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STATUTORY INSTRUMENTS

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**1997 No. 248**

**ELECTRICITY**

**The Electricity (Non-Fossil Fuel Sources)  
(England and Wales) Order 1997**

<i>Made</i>	- - - -	<i>5th February 1997</i>
<i>Laid before Parliament</i>		<i>6th February 1997</i>
<i>Coming into force</i>	- -	<i>10th February 1997</i>

Whereas certain orders<sup>(1)</sup> under section 32 of the Electricity Act 1989<sup>(2)</sup> have had effect in relation to each public electricity supplier in England and Wales;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 32(1), (2), (2A), (2B) and (2C) of the said Act of 1989, after consultation in accordance with section 32(1), hereby makes the following Order:—

**Citation, commencement and application**

1.—(1) This Order may be cited as the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1997 and shall come into force on 10th February 1997.

(2) This Order does not apply to Scotland.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Electricity Act 1989;

“commissioning process” means the process consisting of such procedures and tests as from time to time constitute usual industry standards and practices for commissioning a non-fossil fuel generating station of any description specified in Schedule 1 in order—

(a) to demonstrate that such a non-fossil fuel generating station is—

(i) capable of commercial operation; or

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(1) S.I. 1990/263, as amended by S.I. 1990/494; S.I. 1990/1859; S.I. 1991/2490; S.I. 1994/3259, as amended by S.I. 1995/68.  
(2) 1989 c. 29; subsections (2A), (2B) and (2C) were inserted in section 32 and a related definition was inserted in section 32(8) by the Environment Act 1995 (c. 25), Schedule 22, paragraph 39.

- (ii) in the case of a non-fossil fuel generating station which is the subject of relevant arrangements, capable of commercial operation for the purpose of such arrangements;
- (b) to establish the external physical conditions outside the control of the operator which are necessary for the operation of such station or which control the amount of electricity produced by the station; and
- (c) to establish the operating parameters within which such station can be operated in accordance with practices, methods and procedures which are or should be adopted by a person exercising that degree of judgment, skill, diligence and foresight which would ordinarily and reasonably be expected from a skilled and experienced operator engaged in the business of operating such a station lawfully;

“connected person”, in relation to any person, means a person connected to him within the meaning of section 839 of the Income and Corporation Taxes Act 1988<sup>(3)</sup>;

“dry-weight basis” means the basis for calculating the weight of each fuel component by deducting from its weight the weight of any water in that fuel component that would be removed by heating it to a temperature of 120°C for a period of not less than 30 minutes;

“energy content” of a fuel means the gross calorific value of that fuel (as expressed by weight or by volume) multiplied by the weight or volume of that fuel;

“generating set” means a prime mover and alternator;

“industrial waste” includes sawmill waste derived from sawmills located on permanent sites and food-processing waste;

“operator” means an operator of any relevant non-fossil fuel generating station;

“the pooling and settlement agreement” means the pooling and settlement agreement to which an operator may be required to become a party by a licence granted to him under section 6 of the Act;

“premium price” means a fixed price per kilowatt-hour (kWh) and for this purpose—

- (a) where the operator of a generating station is a party to the pooling and settlement agreement, an arrangement between that operator and a public electricity supplier or person on behalf of a public electricity supplier shall be treated as if it is an arrangement to purchase electricity at a fixed price per kilowatt-hour (kWh) if it provides for such payments to be made by either party to the other as shall ensure that the aggregate price receivable by that operator under the arrangement and the pooling and settlement agreement for electricity generated in specified periods is equal to a fixed amount specified in the said arrangement; and
- (b) any provision for adjustment of the price by reference to any measure of inflation shall be disregarded;

“premium price arrangement” means an arrangement made before the day on which this Order is made under which a public electricity supplier or a person on behalf of a public electricity supplier agrees to purchase electricity generated by a non-fossil fuel generating station at any time in the period commencing on 21st July 1993 and ending on 28th August 2013 (whether or not the agreement covers other periods) for a premium price;

“relevant arrangements” means arrangements evidence of the making of which is produced to the Director in accordance with article 3(1);

“relevant non-fossil fuel generating station” means a generating station of a description specified in Schedule 1 and falling within the description of non-fossil fuel generating station specified in article 3(2).

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(3) 1988 c. 1; section 839 was amended by the Finance Act 1995, section 74 and Schedule 17, Part II, paragraph 20.

- (a) (2) (a) Where a definition in Schedule 1 refers to generating stations which are fuelled wholly by a particular non-fossil fuel or fuels, this includes generating stations which use fossil fuel for one or more of the following purposes—
- (i) the ignition of gases of low or variable calorific value;
  - (ii) the heating of the combustion system to its normal operating temperature or the maintenance of that temperature;
  - (iii) emission control;
- provided that, in any period shown in Tables A to H in Schedule 1, the energy content of the fossil fuel used in the generating station does not exceed 10 per cent. of the energy content of all the fuel used.
- (b) Where a definition in Schedule 1 refers to generating stations which are fuelled partly by a particular non-fossil fuel or fuels, this includes dual-fired projects and for this purpose “dual-fired projects” means ones where the balance of fuel is—
- (i) fossil fuel;
  - (ii) non-fossil fuel which is neither expressly included in that definition nor expressly excluded by that definition; or
  - (iii) a combination of the fuel mentioned in sub-paragraphs (i) and (ii) above.

**Requirement to make arrangements etc.**

3.—(1) Each public electricity supplier in England and Wales shall before 1st April 1997 make, in so far as he has not already done so, and produce to the Director evidence showing that he has made such additional arrangements as will secure that for each period shown in Tables A to H in Schedule 1 the aggregate amount of generating capacity available to him from non-fossil fuel generating stations of the description specified in relation to each particular Table and falling within the description of non-fossil fuel generating station specified in paragraph (2) below will not be less than the amount specified in that Table in relation to him for that period.

