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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

The Nuclear Regulated Asset Base Model  
(Revenue Collection) Regulations 2023

PART 1

Introduction

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023.

(2) These Regulations come into force 21 days after the day on which they are made.

(3) These Regulations extend to England and Wales and Scotland.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Nuclear Energy (Financing) Act 2022;

“absolute value”, in relation to an amount, means the magnitude of that amount without regard to whether that amount is positive or negative;

“additional reserve payment” means a payment an electricity supplier is required to make under regulation 13(3);

“adjusted interim levy rate” is to be construed in accordance with regulation 12(1);

“the Balancing and Settlement Code” means the code for the governance of electricity balancing and settlement in Great Britain, as amended from time to time, which is maintained in accordance with the conditions of transmission licences granted under section 6(1)(b) of the Electricity Act 1989(1);

“BM Unit” has the meaning given in the Balancing and Settlement Code (see section X of that code) and “registered”, in relation to a BM Unit, means registered in accordance with the requirements of section K of the Balancing and Settlement Code;

“BSC volume allocation run” means any one of the following—

- (a) an Initial Volume Allocation Run,
- (b) an Interim Information Volume Allocation Run,
- (c) a Reconciliation Volume Allocation Run (including a Final Reconciliation Volume Allocation Run or a Post-Final Volume Allocation Run);

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(1) 1989 c. 29. Section 6 was substituted by the Utilities Act 2000 (c. 27), section 30. Section 6(1)(b) was substituted by the Energy Act 2004 (c. 20), section 136(1).

“the BSCCo” means ELEXON Limited (company number 03782949) or any successor to that company acting in the capacity of the BSCCo within the meaning given in the Balancing and Settlement Code;

“EII excluded electricity” means electricity which constitutes EII excluded electricity within the meaning of regulation 6(1) of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015(2);

“electricity generation licence” has the meaning given in section 1(5) of the Act;

“electricity supplier” means a person who is the holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989;

“estimated quarterly obligation period electricity supply”, “estimated quarterly obligation period income”, and “estimated quarterly obligation period payment cost” are to be construed in accordance with regulation 6;

“final reconciliation determination” is to be construed in accordance with regulation 15(2);

“Final Reconciliation Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“first operational cost period” means the period—

- (a) beginning with the first payment period start date; and
- (b) ending with—
  - (i) except where paragraph (ii) applies, the earliest 31st March to occur after the first payment period start date; or
  - (ii) if the first payment period start date occurs on a 31st March, the first payment period start date;

“first payment period start date” means the date of entry into the first revenue collection contract by the revenue collection counterparty;

“first payment period end date” means the earlier of 31st March, 30th June, 30th September or 31st December following the first payment period start date;

“Initial Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“Interim Information Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“interim rate payment” is to be construed in accordance with regulation 7;

“letter of credit” means a letter from a person which contains an irrevocable and unconditional authorisation in favour of the revenue collection counterparty to be paid by that person on demand up to an amount stated in the letter;

“mutualisation amount” and “mutualisation notice” are to be construed in accordance with regulation 17;

“operational cost period” means—

- (a) the first operational cost period, or
- (b) any subsequent period beginning with 1st April in a year and ending with 31<sup>st</sup> March in the following year;

“Post-Final Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“quarterly obligation period” means—

- (a) in respect of the first such period, the period from the first payment period start date to the first payment period end date; and
- (b) for any other such period, a period of 3 months commencing with 1st April, 1st July, 1st October or 1st January (as applicable);

“RCC party” means a person, other than the revenue collection counterparty, who is a party to a revenue collection contract;

“RCC party payment” means any payment which an RCC party must make to the revenue collection counterparty under, or pursuant to, a revenue collection contract, and includes a payment made to a person to whom a benefit under, or pursuant to, a revenue collection contract has been assigned in accordance with the terms of that revenue collection contract;

“RCC period contribution” is to be construed in accordance with regulation 3;

“reconciliation determination” and “reconciliation period” are to be construed in accordance with regulation 15(1);

“reconciliation payment” means a payment an electricity supplier or the revenue collection counterparty is required to make under regulation 16(4);

“Reconciliation Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“reduced reserve payment” is to be construed in accordance with regulation 14(4)(b);

“relevant licence”, in relation to a particular RCC party, means that RCC party’s electricity generation licence;

“reserve payment” means a payment an electricity supplier is required to make under regulation 10(1);

“reserve period” means a period beginning with the 13th working day of a quarterly obligation period and ending with the 13th working day of the subsequent quarterly obligation period;

“revenue collection contract” has the meaning given in section 14(1) of the Act;

“revenue collection counterparty” has the meaning given in section 14(1) of the Act;

“revenue collection counterparty payment” means any payment which the revenue collection counterparty must make—

- (a) under or pursuant to a revenue collection contract;
- (b) to an RCC party for the purpose of compensating that person in respect of any breach of any duty (however that duty arises) owed to that person by the revenue collection counterparty which is connected to a revenue collection contract;

and includes any payment made to a person to whom a benefit under (or pursuant to) a revenue collection contract has been assigned in accordance with the terms of that revenue collection contract;

“SoS funds” means any financial assistance (within the meaning of section 41(4) of the Act) provided by the Secretary of State to the revenue collection counterparty for the purposes of making revenue collection counterparty payments and adjusting payments due from electricity suppliers in accordance with these Regulations;

“supplier” means an electricity supplier;

“total reserve amount” is to be construed in accordance with regulation 9(1)(a);

“working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971(3) in England, Wales or Scotland.

(2) Any reference in these Regulations to an amount of electricity is a reference to that amount expressed in megawatt hours.

(3) Any reference in these Regulations to a supply of electricity is a reference to its supply in Great Britain, and “supply” is to be construed in accordance with section 4(4) of the Electricity Act 1989(4).

(4) Any reference in these Regulations to an amount to be paid or provided is a reference to that amount expressed in pounds sterling and rounded to the nearest whole penny with any half of a penny being rounded upwards.

(5) Where more than one person is designated under section 16 of the Act as a revenue collection counterparty, these regulations apply subject to the modifications set out in the Schedule.

## PART 2

### Supplier obligation

#### CHAPTER 1

#### The supplier obligation

#### **The supplier obligation**

**3.—**(1) Every electricity supplier who supplies electricity during a quarterly obligation period must, subject to paragraph (3), pay an RCC period contribution to the revenue collection counterparty in respect of that period.

(2) That contribution is to be calculated in accordance with regulation 4.

(3) Where the amount of a supplier’s RCC period contribution in respect of a quarterly obligation period is a negative number—

- (a) the amount the supplier must pay under paragraph (1) in respect of that period is zero; and
- (b) the revenue collection counterparty must pay the absolute value of that amount to that supplier.

(4) For the purpose of ensuring that the RCC period contribution is paid—

- (a) an electricity supplier must make—
  - (i) interim rate payments in accordance with regulation 7(1),
  - (ii) supplier data reconciliation payments in accordance with regulation 8(2),
  - (iii) reserve payments in accordance with regulation 10(1),
  - (iv) any additional reserve payments required by regulation 13(3), and
  - (v) any reconciliation payments required by regulation 16(3)(a); and
- (b) the revenue collection counterparty must make—
  - (i) counterparty data reconciliation payments in accordance with regulation 8(3), and
  - (ii) any required reconciliation payments in accordance with regulation 16(3)(b).

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(3) 1971 c. 80; see section 1 and Schedule 1 (which was amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (2007 asp 2)).

(4) The definition of “supply” in section 4(4) was substituted by the Energy Act 2004 (c. 20), section 179(1).

### RCC period contribution

4.—(1) The RCC period contribution for a supplier for a quarterly obligation period is the amount given by—

$$[(GP + SoS \text{ repayment}) - (CP + SoS \text{ payment} + DI)] \times \left( \frac{SQS - XEP}{TQS - AXP} \right)$$

where—

GP is the total amount of revenue collection counterparty payments which the revenue collection counterparty was required to make in the quarterly obligation period;

SoS repayment is—

- (a) unless sub-paragraph (b) or (c) applies, the SoS payment in respect of the quarterly obligation period that ended three whole quarterly obligation periods before the quarterly obligation period for which this calculation is made (a “full SoS repayment”);
- (b) unless paragraph (c) applies and if the Secretary of State has specified that only a proportion of the full SoS repayment is to be used for the purposes of this paragraph, that amount;
- (c) where the contribution is for any of first four quarterly obligation periods, zero;

CP is the total amount of RCC party payments which the revenue collection counterparty received from RCC parties in the quarterly obligation period;

SoS payment is the total amount of any SoS funds that the Secretary of State has specified are to be used when calculating the RCC period contribution in respect of the quarterly obligation period;

DI is any amount of interest which was paid by virtue of regulation 7(6), 8(7), 10(2), 13(7), 16(5) or 17(7) during that period, less any amount of that interest which was paid to electricity suppliers by virtue of regulation 18(2);

SQS is the amount of electricity supplied by that supplier in the quarterly obligation period;

XEP is the amount of EII excluded electricity supplied by that supplier in the quarterly obligation period;

TQS is the total amount of electricity supplied by all suppliers in the quarterly obligation period; and

AXP is the total amount of EII excluded electricity supplied by all suppliers in the quarterly obligation period.

