
DRAFT STATUTORY INSTRUMENTS

2023 No.

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

PART 4

Miscellaneous

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⁽¹⁾ is in force, any equivalent rate determined by the Treasury under that section.

⁽¹⁾ 1998 c. 11.