- (2) The description of non-fossil fuel generating station specified in this paragraph is either—
- (a) a non-fossil fuel generating station other than a landfill gas generating station in respect of which—
- (i) the commissioning process was not satisfactorily completed before 2nd November 1995;
  - (ii) there is not and has not been a premium price arrangement (other than a relevant arrangement) under which any payment has been or may be made in respect of electricity generated before 29th August 2013 by such station; and
  - (iii) the commissioning and operation would not reduce the declared net capacity of any other non-fossil fuel generating station existing at its planned commissioning date; or
- (b) a landfill gas generating station which—
- (i) has a generating set which, in the opinion of an independent consulting engineer, is likely to have a useful life (provided that it is installed, commissioned, maintained and operated in accordance with the manufacturer’s recommendations) of at least 15 years from its date of commissioning as part of a relevant non-fossil fuel generating station; and
  - (ii) has new foundations; but
  - (iii) may use an existing gas collection system, provided that, during the period of the relevant arrangements entered into in relation to that generating station it—

- (a) will not adversely affect the supply of gas to another generating set which is connected to that system; and
- (b) would not have adversely affected the supply of gas to another generating set which was connected to that system at 2nd November 1995 but is no longer so connected.

4.—(1) Where—

- (a) any relevant arrangements provide that the availability to a public electricity supplier of some or all of the capacity of a non-fossil fuel generating station is conditional upon the satisfaction of any requirement mentioned in Schedule 2 (conditions precedent) (whether the requirement is described in the terms of that Schedule or in terms to the like effect); and
- (b) on the first day of any specified period, some or all of that capacity is not available to the supplier, by reason of any such requirement not being satisfied as was then due, or had previously been due on or prior to such date, under those arrangements to have been satisfied,

then, in relation to any day during that or any subsequent specified period ascertained in accordance with paragraph (3) below, this Order shall have effect as if the relevant aggregate amount specified in relation to that period were the amount specified in relation to that supplier for the period which includes that day in the Table in question in Schedule 1, less (subject to the following proviso) an amount equal to the sum of any capacity whose availability is at that time conditional upon the satisfaction of such requirement or requirements and any capacity which has ceased to be available at that time by reason of the occurrence of any such event or events as are referred to in paragraph (2) below:

Provided that the amount so specified shall not be reduced so as to be less than the relevant aggregate amount actually available to that supplier under the relevant arrangements during that specified period.

(2) Where—

- (a) any relevant arrangements provide that some or all of the generating capacity to be made available under those arrangements may reduce or cease to be available to a public electricity supplier following the occurrence of any such event as is mentioned in Schedule 3 (termination events) (whether the event is described in the terms of that Schedule or in terms to the like effect); and
- (b) some or all of that capacity is not available to the supplier, on a day during a specified period, because such an event has occurred,

the specified period shall forthwith terminate and, in relation to any day during any subsequent specified period ascertained in accordance with paragraph (3) below, this Order shall have effect as if the relevant aggregate amount specified in relation to that subsequent period were the amount specified in relation to that supplier for the period which includes that day in the Table in question in Schedule 1, less an amount equal to the sum of any capacity which has ceased to be available at that time by reason of the occurrence of any such event or events and any capacity whose availability is at that time conditional upon the satisfaction of any such requirement or requirements as are referred to in paragraph (1) above, but subject to the proviso contained in that paragraph.

(3) In this article “specified period” means, in relation to any public electricity supplier, a period commencing and ending on the dates specified in a Table in Schedule 1 but so that—

- (a) on any such day as is mentioned in paragraph (1)(b) above there shall be substituted, in place of any specified period that would otherwise have commenced on that day, a period commencing on such day and expiring (subject to sub-paragraphs (c) and (d) below) on the day on which the requirement mentioned in paragraph (1)(b) above is satisfied either wholly or in part;

- (b) upon the expiry of any specified period ascertained in accordance with this sub-paragraph or with sub-paragraph (a) above, the next specified period shall commence on the following day and shall continue, subject to sub-paragraphs (c) and (d) below, until the day on which the requirement mentioned in paragraph (1)(b) above is either wholly satisfied or further satisfied in part;
- (c) on any such day as is mentioned in paragraph (2)(b) above, the then current specified period shall forthwith terminate and shall be followed by a new period commencing immediately upon such termination; and
- (d) any specified period which is current on any of the period end dates specified in the Table shall expire on that date.

5th February 1997

*Richard Page*  
Parliamentary Under Secretary of State for Small  
Business, Industry and Energy,  
Department of Trade and Industry

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SCHEDULE 1

Article 3(1)