(2) For the purposes of this regulation, the amount of electricity supplied by a supplier in a quarterly obligation period is the amount of electricity which the BSCCo determines was supplied by that supplier on the basis of—

- (a) Final Reconciliation Volume Allocation Runs for each day within the quarterly obligation period; or
- (b) where a Post-Final Volume Allocation Run has occurred in relation to a day on which electricity was supplied, the Post-Final Volume Allocation Run for that day.

(3) Where the revenue collection counterparty makes a determination under these Regulations which requires the determination of the amount of electricity supplied on a day which is EII excluded electricity, it must, where possible, base that determination of EII excluded electricity on information derived from the most recent BSC volume allocation run carried out by the BSCCo in relation to the day on which the electricity was supplied.

## CHAPTER 2

### Interim daily levy

#### Setting the interim levy rate

5.—(1) The revenue collection counterparty must, in respect of every quarterly obligation period, determine an interim levy rate which is to apply for that period.

(2) The revenue collection counterparty must determine the interim levy rate for a quarterly obligation period at least 30 days before the commencement of that quarterly obligation period.

(3) Where the revenue collection counterparty has determined an interim levy rate for a quarterly obligation period it must—

- (a) as soon as reasonably practicable, publish a notice setting out that rate and issue that notice to every electricity supplier who has a BM Unit registered as at the day before the date of publication of the notice, and
- (b) issue that notice to every electricity supplier who has a BM Unit that becomes registered on or after the date of publication of the notice and by the last day of the quarterly obligation period to which that rate applies, as soon as reasonably practicable after the BM Unit is registered.

(4) Subject to paragraph (5), the interim levy rate for a quarterly obligation period is to be determined as the amount given by—

$$\frac{EOC - EOI}{EOS}$$

where—

EOC is the estimated quarterly obligation period payment cost, determined in accordance with regulation 6(1);

EOI is the estimated quarterly obligation period income, determined in accordance with regulation 6(2); and

EOS is the estimated quarterly obligation period electricity supply, estimated in accordance with regulation 6(4).

(5) Where the amount given by the calculation in paragraph (4) in relation to a quarterly obligation period is less than zero, the interim levy rate must be determined as zero for that period.

#### Estimated cost, income & electricity supply

6.—(1) The estimated quarterly obligation period payment cost in respect of a quarterly obligation period (“the rate period”) is the sum of the revenue collection counterparty’s estimate of—

- (a) any SoS repayment in respect of that rate period, and
- (b) the revenue collection counterparty’s estimate, made in accordance with the revenue collection contracts, of the GP required to be paid by the revenue collection counterparty in respect of that rate period.

(2) The estimated quarterly obligation period income in respect of the rate period is the sum of—

- (a) any SoS funds that the Secretary of State has specified will be available in respect of that rate period and that the Secretary of State has specified should be taken into account when calculating the interim levy rate under regulation 5 or adjusting the levy rate under regulation 12 (as applicable); and

- (b) the revenue collection counterparty's estimate, having regard to the matters set out in paragraph (3), of the CP that will be paid to the revenue collection counterparty in respect of that rate period.
- (3) The matters referred to in paragraph (2)(b) are—
  - (a) the revenue collection counterparty's estimate, made in accordance with the revenue collection contracts, of the CP required to be paid to the revenue collection counterparty during the rate period, and
  - (b) the revenue collection counterparty's estimate of the likelihood of the RCC parties failing to make the payments required under the revenue collection contracts.
- (4) The estimated quarterly obligation period electricity supply in respect of the rate period is the amount of electricity which the revenue collection counterparty estimates will be supplied by all electricity suppliers in the rate period, less the amount of EII excluded electricity which it estimates will be supplied by all suppliers in that rate period.
- (5) In this regulation "CP", "GP" and "SoS repayment" have the meaning given in regulation 4.

### **Interim rate payments**

7.—(1) An electricity supplier must make a payment ("an interim rate payment") to the revenue collection counterparty in respect of each day on which that supplier supplies electricity in Great Britain during a quarterly obligation period.

(2) The amount of an interim rate payment to be paid by a supplier in respect of a day is equal to the amount of electricity supplied by that supplier on that day, less any amount of EII excluded electricity supplied by that supplier on that day, multiplied by the interim levy rate which applies in relation to that day.

(3) The interim levy rate which applies in relation to a day is—

- (a) the rate determined under regulation 5, or
- (b) where an adjusted interim rate which has been determined under regulation 11(1)(a) has effect in accordance with regulation 12(4), that rate.

(4) The revenue collection counterparty must, as soon as reasonably practicable after the BSCCo has carried out an Interim Information Volume Allocation Run in respect of a day in a quarterly obligation period, issue a notice to each electricity supplier who supplied electricity on that day stating the interim rate payment which the supplier to whom the notice is issued must pay in respect of that day.

(5) A supplier must make an interim rate payment in respect of a day by the 5th working day after the day on which the revenue collection counterparty has issued a notice under paragraph (4) to that supplier.

(6) Where a supplier fails to pay all or part of an interim rate payment by the day on which that payment must be made, that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the day on which that payment should have been made.

(7) For the purposes of paragraph (2), the amount of electricity supplied by an electricity supplier on a particular day is the amount of electricity which the BSCCo determines, on the basis of an Interim Information Volume Allocation Run in respect of that day, as the amount of electricity supplied by that supplier on that day.

### **Data reconciliation of interim rate payments**

8.—(1) This regulation applies where, before the conclusion of a quarterly obligation period, the BSCCo carries out a relevant allocation run in respect of a day in that period and the reconciled

interim rate amount in relation to that day for an electricity supplier is different to the net levied interim rate payment for that supplier.

(2) Where that reconciled interim rate amount is more than the net levied interim rate payment the supplier must pay the difference to the revenue collection counterparty.

(3) Where that reconciled interim rate amount is less than the net levied interim rate payment the revenue collection counterparty must pay the difference to the supplier.

(4) The revenue collection counterparty must, as soon as reasonably practicable after the BSCCo has carried out a relevant allocation run in respect of a day, issue a notice to each electricity supplier which states the amount which must be paid by virtue of paragraph (2) or (3).

(5) An electricity supplier who is required to make payment by virtue of paragraph (2) must make that payment by the 5th working day after the day on which the revenue collection counterparty issues the notice to that supplier under paragraph (4).

(6) The revenue collection counterparty must make a payment it is required to make by virtue of paragraph (3) by the 8th working day after the day on which the BSCCo carried out the relevant allocation run following which the revenue collection counterparty is required to make that payment.

(7) Where a supplier fails to pay all or part of a payment it is required to make by virtue of paragraph (2), that supplier must pay the revenue collection counterparty simple interest at the rate specified in regulation 36(1) on any unpaid amount from the day after the day on which that payment should have been made.

(8) For the purposes of this regulation—

- (a) the reconciled interim rate amount for a supplier in relation to a day is equal to the amount of electricity supplied by that supplier on that day less any amount of EII excluded electricity supplied by that supplier on that day multiplied by the interim levy rate which applies to that day by virtue of regulation 7(3);
- (b) the net levied interim rate payment for a supplier in relation to a day is the sum of the interim rate payment that supplier was required to pay in respect of that day, and any payments that supplier was previously required to pay in respect of that day, by virtue of paragraph (2), less any payments the revenue collection counterparty was previously required to pay to that supplier in respect of that day by virtue of paragraph (3);
- (c) a relevant allocation run is an Initial Volume Allocation Run or a Reconciliation Volume Allocation Run; and
- (d) the amount of electricity supplied by an electricity supplier on a particular day is the amount of electricity which the BSCCo determines, on the basis of the most recent relevant allocation run in relation to that day, as the amount of electricity supplied by that supplier on that day.

## CHAPTER 3

### Payments for reserve

#### Reserve payments

9.—(1) The revenue collection counterparty must determine—

- (a) the total amount of reserve payments (“the total reserve amount”) to be collected from suppliers in respect of each quarterly obligation period, calculated in accordance with paragraph (6); and
- (b) the amount of each electricity supplier’s reserve payment in respect of each quarterly obligation period, calculated in accordance with regulation 10.



(2) The revenue collection counterparty must make and publish its determination of the total reserve amount for a quarterly obligation period before the relevant day.

(3) The revenue collection counterparty must determine the amount of each electricity supplier's reserve payment for a quarterly obligation period before the end of the period of 8 working days beginning with the relevant day.

(4) The revenue collection counterparty must issue to every relevant supplier a notice which sets out the amount of that supplier's reserve payment for a quarterly obligation period before the end of the period of 8 working days beginning with the relevant day.

(5) For the purpose of paragraph (4), a "relevant supplier" is an electricity supplier who supplied electricity during the reference period (within the meaning given by regulation 10(4)).

(6) The total reserve amount for a quarterly obligation period is the amount which the revenue collection counterparty determines it would need to be paid for there to be a 19 in 20 probability of it being able to make all the payments it is required to make to RCC parties during the reserve period which commences during that quarterly obligation period having regard to—

- (a) the revenue collection counterparty's estimate of the payments it expects to receive from the RCC parties during that reserve period;
- (b) the revenue collection counterparty's estimate of the payments it will be required to make to RCC parties and electricity suppliers during that reserve period;
- (c) the likelihood of any supplier failing to make payments it is required to make under these Regulations during that reserve period; and
- (d) any SoS funds that the Secretary of State has specified will be available in respect of that reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount.

