 UTC (daylight saving)”, substitute “8.00 a.m. to 5.00 p.m.”.

11. In Article 13, in paragraph 7, for “8.00 UTC to 17.00 UTC (winter time) or 7.00 UTC to 16.00 UTC (daylight saving)”, substitute “8.00 a.m. to 5.00 p.m.”.

12.—(1) Article 14 is amended as follows.

(2) In paragraph 5, for “15.30 UTC (winter time) or 14.30 UTC (daylight saving)”, substitute “3.30 p.m.”.

(3) In paragraph 6, for “15.30 UTC to 16.00 UTC (winter time) or 14.30 UTC to 15.00 UTC (daylight saving)”, substitute “3.30 p.m. to 4.00 p.m.”.

13.—(1) Article 15 is amended as follows.

(2) In paragraph 2—

(a) for “1.30 UTC (winter time) or 0.30 UTC (daylight saving)”, substitute “1.30 a.m.”; and

(b) for “5.00 UTC (winter time) or 4.00 UTC (daylight saving)”, substitute “5.00 a.m.”.

(3) In paragraph 3, for “0.30 UTC (winter time) or 23.30 UTC (daylight saving)”, substitute “0.30 a.m.”.

14.—(1) Article 19 is amended as follows.

(2) For “adjacent transmission system operators”, substitute “adjacent TSOs” each time it appears.

(3) For the words before paragraph 1, substitute “Where the adjacent TSOs are transmission system operators, they must jointly offer bundled capacity products, according to the following principles:”.

(4) After paragraph 9(b), insert—

“**10.** Where adjacent TSOs include a non-UK TSO, the transmission system operator must endeavour to cooperate with the non-UK TSO to jointly offer bundled capacity products according to the principles in paragraphs 1 to 9. For this purpose, references to transmission system operators in paragraphs 1 to 9 are to be read as including that non-UK TSO.”.

(5) Omit the last sentence.

15.—(1) Article 20 is amended as follows.

(2) Omit paragraphs 1 to 3.

(3) In paragraph 4, after “terms and conditions”, insert “under paragraphs 1 to 3 of this Article as it has effect in EU law”.

16.—(1) Article 21(3) is amended as follows.

(2) For “adjacent transmission system operator”, substitute “adjacent TSO”.

(3) For the fifth sentence, substitute “This service must be based on the conversion model developed by ENTSOG under this Article as it has effect in EU law.”.

17. In Article 24, at the end of paragraph 1, insert “If a non-UK TSO is involved, the national regulatory authorities or transmission system operators must endeavour to combine the individual economic test parameters of the involved transmission system operators and non-UK TSO into a combined single economic test.”.

18.—(1) Article 26 is amended as follows.

(2) In paragraph 1—

(a) for “shall cooperate”, substitute “must cooperate with adjacent TSOs”; and

(b) for the last sentence, substitute “Where an adjacent TSO is a non-UK TSO, transmission system operators must endeavour to cooperate in these processes.”.

(3) At the end of paragraph 2, insert “Where the market demand report concerns any non-UK TSOs, the concerned transmission system operators must endeavour to produce that report in common with the non-UK TSOs.”.

(4) In paragraph 3, omit “in one or more official languages of the Member State and to the extent possible in English”.

(5) Omit paragraph 4.

(6) For paragraph 12(a), substitute—

“(a) the obligation on any concerned non-UK TSOs to take into account whether the Union-wide 10-year network development plan identifies a physical capacity gap whereby a specific region is undersupplied in a reasonable peak scenario and where offering incremental capacity at the interconnection point in question could close the gap; or any UK network development plan or national network development plan relevant to a concerned non-UK TSO identifies a concrete and sustained physical transport requirement;”.

19.—(1) Article 27 is amended as follows.

(2) In paragraph 3—

(a) omit “in one or more official languages of the Member State and to the extent possible in English”;

(b) after the first sentence, insert “If a non-UK TSO is concerned, the transmission system operators must conduct a public consultation in accordance with this paragraph and endeavour to conduct that consultation jointly with the non-UK TSO.”; and

(c) in the final sentence, for “These operators”, substitute “The transmission system operators”.

(3) In paragraph 4, before the words “coordinate across borders”, insert “endeavour to”.

20.—(1) Article 28 is amended as follows.

(2) In paragraph 1, for the words before subparagraph (a), substitute—

“1. Following the consultation and finalisation of the design phase for an incremental capacity project in accordance with Article 27, the involved transmissions system operators must submit the project proposal for an incremental capacity project to the relevant national regulatory authority for approvals. Where the project proposal concerns both national regulatory authorities, the transmission system operators must coordinate the submissions for approval. Where the project proposal concerns one or more non-UK TSOs, the involved transmission system operators must endeavour to ensure that the submissions for approval to the national regulatory authorities are coordinated with any non-UK TSO’s submission for approval to any non-UK regulatory authority. The project proposal must also be published by the involved transmission system operators.