SPECIFIED AGGREGATE AMOUNTS OF GENERATING CAPACITY

PART I

NAEROBIC DIGESTION GENERATING STATIONS

1. Table A below relates to anaerobic digestion generating stations—

Table A

Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
East of England Electricity plc	0.000	0.000	0.688	0.829	0.900	0.900	0.900	0.900	0.900	0.900	0.900	0.900	0.900	0.900	0.900	0.900	0.900	0.210	0.000	0.000	0.000
East Midlands Electricity plc	0.000	0.000	0.452	0.544	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.139	0.000	0.000	0.000
London Electricity plc	0.000	0.000	0.502	0.605	0.657	0.657	0.657	0.657	0.657	0.657	0.657	0.657	0.657	0.657	0.657	0.657	0.657	0.154	0.000	0.000	0.000
Manchester Electricity plc	0.000	0.000	0.290	0.350	0.380	0.380	0.380	0.380	0.380	0.380	0.380	0.380	0.380	0.380	0.380	0.380	0.380	0.089	0.000	0.000	0.000
Midland Electric plc	0.000	0.000	0.487	0.587	0.637	0.637	0.637	0.637	0.637	0.637	0.637	0.637	0.637	0.637	0.637	0.637	0.637	0.149	0.000	0.000	0.000
North of England Electric plc	0.000	0.000	0.266	0.320	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.080	0.000	0.000	0.000
NORWICH ELECTRIC plc	0.000	0.000	0.422	0.508	0.552	0.552	0.552	0.552	0.552	0.552	0.552	0.552	0.552	0.552	0.552	0.552	0.552	0.129	0.000	0.000	0.000
SEEBOROUGH ELECTRIC plc	0.000	0.000	0.416	0.502	0.545	0.545	0.545	0.545	0.545	0.545	0.545	0.545	0.545	0.545	0.545	0.545	0.545	0.128	0.000	0.000	0.000
South of England Electric plc	0.000	0.000	0.623	0.750	0.815	0.815	0.815	0.815	0.815	0.815	0.815	0.815	0.815	0.815	0.815	0.815	0.815	0.190	0.000	0.000	0.000
South Wales Electricity plc	0.000	0.000	0.175	0.210	0.229	0.229	0.229	0.229	0.229	0.229	0.229	0.229	0.229	0.229	0.229	0.229	0.229	0.053	0.000	0.000	0.000
South Western Electricity plc	0.000	0.000	0.286	0.344	0.374	0.374	0.374	0.374	0.374	0.374	0.374	0.374	0.374	0.374	0.374	0.374	0.374	0.087	0.000	0.000	0.000

Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Electricity plc																				
Yorkshire Electricity Group plc	0.00	0.00	0.41	0.49	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.53	0.12	0.00	0.00	0.00

In Table A—

- (a) period 1 means 1st May 1997 to 31st March 1998
  - period 2 means 1st April 1998 to 31st March 1999
  - period 3 means 1st April 1999 to 31st March 2000
  - period 4 means 1st April 2000 to 31st March 2001
  - period 5 means 1st April 2001 to 31st March 2002
  - period 6 means 1st April 2002 to 31st March 2003
  - period 7 means 1st April 2003 to 31st March 2004
  - period 8 means 1st April 2004 to 31st March 2005
  - period 9 means 1st April 2005 to 31st March 2006
  - period 10 means 1st April 2006 to 31st March 2007
  - period 11 means 1st April 2007 to 31st March 2008
  - period 12 means 1st April 2008 to 31st March 2009
  - period 13 means 1st April 2009 to 31st March 2010
  - period 14 means 1st April 2010 to 31st March 2011
  - period 15 means 1st April 2011 to 31st March 2012
  - period 16 means 1st April 2012 to 31st March 2013
  - period 17 means 1st April 2013 to 31st March 2014
  - period 18 means 1st April 2014 to 31st March 2015
  - period 19 means 1st April 2015 to 31st March 2016
  - period 20 means 1st April 2016 to 30th December 2016

(b) capacity amounts are expressed in megawatts.

2. In this Order, “anaerobic digestion generating stations” means generating stations which are fuelled wholly by gas derived from anaerobic digestion of—

- (a) agricultural waste; or
- (b) agricultural waste and food-processing waste, provided that, in any period shown in Table A, the food-processing waste used makes up no more than 20 per cent. of the total weight of the agricultural and food-processing waste used (on a dry-weight basis).

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## PART II

### BIOMASS GENERATING STATIONS

1. Table B below relates to biomass generating stations—

**Table B**

Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Eastern Electricity plc	0.000	0.000	0.039	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.224	0.190	0.000
East Midlands Electricity plc	0.000	0.000	0.022	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.055	0.037	0.000
London Electricity plc	0.000	0.000	0.024	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.733	0.708	0.000
Manchester Electricity plc	0.000	0.000	0.014	0.904	0.904	0.904	0.904	0.904	0.904	0.904	0.904	0.904	0.904	0.904	0.904	0.904	0.904	0.890	0.000	0.000
Midland Electricity plc	0.000	0.000	0.023	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.536	0.506	0.000
North Electric plc	0.000	0.000	0.012	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.568	0.559	0.000
NORWOOD plc	0.000	0.000	0.026	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.655	0.634	0.000
SEEBORD plc	0.000	0.000	0.026	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.588	0.567	0.000
South Electric plc	0.000	0.000	0.038	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.348	0.318	0.000
South Wales Electricity plc	0.000	0.000	0.002	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.356	0.347	0.000
South Western Electricity plc	0.000	0.000	0.013	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.837	0.829	0.000
York Electricity	0.000	0.000	0.026	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.526	0.500	0.000



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Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
Group plc																					

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In Table B—

- (a) period 1 means 1st May 1997 to 31st March 1998
  - period 2 means 1st April 1998 to 31st March 1999
  - period 3 means 1st April 1999 to 31st March 2000
  - period 4 means 1st April 2000 to 31st March 2001
  - period 5 means 1st April 2001 to 31st March 2002
  - period 6 means 1st April 2002 to 31st March 2003
  - period 7 means 1st April 2003 to 31st March 2004
  - period 8 means 1st April 2004 to 31st March 2005
  - period 9 means 1st April 2005 to 31st March 2006
  - period 10 means 1st April 2006 to 31st March 2007
  - period 11 means 1st April 2007 to 31st March 2008
  - period 12 means 1st April 2008 to 31st March 2009
  - period 13 means 1st April 2009 to 31st March 2010
  - period 14 means 1st April 2010 to 31st March 2011
  - period 15 means 1st April 2011 to 31st March 2012
  - period 16 means 1st April 2012 to 31st March 2013
  - period 17 means 1st April 2013 to 31st March 2014
  - period 18 means 1st April 2014 to 31st March 2015
  - period 19 means 1st April 2015 to 31st March 2016
  - period 20 means 1st April 2016 to 30th December 2016

(b) capacity amounts are expressed in megawatts.