(7) In this regulation the "relevant day" means the day which is 30 days before the beginning of the relevant quarterly obligation period.

### **Individual suppliers' reserve amounts**

**10.**—(1) An electricity supplier who supplied electricity during the reference period must make a reserve payment to the revenue collection counterparty in respect of a quarterly obligation period ("the relevant period") by—

- (a) in the case of the first quarterly obligation period, the 5th working day after the first payment period start date;
- (b) in the case of a subsequent quarterly obligation period, the 5th working day after the day on which the revenue collection counterparty has issued a notice to that supplier under regulation 15(3) for the relevant period.

(2) Where a supplier fails to pay all or part of a reserve payment by the date by which it must be paid in accordance with paragraph (1), that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the date by which that amount should have been paid.

(3) Subject to regulation 14, the amount of a supplier's reserve payment in respect of the relevant period is the amount given by—

$$TRA \times \left( \frac{SRE - SXE}{RE - XE} \right)$$

where—

TRA is total reserve amount for that period;

SRE is the amount of electricity supplied by that supplier in the reference period as determined on the date on which that total reserve amount is determined;

SXE is the amount of EII excluded electricity supplied by that supplier in the reference period as determined on the date on which that total reserve amount is determined;

RE is the total amount of electricity supplied by all suppliers in the reference period as determined on the date on which that total reserve amount is determined; and

XE is the total amount of EII excluded electricity supplied by all suppliers in the reference period as determined on the date on which that total reserve amount is determined.

(4) The reference period is the most recent period of 30 consecutive days in respect of which the BSCCo has carried out an Initial Volume Allocation Run before the revenue collection counterparty makes its determination under regulation 9(1)(a) in respect of the relevant period.

(5) For the purposes of paragraph (3) the amount of electricity supplied by an electricity supplier in a reference period or adjusted reference period is the amount of all electricity which the BSCCo determines was supplied by that supplier in that period, on the basis of the most recent BSC volume allocation run which the BSCCo has carried out.

## CHAPTER 4

### Adjustments to interim rate and additional reserve payments

#### In period adjustments

**11.**—(1) Where the revenue collection counterparty is of the opinion that there is a high degree of likelihood that it will be unable to make all payments it is required to make to RCC parties in respect of a quarterly obligation period it may, if it thinks it expedient to do so—

- (a) determine an adjusted interim levy rate in respect of that period in accordance with regulation 12;
- (b) determine an additional total reserve amount in respect of that period in accordance with regulation 13;
- (c) determine an adjusted interim levy rate and an additional total reserve amount in respect of that period.

(2) The revenue collection counterparty must take such steps as it considers necessary to ensure that electricity suppliers are kept informed of the likelihood that it will be unable to make all payments it is required to make to RCC parties in respect of a quarterly obligation period.

(3) Where the revenue collection counterparty is of the opinion that there is a high degree of likelihood that it will collect significantly more from suppliers under regulations 7(1) and 10(1) in respect of a quarterly obligation period than the amount it requires to be able to make all payments it is required to make to RCC parties in respect of that period it may, in accordance with regulation 12, determine an adjusted interim levy rate in respect of that period.

#### Adjusted interim levy rate

**12.**—(1) Subject to paragraph (2), an adjusted interim levy rate (“adjusted interim levy rate”) for a quarterly obligation period (“the rate period”) is to be determined as the amount given by—

$$\frac{EOC - (EOI + SPC)}{EPS}$$

where—

EOC is the estimated quarterly obligation period payment cost in respect of the rate period, estimated in accordance with regulation 6(1) as at the time of the determination of the adjusted interim levy rate;

EOI is the estimated quarterly obligation period income in respect of the rate period, estimated in accordance with regulation 6(2) as at the time of the determination of the adjusted interim levy rate;

SPC is the sum of—

- (a) the total amount of interim rate payments which have been received by the revenue collection counterparty in respect of electricity supply during the rate period as at the time of the determination of the adjusted interim levy rate; and
- (b) the total amount of interim rate payments which the revenue collection counterparty estimates it will receive in respect of electricity supply during the rate period, in the period from the time of the determination of the adjusted interim levy rate until the adjusted interim levy rate has effect; and

EPS is the amount of electricity which the revenue collection counterparty estimates will be supplied by all electricity suppliers in that period from the time the adjusted interim levy rate has effect until the conclusion of the rate period, less the amount of EII excluded electricity which it estimates will be supplied by all suppliers in that period.

(2) Where the rate determined in accordance with paragraph (1) would be a negative number, the revenue collection counterparty must determine the adjusted interim levy rate as zero.

(3) Where the revenue collection counterparty has determined an adjusted interim levy rate it must—

- (a) as soon as reasonably practicable, publish a notice setting out that rate and issue that notice to every electricity supplier who has a BM Unit registered as at the day before the date of publication of the notice,
- (b) issue that notice to every electricity supplier who has a BM Unit that becomes registered on or after the date of publication of the notice and by the last day of the quarterly obligation period during which that rate has effect, as soon as reasonably practicable after the BM Unit is registered; and
- (c) where paragraph (5) applies, specify a date on which the rate shall have effect.

(4) Where the adjusted interim levy rate is greater than the previous levy rate, it has effect from the latest of—

- (a) the commencement of the rate period;
- (b) the 30th day after the revenue collection counterparty has published the notice under paragraph (3);
- (c) any later date in the rate period which the revenue collection counterparty specifies in the notice under paragraph (3).

(5) Where the adjusted interim levy rate is less than the previous levy rate, it has effect from the date specified in the notice published under paragraph (3).

(6) For the purpose of paragraphs (4) and (5), “previous levy rate” means the interim levy rate or the adjusted interim levy rate, whichever is most recently determined in respect of the rate period.

#### **Additional total reserve amount**

13.—(1) An additional total reserve amount in respect of a quarterly obligation period is the amount which the revenue collection counterparty determines it would need to be paid, having regard to the matters set out in paragraph (2)—

- (a) to be able to make any revenue collection counterparty payments it has failed to make during the reserve period which commences during that quarterly obligation period; and
  - (b) for there to be a 19 in 20 probability of it being able to make all payments it is required to make to RCC parties during the reserve period after the making of the determination.
- (2) The matters referred in paragraph (1) are—
- (a) the amount of interim rate payments which it expects to be paid during the reserve period after the making of the determination of the additional total reserve amount;
  - (b) any other amount which it expects to be paid by suppliers during the reserve period after the making of that determination;
  - (c) the likelihood of any supplier failing to make payments it is required to make under these Regulations during the reserve period;
  - (d) the revenue collection counterparty’s estimate of the payments it expects to receive from the RCC parties and electricity suppliers during the reserve period;
  - (e) the revenue collection counterparty’s estimate of the payments it will be required to make to the RCC parties and electricity suppliers during the reserve period; and
  - (f) the amount of any SoS funds that the Secretary of State has specified will be available in respect of the reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount.
- (3) Where the revenue collection counterparty determines an additional total reserve amount, each electricity supplier who supplied electricity during the adjusted reference period must pay an additional reserve payment.

- (4) An electricity supplier’s additional reserve payment is the amount given by—

$$(TAA) \times \left( \frac{SRE - SXE}{RE - XE} \right)$$

where—

TAA is the additional total reserve amount;

SRE is the amount of electricity (within the meaning given by regulation 10(5)) supplied by that supplier in the adjusted reference period as determined at the time that additional total reserve amount is determined;

SXE is the amount of EII excluded electricity supplied by that supplier in the adjusted reference period as determined on the date on which that additional total reserve amount is determined;

RE is the total amount of electricity (within the meaning given by regulation 10(5)) supplied by all suppliers in the adjusted reference period, as determined at the time that additional total reserve amount is determined; and

XE is the total amount of EII excluded electricity supplied by all suppliers in the adjusted reference period as determined on the date on which that additional total reserve amount is determined.

- (5) Where the revenue collection counterparty has determined an additional total reserve amount it must—
- (a) publish a notice setting out its determination of the additional total reserve amount, and
  - (b) issue a notice to every electricity supplier who supplied electricity during the adjusted reference period setting out its determination of that supplier’s additional reserve payment.
- (6) An electricity supplier must pay an additional reserve payment in respect of the reserve period by the later of—

- (a) the date by which a reserve payment is due from that supplier in respect of that period;
- (b) the 30th day after the revenue collection counterparty has published a notice under paragraph (5)(a); or
- (c) any later date which the revenue collection counterparty specifies in the notice published under paragraph (5)(a).

(7) Where a supplier fails to make all or part of an additional reserve payment by the date it must be paid in accordance with paragraph (6), that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the date by which that amount should have been paid.

(8) For the purposes of—

- (a) paragraphs (3), (4) and (5), “the adjusted reference period” means the most recent period of 30 consecutive days in respect of which the BSCCo has carried out an Initial Volume Allocation Run;
- (b) paragraph (4), the amount of electricity supplied by an electricity supplier in a reference period or adjusted reference period is the amount of all electricity which the BSCCo determines was supplied by that supplier in that period, on the basis of the most recent BSC volume allocation run which the BSCCo has carried out.