Subject to paragraph 1A, transmission system operators must ensure that the project proposal includes at least the following information:”.

- (3) After the end of paragraph 1(g), insert—

“1A. If a non-UK TSO is involved, transmission system operators must include in the project proposal the information that is listed in paragraph 1(a) to (g) in so far as they are able to do so and must endeavour to cooperate with the non-UK TSO to include all the information listed in paragraph 1(a) to (g).”.

- (4) For paragraph 2, substitute—

“2. Within 6 months of receipt of the complete project proposal by the relevant national regulatory authorities, the national regulatory authorities must publish decisions on the project proposal defined in paragraph 1. Where decisions are required by both national regulatory authorities, those decisions must be coordinated. Where the project proposal concerns any non-UK TSOs, the national regulatory authorities must endeavour to coordinate their decisions with the decision of any relevant non-UK regulatory authorities. The decisions must include justifications. The national regulatory authorities must, where relevant, inform each other and any relevant non-UK regulatory authority of the receipt of the project proposal and its completeness in order to determine the start of the 6 months period.

When preparing the national regulatory authority’s decision, each national regulatory authority must consider the views of the other national regulatory authority, if it is also involved. Where the project proposal concerns any non-UK TSOs, the national regulatory authorities must consider the views of any relevant non-UK regulatory authorities. In any case the national regulatory authorities must take into account any detrimental effects on competition or the obligation on any relevant non-UK regulatory authority to take into account the effective functioning of the internal gas market, where those factors are associated with the incremental capacity projects concerned.

If a relevant national regulatory authority objects to the submitted project proposal, it must, if relevant, inform the other involved national regulatory authority and any involved non-UK regulatory authority as soon as possible. In such a situation, the national regulatory authorities must take all reasonable steps to work together, if both are involved, and must take all reasonable steps to work with any involved non-UK regulatory authorities to reach a common agreement.”.

- (5) For paragraph 3, substitute—

“3. Upon the publication of the decisions of the national regulatory authorities pursuant to paragraph 2 and no later than 2 months before the offer of incremental capacity in the annual yearly capacity auction, the transmission system operators must publish a notice. Transmission system operators must publish that notice jointly. Where relevant, the transmission system operators must endeavour to ensure that the notice is published

jointly with any concerned non-UK TSO. The notice must include the following minimum information—

- (a) the information defined in paragraph 1 as approved by the national regulatory authorities; and
- (b) a template of the contracts related to the capacity offered.”.

21.—(1) Article 29 is amended as follows.

(2) At the end of paragraph 1, insert “Where relevant, the transmission system operators must endeavour to work with any concerned non-UK TSO to offer the incremental capacity in accordance with this paragraph.”.

(3) In paragraph 3(a), after the words “transmission system operators”, insert “and, if applicable, non-UK TSOs”.

22. Omit Article 31.

23.—(1) Article 33 is amended as follows.

(2) For paragraph 1, substitute—

“**1.** Transmission system operators must—

- (a) decide minimum interruption lead times jointly with adjacent TSOs that are transmission system operators; and
- (b) endeavour to decide minimum interruption lead times jointly with adjacent TSOs that are non-UK TSOs.”.

(3) In paragraph 2, in the second sentence, for “two transmission system operators”, substitute “a transmission system operator and an adjacent TSO”.

24.—(1) Article 34 is amended as follows.

(2) In the first sentence, for “adjacent transmission system operator”, substitute “adjacent TSO”.

(3) In the second sentence, omit “Adjacent”.

25. In Article 35(3), omit “within the Union, the adjacent”.

26.—(1) Article 37 is amended as follows.

(2) For paragraph 3, substitute—

“**3.** All transmission system operators must endeavour to ensure that there is contractual agreement with the adjacent TSOs to use a single booking platform to offer capacity on the two sides of their respective interconnection points or virtual interconnection points.”.

(3) Omit paragraph 4.

(4) In paragraph 5—

- (a) omit “across the Union”; and
- (b) omit the second sentence.

(5) At the end of paragraph 6, insert “Where the increase in technical capacity involves any non-UK TSO, the transmission system operators must endeavour to ensure that the joint booking platform is also agreed with the non-UK TSO.”.

27. Omit Articles 38 and 39.

28. In the text after Article 40, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”

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Draft Legislation: *This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 No. 531*