2. In this Order, “biomass generating stations” means generating stations which—

- (a) are fuelled wholly or partly by one or more of the following—
  - (i) crops grown for the purpose of providing a source of energy;
  - (ii) forestry waste; and
  - (iii) fuel derived from either or both of the materials mentioned in sub-paragraphs (i) and (ii) above,

but excluding any such station as is partly fuelled by one or more of the following—

- (aa) gas derived from landfill sites of any description;
- (bb) municipal waste;
- (cc) industrial waste;
- (dd) agricultural waste;
- (ee) sewage matter or gas or waste derived therefrom; and

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- (ff) fuel derived from one or more of the materials mentioned in sub-paragraphs (bb) to (ee) above; and
- (b) are driven—
  - (i) wholly by an internal-combustion engine or a gas turbine, using gaseous or liquid fuel produced by gasification-by-partial-combustion or by pyrolysis of the fuel allowed by sub-paragraph (a) above; or
  - (ii) partly by an internal-combustion engine or a gas turbine using such gaseous or liquid fuel and partly by any engine or any turbine, using steam produced from—
    - (aa) heat from the first engine or turbine, or
    - (bb) heat produced during the production of the gaseous or liquid fuel.

### PART III

#### HYDRO GENERATING STATIONS

1. Table C below relates to hydro generating stations—

**Table C**

Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
East of Electricity plc	0.17	0.37	1.66	1.81	1.81	1.81	1.81	1.81	1.81	1.81	1.81	1.81	1.81	1.81	1.81	1.43	3.14	0.00	0.00	0.00
East Midlands Electricity plc	0.01	0.24	1.09	1.18	1.18	1.18	1.18	1.18	1.18	1.18	1.18	1.18	1.18	1.18	1.18	0.94	5.09	0.00	0.00	0.00
London Electricity plc	0.12	0.27	1.21	1.32	1.32	1.32	1.32	1.32	1.32	1.32	1.32	1.32	1.32	1.32	1.32	1.05	0.10	0.00	0.00	0.00
Manchester plc	0.06	0.15	0.70	0.76	0.76	0.76	0.76	0.76	0.76	0.76	0.76	0.76	0.76	0.76	0.76	0.60	3.06	0.00	0.00	0.00
Midlands Electricity plc	0.15	0.26	1.17	1.28	1.28	1.28	1.28	1.28	1.28	1.28	1.28	1.28	1.28	1.28	1.28	1.01	3.10	0.00	0.00	0.00
North Electric plc	0.06	0.14	0.64	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.70	0.55	0.05	0.00	0.00	0.00
NORWICH plc	0.22	0.27	1.01	1.11	1.11	1.11	1.11	1.11	1.11	1.11	1.11	1.11	1.11	1.11	1.11	0.88	2.09	0.00	0.00	0.00
SEEBOROUGH plc	0.12	0.23	1.00	1.09	1.09	1.09	1.09	1.09	1.09	1.09	1.09	1.09	1.09	1.09	1.09	0.87	0.09	0.00	0.00	0.00

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Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
South Electric plc	0.01	0.33	0.50	0.63	0.63	0.63	0.63	0.63	0.63	0.63	0.63	0.63	0.63	0.63	0.63	0.30	0.13	0.00	0.00	0.00
South Wales Electricity plc	0.00	0.09	0.42	0.46	0.46	0.46	0.46	0.46	0.46	0.46	0.46	0.46	0.46	0.46	0.46	0.36	0.03	0.00	0.00	0.00
South Western Electricity plc	0.00	0.15	0.69	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.59	0.06	0.00	0.00	0.00
Yorkshire Electricity Group plc	0.11	0.22	0.99	0.83	0.83	0.83	0.83	0.83	0.83	0.83	0.83	0.83	0.83	0.83	0.83	0.86	0.08	0.00	0.00	0.00

In Table C

- (a) period 1 means 1st May 1997 to 31st March 1998
  - period 2 means 1st April 1998 to 31st March 1999
  - period 3 means 1st April 1999 to 31st March 2000
  - period 4 means 1st April 2000 to 31st March 2001
  - period 5 means 1st April 2001 to 31st March 2002
  - period 6 means 1st April 2002 to 31st March 2003
  - period 7 means 1st April 2003 to 31st March 2004
  - period 8 means 1st April 2004 to 31st March 2005
  - period 9 means 1st April 2005 to 31st March 2006
  - period 10 means 1st April 2006 to 31st March 2007
  - period 11 means 1st April 2007 to 31st March 2008
  - period 12 means 1st April 2008 to 31st March 2009
  - period 13 means 1st April 2009 to 31st March 2010
  - period 14 means 1st April 2010 to 31st March 2011
  - period 15 means 1st April 2011 to 31st March 2012
  - period 16 means 1st April 2012 to 31st March 2013
  - period 17 means 1st April 2013 to 31st March 2014
  - period 18 means 1st April 2014 to 31st March 2015
  - period 19 means 1st April 2015 to 31st March 2016
  - period 20 means 1st April 2016 to 30th December 2016
- (b) capacity amounts are expressed in megawatts.

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2. In this Order, “hydro generating stations” means generating stations of less than 5 megawatts declared net capacity which are driven by any form of water power other than—

- (a) tidal or wave power;
- (b) power from water which has been elevated or whose pressure has been increased, except where this has been done, directly or indirectly, by power derived from a relevant non-fossil fuel generating station other than—
  - (i) a dual-fired project (within the meaning of article 2(2)(b)); or
  - (ii) a generating station which is itself the subject either of a premium price arrangement or of relevant arrangements.