#### **Determination of reduced total reserve amount**

14.—(1) This regulation applies where the revenue collection counterparty is of the opinion that there is a high degree of likelihood that it will collect significantly more from suppliers under regulations 7(1) and 10(1) in respect of a quarterly obligation period than the amount it requires to be able to make all payments it is required to make during the reserve period which commences during that quarterly obligation period, taking into account any SoS funds that the Secretary of State has specified will be available in respect of that reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount.

(2) Subject to paragraph (3), where this regulation applies the revenue collection counterparty may determine again the total reserve amount in respect of that quarterly obligation period in accordance with regulation 9(1)(a) and (6) (the “reduced total reserve amount”).

(3) The revenue collection counterparty may not make a determination under paragraph (2) after the date which is 5 working days before the date on which electricity suppliers must make a reserve payment under regulation 10(1).

(4) Where the revenue collection counterparty makes a determination under paragraph (2) in respect of a quarterly obligation period, it must—

- (a) publish a notice setting out its determination of the reduced total reserve amount for that period;
- (b) recalculate the amount (the “reduced reserve payment”) each supplier must pay under regulation 10(1) in respect of that period in accordance with regulation 10(3); and
- (c) issue a notice to each electricity supplier who was issued a notice under regulation 9(4) in respect of that period setting out the reduced reserve payment that supplier must pay under regulation 10(1) in respect of that period.

(5) The requirement to issue a notice under paragraph (4)(c) does not apply where a notice has been issued under regulation 15(3) in respect of the same obligation period.

(6) Where the revenue collection counterparty issues a notice to a supplier under paragraph (4)(c) and that supplier has already made a reserve payment in respect of the quarterly obligation period to which it relates which exceeds the reduced reserve payment due from that supplier, the revenue collection counterparty must pay back to that supplier the difference between the amount of that

reserve payment and the reduced reserve payment now due from that supplier as soon as reasonably practicable.

## CHAPTER 5

### Reconciliation payments

#### Reconciliation payments

**15.**—(1) The revenue collection counterparty must calculate, in accordance with regulation 16(1), the amounts to be paid as reconciliation payments by electricity suppliers or by that counterparty (“a reconciliation determination”) in respect of a quarterly obligation period (“the reconciliation period”)—

- (a) as soon as reasonably practicable after the revenue collection counterparty has issued a notice under regulation 7(4) in respect of the day which is the last day of the reconciliation period, and in any event before the conclusion of the quarterly obligation period which immediately follows the reconciliation period; and
- (b) once in every subsequent quarterly obligation period until the final reconciliation determination has been carried out in respect of the reconciliation period, as soon as reasonably practicable after the revenue collection counterparty has issued a notice under regulation 7(4) in respect of the last day of the quarterly obligation period which concluded immediately prior to that subsequent period, and in any event before the conclusion of that subsequent period.

(2) The final reconciliation determination in respect of the reconciliation period is the 10th reconciliation determination made in respect of that period.

(3) Where the revenue collection counterparty makes a reconciliation determination it must, as soon as reasonably practicable, issue a notice to each relevant supplier setting out—

- (a) the amount of any reconciliation payment which the revenue collection counterparty must make to that supplier following that determination; and
- (b) the amount of any reconciliation payment which that supplier must make to the revenue collection counterparty following that determination.

(4) For the purpose of paragraph (3), a “relevant supplier” is an electricity supplier who—

- (a) supplied electricity during the reconciliation period,
- (b) is due to make or receive a reconciliation payment, or
- (c) is due to make a reserve payment.

#### Determination of reconciliation payments

**16.**—(1) The amount of a reconciliation payment to be paid to or by a supplier in respect of the reconciliation period is the revenue collection counterparty’s calculation, at the time of making that calculation, of the RCC period contribution in relation to that supplier in respect of the reconciliation period, less the net levied amount for that supplier in respect of that period.

(2) For the purposes of the calculation of a RCC period contribution, where a Final Reconciliation Volume Allocation Run or Post-Final Volume Allocation Run has not been carried out by the BSCCo in relation to a day in the reconciliation period, the amount of electricity supplied on that day by a supplier is to be determined on the basis of the most recent BSC volume allocation run which the BSCCo has carried out in relation to that day.

(3) Where the amount of a reconciliation payment in relation to an electricity supplier—

- (a) is a positive number, that supplier must pay that amount to the revenue collection counterparty;

- (b) is a negative number, the revenue collection counterparty must pay the absolute value of that amount to that supplier.
- (4) Where, following a reconciliation determination, the revenue collection counterparty must make a reconciliation payment to an electricity supplier, or that electricity supplier must make a reconciliation payment to the revenue collection counterparty, that payment must be made by the 5th working day after the day on which the revenue collection counterparty has issued a notice to that supplier under regulation 15(3) in respect of that reconciliation determination.
- (5) Where an electricity supplier is required to pay a reconciliation payment and it fails to pay all or part of that payment by the day on which that payment must be made, that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the day on which the payment should have been made.
- (6) For the purposes of paragraph (1), the net levied amount for a supplier in respect of a reconciliation period is the amount of the supplier obligation amount less the counterparty obligation amount.
- (7) For the purposes paragraph (6)—
- “the supplier obligation amount” is the sum of the following amounts—
- (a) any payment that supplier was required to make under regulation 7(1) in respect of a day in the reconciliation period;
  - (b) the sum of any payments that supplier was required to make under regulation 8(2) in respect of days in the reconciliation period;
  - (c) any payment that supplier was required to make under regulation 10(1) in respect of the reconciliation period;
  - (d) any payment that supplier was required to make under regulation 13(3) in respect of the reconciliation period; and
  - (e) the sum of any reconciliation payments which that supplier was required to make under paragraph (3)(a) in respect of any previous reconciliation determination made in relation to the reconciliation period;
- “the counterparty obligation amount” is the sum of the following amounts—
- (a) the sum of any payments the revenue collection counterparty was required to make under regulation 8(3) in respect of days in the reconciliation period; and
  - (b) the sum of any reconciliation payments which the revenue collection counterparty was required to make under paragraph (3)(b) in respect of any previous reconciliation determination made in relation to the reconciliation period.

## CHAPTER 6

### Mutualisation

#### **Mutualisation**

**17.**—(1) Where an electricity supplier (“the defaulting supplier”) fails to make a relevant payment the revenue collection counterparty may, subject to paragraph (5), require non-defaulting suppliers to pay a share of an amount equal to the amount which was not paid by issuing a notice (“a mutualisation notice”) to each non-defaulting supplier who supplied electricity during the reference period.

(2) For the purposes of this regulation a “non-defaulting supplier” in relation to a mutualisation notice means an electricity supplier who has—

- (a) not failed to make any relevant payment within the time limit for making the payment under these Regulations;

- (b) failed to make one or more relevant payments all of which have subsequently been paid to the revenue collection counterparty by the time the defaulting supplier was required to make the relevant payment referred to in paragraph (1); or
- (c) failed to make one or more relevant payments not all of which have subsequently been paid to the revenue collection counterparty by the time the defaulting supplier was required to make the relevant payment referred to in paragraph (1), but the revenue collection counterparty is of the opinion that it will hold some collateral provided by that supplier by the 5th working day after the day on which the revenue collection counterparty intends to issue that mutualisation notice.
- (3) A mutualisation notice must state—
- the amount which the defaulting supplier failed to pay;
  - the date by which the defaulting supplier should have paid that amount;
  - the amount (“the mutualisation amount”) which the non-defaulting supplier to whom the notice is issued must pay, calculated in accordance with paragraph (7);
  - the date (“the mutualisation date”) by which the mutualisation amount must be paid, which must be—
    - in the case of a mutualisation notice issued in respect of a relevant payment which the defaulting supplier was required to make by virtue of regulation 7(1) or 8(2), no earlier than 5 working days after the date on which the notice was issued; or
    - in the case of a mutualisation notice issued in respect of any other relevant payment which the defaulting supplier was required to make, no earlier than 30 days after the date on which the notice was issued.
- (4) A mutualisation date must be the same for each mutualisation notice issued in respect of a relevant payment which a defaulting supplier failed to pay.
- (5) A mutualisation notice may only be issued where the revenue collection counterparty is of the opinion that it will not hold any collateral provided by the defaulting supplier by the 5th working day after the day on which the revenue collection counterparty intends to issue that notice.
- (6) Where the revenue collection counterparty has issued a mutualisation notice to an electricity supplier, that supplier must pay the mutualisation amount specified in the notice by the date specified in the notice.
- (7) Where an electricity supplier fails to pay all or part of a mutualisation payment in accordance with paragraph (6), that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the day on which the payment should have been made.
- (8) The mutualisation amount to be stated in a mutualisation notice to be issued to a non-defaulting supplier is the amount given by—

$$DA \times \left( \frac{SRES - EXE}{NDPE - AXE} \right)$$

where—

DA is the amount which the defaulting supplier failed to pay;

SRES is the amount of electricity supplied by the non-defaulting supplier in the reference period as determined immediately before the notice is issued;

EXE is the amount of EII excluded electricity supplied by the non-defaulting supplier in the reference period as determined immediately before the notice is issued;



NDPE is the total amount of electricity supplied by all non-defaulting suppliers in the reference period as determined immediately before the notice is issued; and

AXE is the total amount of EII excluded electricity supplied by all non-defaulting suppliers in the reference period as determined immediately before the notice is issued.