## PART IV

### LANDFILL GAS GENERATING STATIONS

1. Table D below relates to landfill gas generating stations—

**Table D**

Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Eastern Electricity plc	0.007	0.779	9.646	11.82	1.82	2.52	2.52	2.87	4.90	8.57	10.00	10.52	10.00	12.21	4.60	6.82	15.77	7.77	0.15	0.00
East Midlands Electricity plc	0.006	1.110	2.906	9.20	14.57	14.79	14.79	14.36	19.39	21.17	3.80	8.47	6.14	0.62	12.23	76.51	10.51	10.10	4.00	0.00
London Electricity plc	0.006	6.678	4.346	6.46	6.19	6.44	6.43	9.96	6.99	15.74	8.34	2.97	4.60	0.03	3.58	163.56	0.56	0.56	0.11	0.00
Manweb plc	0.003	2.29	3.31	8.97	9.39	9.53	9.53	4.26	0.27	4.13	3.89	8.68	4.46	8.13	8.76	0.00	0.32	0.32	0.06	0.00
Midlands Electricity plc	0.005	5.508	3.916	6.00	3.70	7.94	7.94	6.48	7.51	15.27	14.88	2.51	1.62	6.11	18.33	72.55	0.55	0.11	0.00	0.00
North Electric plc	0.003	0.009	7.60	8.19	8.58	8.71	8.71	8.46	8.47	8.34	8.13	7.93	7.73	7.43	7.19	4.57	4.30	0.30	0.06	0.00
NORWEB plc	0.003	7.769	2.04	2.99	3.60	3.80	3.80	4.11	4.11	4.32	2.28	2.88	2.57	2.26	4.78	1.40	2.50	4.47	0.09	0.00
SEEBOROUGH plc	0.004	1.31	9.02	8.33	4.40	6.45	6.45	4.25	3.27	3.07	12.73	4.42	1.11	8.64	6.27	164.47	0.47	0.09	0.00	0.00

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Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
South Electric plc	0.00	0.04	1.78	2.17	2.07	2.32	2.38	2.79	2.82	2.52	2.02	1.56	1.10	0.74	0.68	0.70	0.70	0.70	0.14	0.00
South Wales Electricity plc	0.00	0.98	7.01	8.41	5.66	7.75	5.75	5.58	5.59	6.51	5.36	5.24	5.10	4.91	4.75	3.02	0.19	0.19	0.04	0.00
South Western Electricity plc	0.00	0.23	6.17	3.81	5.22	9.37	9.37	9.10	9.11	8.97	6.74	4.53	3.32	1.99	0.74	0.91	0.32	0.32	0.06	0.00
York Electricity Group plc	0.00	0.65	1.73	2.68	3.27	3.48	3.48	3.09	3.11	2.91	2.58	2.27	1.97	1.50	1.13	0.70	0.46	0.46	0.09	0.00

In Table D—

- (a) period 1 means 1st May 1997 to 31st March 1998
  - period 2 means 1st April 1998 to 31st March 1999
  - period 3 means 1st April 1999 to 31st March 2000
  - period 4 means 1st April 2000 to 31st March 2001
  - period 5 means 1st April 2001 to 31st March 2002
  - period 6 means 1st April 2002 to 31st March 2003
  - period 7 means 1st April 2003 to 31st March 2004
  - period 8 means 1st April 2004 to 31st March 2005
  - period 9 means 1st April 2005 to 31st March 2006
  - period 10 means 1st April 2006 to 31st March 2007
  - period 11 means 1st April 2007 to 31st March 2008
  - period 12 means 1st April 2008 to 31st March 2009
  - period 13 means 1st April 2009 to 31st March 2010
  - period 14 means 1st April 2010 to 31st March 2011
  - period 15 means 1st April 2011 to 31st March 2012
  - period 16 means 1st April 2012 to 31st March 2013
  - period 17 means 1st April 2013 to 31st March 2014
  - period 18 means 1st April 2014 to 31st March 2015
  - period 19 means 1st April 2015 to 31st March 2016
  - period 20 means 1st April 2016 to 30th December 2016
- (b) capacity amounts are expressed in megawatts.

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2. In this Order, “landfill gas generating stations” means generating stations which are fuelled wholly by gas derived from landfill sites on which, at any time before 22nd July 1993, activities were carried on in pursuance of a licence issued under section 5 of the Control of Pollution Act 1974(4) or in accordance with conditions specified in a resolution passed by the relevant disposal authority pursuant to section 11(3)(e) of that Act.

**PART V**  
**MUNICIPAL AND INDUSTRIAL WASTE WITH**  
**COMBINED HEAT AND POWER GENERATING STATIONS**

1. Table E below relates to municipal and industrial waste with combined heat and power generating stations—

**Table E**

Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Eastern Electricity plc	0.000	0.287	0.552	0.593	1.753	3.793	5.793	7.793	9.793	11.793	13.793	15.793	17.793	19.793	21.793	23.793	25.793	27.793	29.793	31.793
East Midlands Electricity plc	0.000	0.502	1.304	2.105	2.906	3.707	4.508	5.309	6.110	6.911	7.712	8.513	9.314	10.115	10.916	11.717	12.518	13.319	14.120	14.921
London Electricity plc	0.000	0.669	1.782	2.773	3.574	4.375	5.176	5.977	6.778	7.579	8.380	9.181	9.982	10.783	11.584	12.385	13.186	13.987	14.788	15.589
Man plc	0.000	0.962	1.773	2.634	3.495	4.356	5.217	6.078	6.939	7.800	8.661	9.522	10.383	11.244	12.105	12.966	13.827	14.688	15.549	16.410
Midland Electricity plc	0.000	0.619	1.630	2.641	3.652	4.663	5.674	6.685	7.696	8.707	9.718	10.729	11.740	12.751	13.762	14.773	15.784	16.795	17.806	18.817
North Electric plc	0.000	0.882	1.533	2.324	3.115	3.906	4.697	5.488	6.279	7.070	7.861	8.652	9.443	10.234	11.025	11.816	12.607	13.398	14.189	14.980
NOR plc	0.000	0.402	1.013	1.624	2.235	2.846	3.457	4.068	4.679	5.290	5.901	6.512	7.123	7.734	8.345	8.956	9.567	10.178	10.789	11.400
SEE plc	0.000	0.393	0.964	1.535	2.106	2.677	3.248	3.819	4.390	4.961	5.532	6.103	6.674	7.245	7.816	8.387	8.958	9.529	10.100	10.671
South Electric plc	0.000	0.070	0.931	1.772	2.613	3.454	4.295	5.136	5.977	6.818	7.659	8.500	9.341	10.182	11.023	11.864	12.705	13.546	14.387	15.228

(4) 1974 c. 40; at 22nd July 1993, section 5 had been amended by the Local Government, Planning and Land Act 1980 (c. 65), Schedule 34, Part II and by the Planning (Consequential Provisions) Act 1990 (c. 11), Schedule 2, paragraph 31(1).