(9) In this regulation—

- (a) “collateral” is to be construed in accordance with regulation 19(7);
- (b) “relevant payment” means any payment which an electricity supplier is required to make by virtue of regulation 7(1), 8(2), 10(1), 13(3), 16(3)(a) or 17(6);
- (c) the reference period is the most recent period, occurring before the mutualisation notice (to which the reference period relates) has been issued, of 30 consecutive days in respect of which the BSCCo has carried out an Initial Volume Allocation Run; and
- (d) the amount of electricity supplied by an electricity supplier in a reference period is the amount of electricity which the BSCCo determines, on the basis of the most recent BSC volume allocation run which the BSCCo has carried out in relation to each day in that period, as the amount of electricity supplied by that supplier in that reference period.

### Repayment of mutualised amounts

18.—(1) Where the revenue collection counterparty has issued a mutualisation notice in respect of a failure of an electricity supplier (“the defaulting supplier”) to make a relevant payment (“the relevant default”) and subsequently recovers any amount from that supplier in respect of that failure, that amount must be paid to electricity suppliers who were required to pay mutualisation amounts in respect of that failure in accordance with paragraphs (2) and (3).

(2) The amount which the revenue collection counterparty must, by virtue of paragraph (1), pay an electricity supplier who was required to pay a mutualisation amount (“the non-defaulting supplier”) is the amount given by—

$$AR \times \left( \frac{SU}{AU} \right)$$

where—

AR is the amount recovered from the defaulting supplier in respect of the relevant default, including any interest paid by the defaulting supplier in respect of that failure;

SU is the mutualisation amount which the non-defaulting supplier was required to pay in respect of the relevant default; and

AU is the total amount of mutualisation payments which were required to be paid by all non-defaulting suppliers in respect of the relevant default.

(3) Any amount which the revenue collection counterparty is required to pay by virtue of paragraph (1) must be paid by the 15th working day after the day on which it recovers the amount to be paid.

(4) In paragraph (1), “relevant payment” means any payment which an electricity supplier is required to make by virtue of regulation 7(1), 8(2), 10(1), 13(3), 16(3)(a) or 17(6).

## 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 revenue collection 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 most recent period of 21 consecutive days prior to the last working day before the relevant day, in respect of which the BSCCo had carried out a BSC volume allocation run ("the relevant period").

(4) For each day in the relevant period, the amount of electricity supplied by the supplier on that day, less any amount of EII excluded electricity supplied by that supplier on that day, (both as determined on the last working 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 revenue collection counterparty to meet its collateral requirement for a day—

- (a) the amount of that supplier's collateral held by the revenue collection 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 revenue collection 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 revenue collection counterparty where it is provided to the revenue collection counterparty and not called (within the meaning of regulation 21);
- (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 volume allocation 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 7(3).

(9) Regulation 20 makes further provision about appropriate letters of credit.

#### 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 revenue collection counterparty considers are appropriate.
- (2) The terms which the revenue collection 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; and
  - (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 revenue collection 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 revenue collection 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 BM registered electricity suppliers specifying alternative short term debt ratings, and that notice shall remain in force until such time as it is withdrawn.
- (6) In paragraph (5), “BM registered electricity suppliers” means electricity suppliers who have a BM Unit registered as at the day before the date the notice is issued.
- (7) The revenue collection counterparty may withdraw a notice under paragraph (5) (“the first notice”) by issuing a further notice (“the withdrawal notice”) to electricity suppliers who were sent the first notice 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).
- (8) The revenue collection counterparty must, before the first revenue collection contract is entered into, 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.
- (9) 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 revenue collection counterparty where the revenue collection counterparty issues a notice to that supplier which sets out the amount of collateral which is to be called.
- (2) The revenue collection counterparty may issue a notice under 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 revenue collection 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 revenue collection 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 revenue collection counterparty, that amount is to be treated as a payment made by that supplier to the revenue collection 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 revenue collection counterparty—
- (a) the revenue collection 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 revenue collection counterparty under that letter is to be treated as a payment by that supplier to the revenue collection counterparty made at the time that amount is received by the revenue collection counterparty.
- (6) In this regulation “relevant payment” means any payment which a supplier is required to make by virtue of regulation 7(1), 8(2), 10(1), 13(3), 16(3)(a) or 17(6) 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 revenue collection counterparty is more than that supplier’s collateral requirement, that supplier may make a request that the revenue collection counterparty repay or return as much collateral as exceeds the supplier’s collateral requirement by giving a notice to the revenue collection counterparty.

(2) Where a request under paragraph (1) has been received by the revenue collection 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 revenue collection 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 revenue collection 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 15 working days of receiving that interest.

## PART 3

### Operational costs

#### The operational costs levy

**23.**—(1) An electricity supplier must make a payment (“an operational cost payment”) to the revenue collection counterparty for each day that supplier makes an electricity supply during an operational cost period.

(2) The amount of an operational cost payment to be paid by a supplier in respect of a day is equal to the amount of electricity supplied by that supplier on that day, less any amount of EII excluded electricity supplied by that supplier on that day, multiplied by the operational levy rate.

(3) The revenue collection counterparty must, as soon as reasonably practicable after the BSCCo has carried out an Initial Volume Allocation Run in respect of a day in an operational cost period, issue a notice to each electricity supplier who supplied electricity on that day stating the operational cost payment which the supplier to whom the notice is issued must pay in respect of that day.

(4) An electricity supplier must make an operational cost payment in respect of a day by the operational cost payment date in relation to that payment.

(5) The operational cost payment date in relation to an operational cost payment is the 5th working day after the day on which the revenue collection counterparty has issued a notice under paragraph (3) to the supplier who must make that payment.

(6) Where an electricity supplier fails to make an operational cost payment by the operational cost payment date in relation to that payment, that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the operational cost payment date.

(7) For the purposes of this regulation—

(a) the operational levy rate is as follows—

(i) £0.0020 per megawatt hour for any day before 1st April 2023;

(ii) £0.0025 per megawatt hour for any day during for the period that begins with 1st April 2023 and ends on 31st March 2024;

(iii) £0.0028 per megawatt hour for any day after 31st March 2024;

(b) the amount of electricity supplied by an electricity supplier on a particular day is the amount of electricity which the BSCCo determines, on the basis of an Initial Volume Allocation Run carried out in relation to that day, as the amount of electricity which that supplier supplied on that day.

#### Repayment of excess

**24.**—(1) The revenue collection counterparty must determine, as soon as reasonably practicable after the conclusion of an operational cost period, whether the amounts received under regulation 23(1) in respect of that period and received by virtue of regulation 23(6) during that period are greater than the costs which it incurred in respect of the relevant period in relation to that operational cost period.

(2) Where the revenue collection counterparty determines that those amounts are greater than those costs it must pay the difference to electricity suppliers as soon as reasonably practicable after making that determination.

(3) Where the revenue collection counterparty must make a payment under paragraph (2), the amount which the revenue collection counterparty must pay to an electricity supplier in respect of an operational cost period is the amount given by—

$$(RA - CO) \times \left( \frac{SE - EX}{ST - XT} \right)$$

where—

RA is the sum of—

- (a) any amounts received by the revenue collection counterparty under regulation 23(1) in respect of that period,
- (b) any amounts received by the revenue collection counterparty by virtue of regulation 23(6) during that period, and
- (c) any amounts which were paid to the revenue collection counterparty during the relevant period for the purpose of compensating it for any costs incurred by it in respect of a breach of any duty or obligation owed to it (whether or not under these Regulations);

CO is the costs the revenue collection counterparty determines it has incurred in respect of the relevant period;

SE is the amount of electricity supplied by the supplier in that period;

EX is the amount of EII excluded electricity supplied by that supplier in that period;

ST is the total amount of electricity supplied by all suppliers in that period; and

XT is the total amount of EII excluded electricity supplied by all suppliers in that period.

(4) For the purposes of paragraph (3) the amount of electricity supplied by a supplier in an operational cost period is the amount of electricity which the BSCCo determines, on the basis of Initial Volume Allocation Runs, as the amount of electricity that supplier supplied in that period.

(5) In this regulation—

- (a) “costs” means any costs incurred by the revenue collection counterparty in connection with the performance by it of any function conferred on it by or by virtue of Part 2 of the Act; and
- (b) “relevant period” in relation to an operational cost period means—
  - (i) in relation to the first operational cost period, the period beginning with the coming into force of these Regulations and ending with the day the first operational cost period ends; or
  - (ii) in relation to any other operational cost period, that operational cost period.

## PART 4

### Miscellaneous

#### CHAPTER 1

#### Enforcement and disputes

#### Enforcement of requirements

**25.—**(1) Any requirement of an electricity supplier under these Regulations is enforceable by the Authority as if any such requirement was a relevant requirement on a regulated person for the purposes of section 25 of the Electricity Act 1989(5).

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(5) 1989 c. 29. The definition of “regulated person” was amended by S.I. 2011/2704, 2017/493 and 2019/530. The definition of “relevant requirement” was amended by S.I. 2011/2704, 2020/96 and 2020/1016. Other amendments to section 25 of the

(2) Where the revenue collection counterparty determines that an electricity supplier has not complied with any requirement to pay an amount required under these Regulations it may issue a notice to that supplier setting out—

- (a) the amount which the revenue collection counterparty determines that supplier should have paid;
- (b) the basis on which the revenue collection counterparty determined the amount;
- (c) the date on which the amount should have been paid; and
- (d) the rate, if any, of interest which applies to the amount.