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Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
South Wales Electricity plc	0.000	0.584	0.672	1.193	0.002	4.034	4.034	4.034	4.034	4.034	4.034	4.034	4.034	4.034	4.034	4.172	2.224	8.839	0.032	0.032
South Western Electricity plc	0.000	0.952	1.723	3.574	4.889	6.576	6.576	6.576	6.576	6.576	6.576	6.576	6.576	6.576	6.576	5.174	4.622	2.991	1.681	1.681
Yorkshire Electricity Group plc	0.000	0.368	0.925	1.147	0.034	9.459	9.459	9.459	9.459	9.459	9.459	9.459	9.459	9.459	9.459	7.445	4.214	3.302	4.412	4.418

In Table E—

- (a) period 1 means 1st May 1997 to 31st March 1998
  - period 2 means 1st April 1998 to 31st March 1999
  - period 3 means 1st April 1999 to 31st March 2000
  - period 4 means 1st April 2000 to 31st March 2001
  - period 5 means 1st April 2001 to 31st March 2002
  - period 6 means 1st April 2002 to 31st March 2003
  - period 7 means 1st April 2003 to 31st March 2004
  - period 8 means 1st April 2004 to 31st March 2005
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  - period 16 means 1st April 2012 to 31st March 2013
  - period 17 means 1st April 2013 to 31st March 2014
  - period 18 means 1st April 2014 to 31st March 2015
  - period 19 means 1st April 2015 to 31st March 2016
  - period 20 means 1st April 2016 to 30th December 2016
- (b) capacity amounts are expressed in megawatts.

2. In this Order, “municipal and industrial waste with combined heat and power generating stations” means generating stations which—

- (a) are fuelled wholly or partly by one or more of the following—
  - (i) municipal waste;

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- (ii) industrial waste; and
- (iii) fuel derived from either or both of the types of waste mentioned in sub-paragraphs (i) and (ii) above;

including stations fuelled partly by sewage matter where, in any period of the Order, such sewage matter used makes up no more than 10 per cent. of the weight of all the above fuel used including the sewage matter (all on a dry-weight basis),

but excluding any such station as is partly fuelled by—

- (aa) gas derived from a landfill site of any description; or
- (bb) gas derived from sewage; or
- (cc) sewage matter in excess of the proportion set out above; and

(b) are combined heat and power stations—

- (i) which are built with all the equipment, up to and including the meter for measuring heat supplied from the generating station, necessary to maintain and measure a continuous heat output at least equal to 200 per cent. of the declared net capacity of the generating station;
- (ii) in respect of which there are, or there are reasonable prospects of obtaining, contracts with third parties to supply heat which would—
  - (aa) require the station to supply at least the required annual heat output in relevant Period 7; and
  - (bb) require at least 50 per cent. of the heat actually supplied in each period of the Order to be used within buildings for the purposes of heating space or (other than for industrial purposes) heating water;
- (iii) in respect of which there are prospects of the station supplying at least the required annual heat output to a third party in periods of the Order subsequent to relevant Period 7, where at least 50 per cent. of the heat actually supplied would be for the purposes of heating space or (other than for industrial purposes) heating water; and
- (iv) which are subject to contractual arrangements in relation to the supply of their electricity which only entitle that electricity to receive a premium price in respect of a period of the Order where, in the previous period of the Order, the station has supplied at least either the required annual heat output or the adjusted annual heat output to a third party and where at least 50 per cent. of the heat actually supplied has been used within buildings for the purposes of heating space or (other than for industrial purposes) heating water;

and for the purpose of this sub-paragraph (b)—

“adjusted annual heat output” means the required annual heat output with the following adjustments—

- (aa) if in any relevant Period the generating station fails to supply the required heat output, then the table (set out in the definition of “required annual heat output”) shall be adjusted so that the value of H for that relevant Period shall also apply to the next relevant Period, and the value of H for all subsequent relevant Periods shall be adjusted in each case to be equal to the value of H (prior to such adjustment) for the relevant Period preceding each such period; and
- (bb) if in any relevant Period the generating station fails to supply the adjusted annual heat output, then the table (set out in the definition of “required annual heat output”) shall be further adjusted so that the value of H (as last adjusted) for that relevant Period shall also apply to the next relevant Period, and the value of H for all subsequent relevant Periods shall be further adjusted in each



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case to be equal to the value of H (as last adjusted) for the relevant Period preceding each such period;

“period of the Order” means a period commencing and ending on the dates specified in relation to Table E;

particular “relevant Periods” are ascertained by taking the first period of the Order as being relevant Period 1, the next period of the Order as relevant Period 2, and so forth;

“required annual heat output” means B kilowatt-hours of heat, where B is ascertained by the application of the formula—

$$B = \text{declared net capacity expressed in kilowatts} \times 8760 \text{ hours} \times H$$

where—

H has the value set out in the table below—

<i>Relevant period</i>	<i>Value of H</i>
1–6	0
7	0.09
8	0.18
9	0.27
10	0.36
11 and subsequent periods	0.4

“third party” means a person who is not a connected person to any person (other than a public electricity supplier contracting in pursuance of an obligation imposed by this Order or his agent) who is party to the contractual arrangements referred to in sub-paragraph (iv) above.