(3) Where the revenue collection counterparty determines that an electricity supplier has not complied with a requirement to ensure that the revenue collection counterparty holds sufficient collateral under regulation 19(2), it may issue a notice to that supplier which specifies the amount of collateral which the supplier would have to provide to meet that supplier's collateral requirement for the day on which the notice is issued.

(4) Where the revenue collection counterparty has issued a notice to a supplier under paragraph (3) that supplier is required to pay the amount specified in the notice to the revenue collection counterparty in cash by the next working day after the notice has been issued.

(5) Where an electricity supplier makes a payment under paragraph (4) the amount of that payment constitutes collateral held by the revenue collection counterparty for the purposes of regulation 19.

(6) Where the revenue collection counterparty issues a notice to a supplier under paragraph (2) or (3)—

- (a) it must also provide a copy of that notice to the Authority; and
- (b) it may publish a copy of that notice, or a summary of that notice.

### **Dispute notices**

**26.**—(1) An electricity supplier may dispute any determination made by the revenue collection counterparty under these Regulations, other than a determination made under or by virtue of regulation 27 of these Regulations, by giving a notice to the revenue collection counterparty setting out—

- (a) the determination the supplier is disputing; and
- (b) the basis on which the supplier disputes the determination.

(2) For the purposes of paragraph (1), a dispute about a determination made by the revenue collection counterparty includes a dispute about the failure of the revenue collection counterparty to make a determination.

(3) A notice under paragraph (1) must be given by an electricity supplier before the later of—

- (a) the 28th day after the day on which the determination was made by the revenue collection counterparty;
- (b) in the case of a determination in respect of which the revenue collection counterparty must issue a notice, the 28th day after the day on which that notice was issued;
- (c) in the case of a dispute about the failure of the revenue collection counterparty to make a determination, the 28th day after the day on which the revenue collection counterparty should have made the relevant determination which is in dispute.

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Electricity Act 1989 were made by section 54(3) of, and Schedule 10 to, the Competition Act 1998 (c. 41); sections 3(2), 60(1) to (5) and 108 of, and Schedule 6 and 8 to, the Utilities Act 2000 (c. 27); section 63(1) of, and Schedule 7 to, the Consumers, Estate Agents and Redress Act 2007 (c. 17); section 51(5) of, and Schedule 14 to, the Enterprise and Regulatory Reform Act 2013 (c. 24); S.I. 2011/2704; and S.I. 2020/96.

(4) An electricity supplier may not dispute a determination if and to the extent that the dispute is about a determination, made by the BSCCo, of an amount of electricity supplied (whether by that supplier or any other supplier).

(5) Where an electricity supplier has given a notice under paragraph (1) in respect of a determination, that determination still has effect notwithstanding the giving of that notice.

### **Determination of disputes**

**27.**—(1) Where the revenue collection counterparty receives a notice under regulation 26(1) (“a dispute notice”) about a determination (or a failure to make a determination) under any provision of these Regulations (“a relevant provision”) it must, by the 28th day after the day on which it receives that notice either—

- (a) reject the notice; or
- (b) accept the notice (in full or in part) and make such determination under that provision as it thinks is necessary in consequence.

(2) Whether the revenue collection counterparty rejects or accepts a dispute notice, it must, on the same day, issue a notice (“a decision notice”) to the person who gave that dispute notice, setting out its decision and the reasons for it.

(3) Where the revenue collection counterparty makes a determination under a relevant provision by virtue of paragraph (1)(b) it must, on the same day, issue to each electricity supplier who may be affected by the making of that determination a notice which sets out that determination.

(4) Where the revenue collection counterparty makes a determination under a relevant provision by virtue of paragraph (1)(b) and—

- (a) that provision requires the determination to be made by a particular time which has passed, that determination has effect notwithstanding that requirement;
- (b) that provision requires something to be done by it by a particular time which has passed, that thing must be done as soon as reasonably practicable after the determination.

(5) Where the revenue collection counterparty makes a determination under a relevant provision by virtue of paragraph (1)(b) and that provision requires an electricity supplier to make a payment, that payment must be made (notwithstanding what that provision says about the time by which a payment must be made) by the date specified by the revenue collection counterparty in the notice issued under paragraph (3) to that supplier, that date being no earlier than—

- (a) the date by which, in the opinion of the revenue collection counterparty, it would be reasonably practicable for that electricity supplier to make that payment; or
- (b) the earliest date by which that supplier would have had to have made that payment if the determination had been made at the time the determination which is the subject of the dispute notice was or (in the case where the revenue collection counterparty failed to make a determination) should have been made.

(6) Where an electricity supplier has paid an amount to the revenue collection counterparty, or the revenue collection counterparty has paid an amount to that electricity supplier, and a determination made under a relevant provision by virtue of paragraph (1)(b) means that that amount should not have been paid, that amount must be returned to the person who paid it by—

- (a) the 5th working day after the day on which the notice issued in respect of that determination was issued under paragraph (3);
- (b) where the revenue collection counterparty is of the opinion that it would not be reasonably practicable for that amount to be returned by that date, such later date as the revenue collection counterparty specifies in the notice issued under paragraph (3) to that supplier in respect of that determination.



### **Duties of the revenue collection counterparty to enforce and notify**

**28.**—(1) The revenue collection counterparty must exercise its functions in the manner best calculated to ensure the collection of all amounts which are required to be paid or provided by electricity suppliers under these Regulations.

(2) If the revenue collection counterparty considers it may be, or become, unable to fulfil its functions, it must promptly notify the Secretary of State and must provide such further details as the Secretary of State may request.

(3) In paragraphs (1) and (2) “functions” includes—

- (a) any function conferred by these Regulations;
- (b) the recovery of any sum as a civil debt by virtue of section 19 of the Act; and
- (c) any duties or obligations of the revenue collection counterparty under any revenue collection contract.

(4) The revenue collection counterparty must take such steps as it considers necessary to ensure that electricity suppliers are—

- (a) informed of their liabilities under these Regulations; and
- (b) provided with information about liabilities which they may incur under these Regulations.

(5) Where the revenue collection counterparty writes-off any debt owed to it by an electricity supplier, it must issue a notice of that fact to every electricity supplier who was required to make a payment under regulation 17(6) in relation to that debt.

(6) The revenue collection counterparty must publish information which relates to its estimates of the liabilities of electricity suppliers arising during three consecutive quarterly obligation periods (“the projection period”).

(7) The revenue collection counterparty must publish information under paragraph (6)—

- (a) no later than 30 days before the start of the first quarterly obligation period to which that information relates; or
- (b) where the revenue collection counterparty reasonably believes that it has received insufficient information from the Authority for the purpose of publishing information under paragraph (6), as soon as reasonably practicable following the receipt of the information the revenue collection counterparty requires.

(8) The information published under paragraph (6) must include—

- (a) an estimate of the interim levy rate (see regulation 5(1)) that would apply to each quarterly obligation period during the projection period; and
- (b) an estimate of the total reserve amount for each quarterly obligation period during the projection period.

### **Notices and publications**

**29.**—(1) Where the revenue collection counterparty is permitted or required to issue a notice (including a copy of a notice) to a person, that notice must be in writing and is issued if it has been sent (by or on behalf of the revenue collection counterparty) by post or electronic means to that person’s proper address.

(2) In paragraph (1), “proper address” means—

- (a) in the case of a body corporate—
  - (i) the registered or principal office of that person, or
  - (ii) an email address provided (and not withdrawn) by that person;

- (b) in the case of a partnership—
  - (i) the principal office of the partnership, or
  - (ii) an email address provided (and not withdrawn) by—
    - (aa) that partnership,
    - (bb) a partner, or
    - (cc) a person having control or management of the partnership business;
- (c) in the case of any other person, that person’s last known address, which includes an email address (where that email address was provided, and has not been withdrawn, by that person).

(3) So as to enable the revenue collection counterparty to discharge its functions under these Regulations, an electricity supplier must, within 2 working days of first making an electricity supply after the first payment period start date, provide an email address to the revenue collection counterparty at which it can be contacted, and if that supplier subsequently changes that email address it must notify the revenue collection counterparty of that change.

(4) Where the revenue collection counterparty issues a notice to an electricity supplier under regulation 5(3)(a) or (b) it must set out an address and an email address for correspondence in that notice.

(5) An electricity supplier may give a notice to the revenue collection counterparty by sending it by post or electronic means to the address or email address contained in the most recent notice issued to that supplier under regulation 5(3)(a) or (b).

(6) Where the revenue collection counterparty is required to publish any information under these Regulations the revenue collection counterparty must publish that information in such manner as the revenue collection counterparty considers appropriate for the purpose of bringing it to the attention of persons who may be affected by that information.

## CHAPTER 2

### Effect of payment and interest

#### **Set-off of payments by the revenue collection counterparty**

**30.**—(1) This regulation applies where—

- (a) the revenue collection counterparty is liable to make a payment (“a relevant payment”) to an electricity supplier under these Regulations by a date (“the relevant date”);
- (b) that supplier is liable to pay determined payments; and
- (c) the revenue collection counterparty considers that there is a high degree of likelihood that the electricity supplier will fail to pay a determined payment.