## PART VI

### MUNICIPAL AND INDUSTRIAL WASTE FLUIDISED BED COMBUSTION GENERATING STATIONS

1. Table F below relates to municipal and industrial waste fluidised bed combustion generating stations—

**Table F**

Name of Supplier	Period																					
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20		
East of England Electricity plc	0.000	0.000	0.000	0.895	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	7.257	4.350	
East Midlands	0.000	0.000	0.000	1.901	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	11.332	43.000

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Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
Electricity plc																					
London Electricity plc	0.000	0.000	0.000	2.113	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	2.592	4.780
Man plc	0.000	0.000	0.000	1.225	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	3.307	6.070
Midland Electricity plc	0.000	0.000	0.000	2.049	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	2.214	4.164
North Electric plc	0.000	0.000	0.000	1.116	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	6.673	5.550
NOR plc	0.000	0.000	0.000	1.774	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	0.570	8.780
SEEB plc	0.000	0.000	0.000	1.753	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	0.450	4.816
South Electric plc	0.000	0.000	0.000	2.620	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	5.614	2.993
South Wales Electricity plc	0.000	0.000	0.000	0.739	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	4.404	6.667
South Western Electricity plc	0.000	0.000	0.000	1.204	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	1.177	3.972
York Electricity Group plc	0.000	0.000	0.000	1.732	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	0.320	3.559

In Table F—

- (a) period 1 means 1st May 1997 to 31st March 1998
- period 2 means 1st April 1998 to 31st March 1999
- period 3 means 1st April 1999 to 31st March 2000
- period 4 means 1st April 2000 to 31st March 2001
- period 5 means 1st April 2001 to 31st March 2002
- period 6 means 1st April 2002 to 31st March 2003
- period 7 means 1st April 2003 to 31st March 2004

period 8 means 1st April 2004 to 31st March 2005  
period 9 means 1st April 2005 to 31st March 2006  
period 10 means 1st April 2006 to 31st March 2007  
period 11 means 1st April 2007 to 31st March 2008  
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period 15 means 1st April 2011 to 31st March 2012  
period 16 means 1st April 2012 to 31st March 2013  
period 17 means 1st April 2013 to 31st March 2014  
period 18 means 1st April 2014 to 31st March 2015  
period 19 means 1st April 2015 to 31st March 2016  
period 20 means 1st April 2016 to 30th December 2016

(b) capacity amounts are expressed in megawatts.

2. In this Order, “municipal and industrial waste fluidised bed combustion generating stations” means generating stations—

(a) which are fuelled wholly or partly by any one or more of the following—

(i) municipal waste;

(ii) industrial waste; and

(iii) fuel derived from either or both of the types of waste mentioned in sub-paragraphs (i) and (ii) above,

including stations fuelled partly by sewage matter where, in any period of the Order, such sewage matter used makes up no more than 10 per cent. of the weight of all the above fuel used including the sewage matter (all on a dry-weight basis);

but excluding any such station as is partly fuelled by—

(aa) gas derived from a landfill site of any description; or

(bb) gas derived from sewage; or

(cc) sewage matter in excess of the proportion set out above; and

(b) in which the only method of fuel combustion is fluidised bed combustion.

## PART VII

### WIND GENERATING STATIONS

1. Table G below relates to wind generating stations exceeding 0.768 MW.

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**Table G**

Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
East of Electricity plc	0.000	0.000	8.034	4.073	2.345	2.345	2.345	2.345	2.345	2.345	2.345	2.345	2.345	2.345	2.345	2.345	2.227	2.231	8.000	0.000
East Midlands Electricity plc	0.000	0.000	1.847	2.299	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739	2.739
London Electricity plc	0.000	0.000	3.164	4.339	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035	5.035
Manchester Electricity plc	0.000	0.000	7.634	8.234	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169	9.169
Midlands Electricity plc	0.000	0.000	2.769	4.962	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042	6.042
North Electric plc	0.000	0.000	6.974	6.667	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508	5.508
NORWICH plc	0.000	0.000	1.027	6.409	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749	7.749
SEEBOROUGH plc	0.000	0.000	0.926	6.025	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429	7.429
South Electric plc	0.000	0.000	6.323	9.985	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940	9.940
South Wales Electricity plc	0.000	0.000	4.607	11.003	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562	1.562
South Western Electricity plc	0.000	0.000	7.503	7.928	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828	8.828
York Electricity Group plc	0.000	0.000	0.725	7.807	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088	8.088

In Table G—

(a) period 1 means 1st May 1997 to 31st March 1998

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- period 2 means 1st April 1998 to 31st March 1999
- period 3 means 1st April 1999 to 31st March 2000
- period 4 means 1st April 2000 to 31st March 2001
- period 5 means 1st April 2001 to 31st March 2002
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- period 9 means 1st April 2005 to 31st March 2006
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- period 11 means 1st April 2007 to 31st March 2008
- period 12 means 1st April 2008 to 31st March 2009
- period 13 means 1st April 2009 to 31st March 2010
- period 14 means 1st April 2010 to 31st March 2011
- period 15 means 1st April 2011 to 31st March 2012
- period 16 means 1st April 2012 to 31st March 2013
- period 17 means 1st April 2013 to 31st March 2014
- period 18 means 1st April 2014 to 31st March 2015
- period 19 means 1st April 2015 to 31st March 2016
- period 20 means 1st April 2016 to 30th December 2016

(b) capacity amounts are expressed in megawatts.