(2) Where this regulation applies the revenue collection counterparty may retain all or part of the relevant payment, subject to paragraph (3).

(3) The maximum amount the revenue collection counterparty may retain under paragraph (2) is the amount equal to the sum of all determined payments which the supplier is liable to pay at the relevant date.

(4) Where the revenue collection counterparty retains all or part of a relevant payment, the amount retained is to be treated as if it was a payment made to it by the supplier on the relevant date.

(5) Where the revenue collection counterparty has retained all or part of a relevant payment under paragraph (2), it must, by the relevant date, issue a notice to the supplier stating the amount which has been retained.

(6) For the purposes of paragraph (1), a determined payment is a payment—

- (a) which a supplier must make to the revenue collection counterparty by virtue of these Regulations within 5 working days of the relevant date;
  - (b) which the supplier has not yet made; and
  - (c) the amount of which has been determined.
- (7) The amount of a payment which a supplier must make by virtue of these Regulations has been determined if—
- (a) in the case of a payment which is calculated by reference to an amount of electricity determined by the BSCCo on the basis of a BSC volume allocation run, the BSCCo has carried out that BSC volume allocation run;
  - (b) in the case of a payment where the amount of that payment must be determined by the revenue collection counterparty in accordance with these Regulations, the revenue collection counterparty has determined the amount of that payment;
  - (c) in the case of a requirement to pay an amount of interest, the day by which that interest must be paid has passed.
- (8) For the purposes of this regulation, a requirement to provide collateral under regulation 19(2) is not a requirement to make a payment by virtue of these Regulations.

#### **Netting of payments by the revenue collection counterparty**

- 31.**—(1) This regulation applies where—
- (a) the revenue collection counterparty must pay an amount to an electricity supplier under these Regulations by a certain date (the “counterparty payment”); and
  - (b) that supplier must pay an amount to the revenue collection counterparty by the same date (the “supplier payment”).
- (2) Where the counterparty payment is more than the supplier payment, payment of the counterparty payment less the supplier payment discharges—
- (a) the revenue collection counterparty’s obligation to make the counterparty payment, and
  - (b) the supplier’s obligation to make the supplier payment.
- (3) Where the counterparty payment is less than the supplier payment, payment of the supplier payment less the counterparty payment discharges—
- (a) the supplier’s obligation to make the supplier payment, and
  - (b) the revenue collection counterparty’s obligation to make the counterparty payment.
- (4) Where the counterparty payment is equal to the supplier payment—
- (a) the revenue collection counterparty’s obligation to make the counterparty payment is discharged, and
  - (b) the supplier’s obligation to make the supplier payment is discharged.

#### **Discharge of obligations by payment**

- 32.**—(1) This regulation applies where an electricity supplier makes a payment to the revenue collection counterparty for the purpose of discharging its relevant obligations but that payment is insufficient to do so.
- (2) The revenue collection counterparty must use the payment—
- (a) first, to discharge (in whole or in part) any relevant obligation of the supplier arising under regulation 23(1);

- (b) where part of the payment remains, secondly, to discharge any relevant obligation of the supplier which is not one arising under regulation 23(1); and
  - (c) where part of the payment still remains, thirdly, to discharge any relevant obligation of the supplier to make a payment of interest.
- (3) Where more than one relevant obligation falls within a subparagraph of paragraph (2), the revenue collection counterparty must determine the order in which those obligations are to be discharged.
- (4) On the day on which the revenue collection counterparty uses the payment it must issue a notice to the supplier which sets out the details of—
- (a) any relevant obligation which has been wholly discharged;
  - (b) any relevant obligation which has been partially discharged, and the extent to which it has been discharged; and
  - (c) any relevant obligation which has not been discharged.
- (5) For the purposes of this regulation—
- (a) any amount treated as a payment by an electricity supplier to the revenue collection counterparty by virtue of regulation 21(4) or (5) or regulation 30(4) is to be treated as a payment made by that supplier to the revenue collection counterparty for the purpose of discharging its relevant obligations; and
  - (b) a requirement to provide collateral under regulation 19(2) is not a requirement to make a payment by virtue of these Regulations.
- (6) In this regulation—
- “payment of interest” means a payment of interest which is required to be made by virtue of regulation 7(6), 8(7), 10(2), 13(7), 16(5), 17(7) or 23(6);
- “relevant obligation”, in relation to an electricity supplier, means any obligation of that supplier to make a payment under these Regulations where the date by which that payment should have been made has passed.

### Use of payments

**33.—**(1) Where the revenue collection counterparty receives a payment from an electricity supplier under regulation 23, the revenue collection counterparty may only use that payment for the purposes of meeting its costs.

(2) Where the revenue collection counterparty receives a payment from an electricity supplier under any regulation, other than regulation 23, the revenue collection counterparty may only use that payment for the purposes of—

- (a) making revenue collection counterparty payments;
- (b) making any repayments due to the Secretary of State in relation to any SoS funds which the revenue collection counterparty must repay to the Secretary of State at such time and in such amount as agreed between the Secretary of State and the revenue collection counterparty; or
- (c) making payments to electricity suppliers under these Regulations.

(3) In paragraph (1), “costs” means any costs incurred by the revenue collection counterparty in connection with the performance by it of any function conferred on it by or by virtue of Part 2 of the Act.

### Apportioning sums to revenue collection contracts

34.—(1) This regulation applies where the revenue collection counterparty is unable fully to meet its liabilities under, or pursuant to, a revenue collection contract.

(2) The revenue collection counterparty is unable fully to meet its liabilities under, or pursuant to, a revenue collection contract when the total amount held by the revenue collection counterparty at any time is less than the total amount of revenue collection counterparty payments it must pay at that time.

(3) Where this regulation applies, the amount which may be used to make revenue collection counterparty payments in relation to a particular revenue collection contract is the amount given by—

$$AH \times \left( \frac{OG}{OA} \right)$$

where—

AH is the total amount held by the revenue collection counterparty;

OG is the amount of revenue collection counterparty payments owed in relation to that revenue collection contract; and

OA is the total amount of revenue collection counterparty payments which the revenue collection counterparty owes.

(4) An amount is held by the revenue collection counterparty if it is in possession of that amount and—

- (a) it is an amount paid to it by electricity suppliers under these Regulations, other than an amount paid under or by virtue of regulation 23(1) or (6), or provided under regulation 19(2);
- (b) it is an amount treated as a payment by an electricity supplier to the revenue collection counterparty by virtue of regulation 21(4) or (5) or regulation 30(3);
- (c) it is an amount of collateral which was provided in the form of cash and the revenue collection counterparty is entitled to call that collateral by virtue of regulation 21;
- (d) it is an amount received as a RCC party payment by the revenue collection counterparty; or
- (e) it is any other amount provided to the revenue collection counterparty for the purpose of making revenue collection counterparty payments.

### Application of apportionment to revenue collection contracts

35.—(1) This regulation applies where a revenue collection contract contains a term that makes reference to amounts allocated pursuant to these Regulations (however that revenue collection contract describes these Regulations).

(2) Where both this regulation and regulation 34 apply, the amount allocated to that revenue collection contract, for the purposes of that term, is the amount calculated under regulation 34(3) which may be used by the revenue collection counterparty to make revenue collection counterparty payments in relation to that revenue collection contract.

(3) In all other cases where this regulation applies, the amount allocated to a revenue collection contract, for the purposes of that term, is the amount which is owed by the revenue collection counterparty in relation to that revenue collection contract.

### Interest

36.—(1) For the purposes of regulations 7(6), 8(7), 10(2), 13(7), 16(5), 17(7) and 23(6), the rate of interest is 5 per cent per annum over the relevant Bank of England base rate.

- (2) The relevant Bank of England base rate—
- (a) in respect of interest which starts to run on or after 1st January and before 1st July in any year, is the Bank of England base rate in force on 31st December in the previous year; and
  - (b) in respect of interest which starts to run on or after 1st July in any year, is the Bank of England base rate in force on 30th June in that year.
- (3) Any requirement to pay interest by virtue of these Regulations is a requirement to pay the amount of that interest by the first working day after the day on which that interest has accrued.
- (4) In this regulation, “Bank of England base rate” means—
- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets; or
  - (b) where an order under section 19 of the Bank of England Act 1998(6) is in force, any equivalent rate determined by the Treasury under that section.

## PART 5

### Directions to offer to contract

#### Directions under section 18 of the Act

**37.**—(1) A direction given by the Secretary of State to a revenue collection counterparty under section 18(1) of the Act must—

- (a) be in writing and dated;
- (b) specify the full contract terms on which the revenue collection counterparty is to offer to contract, in the form of a draft revenue collection contract;
- (c) prohibit the revenue collection counterparty from modifying those terms when offering to contract with a designated nuclear company unless the revenue collection counterparty has received the prior written consent of the Secretary of State to the modification;
- (d) specify a date by which the revenue collection counterparty must comply with the direction;
- (e) specify the period for which the revenue collection counterparty must keep the offer open for acceptance (following the expiry of which the offer lapses).

(2) In paragraph (1)(c), “modifying” includes making additions, omissions, amendments or substitutions.

(3) The Secretary of State must give a copy of the direction to the designated nuclear company specified in the direction (“the specified person”) as soon as reasonably practicable after the direction has been given to the revenue collection counterparty.

#### Form and content of specified terms

**38.** For the purposes of regulation 37(1)(b) the terms must include terms that set out—

- (a) the circumstances in which the revenue collection counterparty must make payments to the specified person;
- (b) any circumstances in which the revenue collection counterparty is not required to make payments to the specified person;

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(6) 1998 c. 11.

- (c) the circumstances in which the specified person must make payments to the revenue collection counterparty;
- (d) any circumstances in which the specified person is not required to make payments to the revenue collection counterparty;
- (e) where the specified person's relevant licence requires that payments under paragraph (a) or (c) are to be calculated in accordance with amounts notified to the revenue collection counterparty by the Authority, that payments must be calculated in accordance with that requirement;
- (f) where the specified person's relevant licence requires that payments are not required to be paid by the revenue collection counterparty to the specified person (or vice versa), that the circumstances set out under paragraph (b) or (d) must be in accordance with that requirement;
- (g) the periods within which amounts payable by virtue of paragraph (a) or (c) must be paid;
- (h) the circumstances in which the specified person is required to receive the consent of the revenue collection counterparty before transferring the contract or assigning its rights or obligations under the contract;
- (i) a mechanism for the sharing of information between the parties to the contract; and
- (j) details of any information included in the terms that is confidential information for the purposes of regulation 40(3).

### **Revocation of directions**

**39.**—(1) The Secretary of State may by notice (“a revocation notice”) revoke a direction given under section 18(1) of the Act (“the direction”).

(2) A revocation notice must—

- (a) be in writing and be dated;
- (b) identify the direction to which it applies; and
- (c) be given to the revenue collection counterparty and the relevant specified person.

(3) Where the Secretary of State gives a revocation notice under paragraph (1), the revenue collection counterparty must immediately withdraw any offer to contract that it has made in compliance with the direction.

(4) A revocation notice has no effect if it is given after the specified person has accepted an offer to contract on the specified terms made by the revenue collection counterparty in compliance with the direction.

### **Publication of revenue collection contracts**

**40.**—(1) If a specified person accepts an offer to contract on the specified terms, the revenue collection counterparty must publish the resulting revenue collection contract.

(2) The revenue collection counterparty must exclude any confidential information from the revenue collection contract that is published.

- (3) For the purposes of paragraph (2), “confidential information” means information which—
- (a) is identified in the specified terms as information to which paragraph (4) applies; and
  - (b) the specified terms provide must not be disclosed.

(4) This paragraph applies to information if, in the opinion of the Secretary of State at the time the relevant direction is given, it is information—

- (a) which constitutes a trade secret;

- (b) the disclosure of which would or would be likely to prejudice the commercial interests of any person; or
- (c) the disclosure of which would constitute a breach of confidence actionable by any person.

### **Interpretation of Part 5**

41. In this Part, “specified person” is to be construed in accordance with regulation 37(3).

## **PART 6**

### **Information and advice**

#### **Requests for information**

42.—(1) The revenue collection counterparty may request information from an electricity supplier which the revenue collection counterparty reasonably requires in connection with the performance of the revenue collection counterparty’s functions.

(2) The revenue collection counterparty may request information from a CFD counterparty which the revenue collection counterparty reasonably requires in connection with the revenue collection counterparty’s determination of amounts of EII excluded electricity under these Regulations.

(3) The Authority may request information which they reasonably require in connection with the performance of the Authority’s functions from any of the following persons—

- (a) the revenue collection counterparty;
- (b) the national system operator.

(4) The Secretary of State may request information relating to revenue collection contracts which they reasonably require in connection with the performance of the Secretary of State’s functions from any of the following persons—

- (a) the revenue collection counterparty;
- (b) the Authority;
- (c) a nuclear administrator;
- (d) the national system operator;
- (e) an RCC party.

(5) The Secretary of State may request the Authority to provide information to the revenue collection counterparty which the Secretary of State reasonably considers the revenue collection counterparty requires in connection with the performance of the revenue collection counterparty’s functions.

(6) The information which the Secretary of State may request under paragraph (5) includes information about amounts calculated by the Authority in accordance with an RCC party’s relevant licence.

(7) The Secretary of State may request a nuclear administrator to provide information to the Authority which the Secretary of State reasonably considers the Authority requires in connection with the performance of the Authority’s functions.

(8) A person who receives a request under this regulation must comply with the request within such period as the person making the request may reasonably require.



### **Provision of information other than by request**

**43.**—(1) This regulation applies regardless of whether a request for information under regulation 42 has been made.

(2) Any of the following persons may provide to the revenue collection counterparty information which the person reasonably considers the revenue collection counterparty requires in connection with the performance of the revenue collection counterparty's functions—

- (a) the Authority;
- (b) a CFD counterparty.

(3) The revenue collection counterparty may provide to the Authority information which the revenue collection counterparty reasonably considers the Authority requires in connection with the performance of the Authority's functions.

(4) Any of the following persons may provide to the Secretary of State information relating to revenue collection contracts which the person reasonably considers the Secretary of State requires in connection with the performance of the Secretary of State's functions—

- (a) the revenue collection counterparty;
- (b) the Authority;
- (c) a nuclear administrator.

### **Provision of advice to the Secretary of State**

**44.**—(1) The Secretary of State may request advice relating to revenue collection contracts which they reasonably require in connection with the performance of the Secretary of State's functions from any of the following persons—

- (a) the revenue collection counterparty;
- (b) the Authority;
- (c) the national system operator.

(2) A person who receives a request under paragraph (1) must comply with the request within such period as the Secretary of State may reasonably require.

### **Restrictions on disclosing information or advice**

**45.**—(1) Subject to paragraph (2), a person who obtains information or advice under this Part must not disclose the information or advice to another person.

(2) Paragraph (1) does not apply to the disclosure of information or advice by the person—

- (a) if the disclosure is required by law (including by virtue of a request for information or advice made under this Part);
- (b) if the disclosure is required to comply with an order of a court or for the purposes of any legal proceedings;
- (c) if the disclosure is made with the consent of the person from whom the information or advice was obtained;
- (d) if the disclosure is of information that has already lawfully been made available to the public;
- (e) in the case of a disclosure by the revenue collection counterparty, if the revenue collection counterparty reasonably considers the disclosure to be necessary in connection with the performance of the revenue collection counterparty's functions;

- (f) in the case of a disclosure by the Authority, if the Authority reasonably considers the disclosure to be necessary in connection with the performance of the Authority’s functions;
- (g) in the case of a disclosure by the Secretary of State, if the Secretary of State reasonably considers the disclosure to be necessary in connection with the performance of the Secretary of State’s functions.

### Supplementary provision for Part 6

**46.**—(1) A requirement imposed under this Part on the revenue collection counterparty, a CFD counterparty, the national system operator, a nuclear administrator or an RCC party is to be treated as a relevant requirement on that person as if they were a regulated person for the purposes of section 25 of the Electricity Act 1989(7).

(2) A person who discloses information as a result of this Part must exercise reasonable care as to its accuracy.

(3) Nothing in this Part—

- (a) authorises or requires a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, a requirement imposed under this Part is to be taken into account);
- (b) requires a person to disclose information that the person does not hold and is not entitled to obtain;
- (c) affects any power or duty to disclose or provide information or advice which exists apart from this Part.

(4) In this regulation, “the data protection legislation” has the same meaning as in section 3(9) of the Data Protection Act 2018(8).

### Interpretation of Part 6

**47.** In this Part—

“Authority’s functions” means—

- (a) functions conferred on the Authority by or by virtue of the Act (including by these Regulations); and
- (b) the Authority’s functions relating to the regulation of any RCC party in accordance with its relevant licence;

“CFD counterparty” means the person or persons designated as a counterparty for contracts for difference in accordance with section 7 of the Energy Act 2013(9);

“nuclear administrator” has the meaning given in section 39(1) of the Act;

“revenue collection counterparty’s functions” means—

- (a) functions conferred on the revenue collection counterparty by or by virtue of the Act (including by these Regulations); and
- (b) duties or obligations of the revenue collection counterparty arising under or by virtue of any revenue collection contract to which it is a party;

“Secretary of State’s functions” means—

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(7) 1989 c. 29. Section 25 was amended by the Competition Act 1998 (c. 41), section 54(3) and Schedule 10; the Utilities Act 2000 (c. 27), sections 3(2), 60(1) to (3) and (5), 108, Schedule 6, and Schedule 8; the Consumers, Estate Agents and Redress Act 2007 (c. 17), section 63(1) and Schedule 7; the Enterprise and Regulatory Reform Act 2013 (c. 24), section 51(5) and Schedule 14; and S.I. 2011/2704, 2017/493, 2019/530, 2020/96.

(8) 2018 c. 12. Section 3(9) has been amended by S.I. 2019/419.

(9) 2013 c. 32.

- (a) functions conferred on the Secretary of State by or by virtue of the Act (including by these Regulations); and
- (b) the Secretary of State's functions in relation to the formulation, development, monitoring and review of energy policy.

Date

*Name*  
*Title*  
Department for Business, Energy and Industrial  
Strategy