2. Table H below relates to wind generating stations not exceeding 0.768 MW.

**Table H**

Name of Supplier	Period																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
East of England Electricity plc	0.000	0.291	0.230	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414	0.414
East Midlands Electricity plc	0.000	0.190	0.800	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920	0.920
London Electricity plc	0.000	0.210	0.890	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032	0.032
Manchester Electricity plc	0.000	0.120	0.520	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590	0.590
Midlands Electricity plc	0.000	0.200	0.870	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000

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Name of Supplier	Period																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
North Electric plc	0.11	0.47	0.54	0.54	0.54	0.54	0.54	0.54	0.54	0.54	0.54	0.54	0.54	0.54	0.41	0.07	0.00	0.00	0.00	0.00
NORWOOD plc	0.17	0.75	0.86	0.86	0.86	0.86	0.86	0.86	0.86	0.86	0.86	0.86	0.86	0.86	0.86	0.65	0.11	0.00	0.00	0.00
SEEBOROUGH plc	0.70	0.74	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.85	0.64	0.11	0.00	0.00	0.00
South Electric plc	0.26	1.14	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.27	0.96	0.16	0.00	0.00	0.00
South Wales Electricity plc	0.07	0.31	0.36	0.36	0.36	0.36	0.36	0.36	0.36	0.36	0.36	0.36	0.36	0.36	0.36	0.27	0.04	0.00	0.00	0.00
South Western Electricity plc	0.12	0.51	0.58	0.58	0.58	0.58	0.58	0.58	0.58	0.58	0.58	0.58	0.58	0.58	0.58	0.44	0.07	0.00	0.00	0.00
Yorkshire Electricity Group plc	0.17	0.73	0.84	0.84	0.84	0.84	0.84	0.84	0.84	0.84	0.84	0.84	0.84	0.84	0.84	0.63	0.10	0.00	0.00	0.00

In Table H—

- (a) period 1 means 1st May 1997 to 31st March 1998
- period 2 means 1st April 1998 to 31st March 1999
- period 3 means 1st April 1999 to 31st March 2000
- period 4 means 1st April 2000 to 31st March 2001
- period 5 means 1st April 2001 to 31st March 2002
- period 6 means 1st April 2002 to 31st March 2003
- period 7 means 1st April 2003 to 31st March 2004
- period 8 means 1st April 2004 to 31st March 2005
- period 9 means 1st April 2005 to 31st March 2006
- period 10 means 1st April 2006 to 31st March 2007
- period 11 means 1st April 2007 to 31st March 2008
- period 12 means 1st April 2008 to 31st March 2009
- period 13 means 1st April 2009 to 31st March 2010
- period 14 means 1st April 2010 to 31st March 2011
- period 15 means 1st April 2011 to 31st March 2012
- period 16 means 1st April 2012 to 31st March 2013

period 17 means 1st April 2013 to 31st March 2014  
period 18 means 1st April 2014 to 31st March 2015  
period 19 means 1st April 2015 to 31st March 2016  
period 20 means 1st April 2016 to 30th December 2016

(b) capacity amounts are expressed in megawatts.

**3. In this Order—**

“declared net capacity”, in the case of a wind generating station, means the declared net capacity ascertained by the application to such a station of the formula specified in subsection (8A) of section 32 of the Act<sup>(5)</sup>;

“wind generating stations” means generating stations which are driven by wind;

“wind generating stations exceeding 0.768 MW” means wind generating stations each of which has a declared net capacity exceeding 0.768 megawatts; and

“wind generating stations not exceeding 0.768 MW” means wind generating stations each of which has a declared net capacity not exceeding 0.768 megawatts.

## SCHEDULE 2

Article 4(1)

### CONDITIONS PRECEDENT

**1. The requirements referred to in article 4(1)(a) are—**

- (a) that planning permission and all necessary consents (including any necessary wayleave consents), easements and rights to enable any relevant non-fossil fuel generating station to be constructed and operated in accordance with and as contemplated by the terms of the relevant arrangements have been granted;
- (b) that planning permission and all necessary consents (including any necessary wayleave consents), easements and rights to enable any public electricity supplier to whose electricity distribution system any relevant non-fossil fuel generating station is to be connected to comply with his obligations as contemplated by the terms of the relevant arrangements have been granted;
- (c) that the operator has entered into, and there has come into force, a connection agreement;
- (d) that the operator holds a licence or has the benefit of an exemption under Part I of the Act authorising him to generate electricity and to convey electricity from the place at which it is generated to the point of delivery for the purposes of the relevant arrangements;
- (e) (to the extent that the arrangements relate to a relevant non-fossil fuel generating station whose operator is so required) that the operator has become a party to the pooling and settlement agreement;
- (f) that the commissioning process has been satisfactorily completed;
- (g) in the case of a landfill gas generating station, that an opinion has been obtained from an independent consulting engineer that, on commissioning, any generating set within the generating station is likely to have a useful life, provided it is operated in accordance with such practices and procedures as could reasonably be expected from a skilled and experienced operator in the industry and in accordance with the manufacturer’s

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<sup>(5)</sup> Subsection (8A) was inserted by regulation 2 of the Electricity Act 1989 (Modifications of Section 32(5) to (8)) Regulations 1990 (S.I. 1990/264).

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recommendations, of at least 15 years from the date of commissioning and that the generating station can reasonably be said to be built on new foundations;

- (h) in the case of a municipal and industrial waste with combined heat and power generating station, that the generating station can reasonably be said to have been built with all the equipment, up to and including the meter for measuring heat supplied from it, necessary to maintain, if operated and maintained in accordance with such practices and procedures as could reasonably be expected from a skilled and experienced operator in the industry, a continuous heat output from the generating station of at least 200 per cent. of its declared net capacity.

2. In this Schedule—

“connection agreement” means an agreement providing for the connection of any relevant non-fossil fuel generating station to a system of electric lines and electrical plant through which generating capacity will be made available to a public electricity supplier.

SCHEDULE 3

Article 4(2)

TERMINATION EVENTS

The events referred to in article 4(2)(a) are—

(1) the operator ceasing for any reason to be authorised by a licence or exemption granted under the Act to generate electricity for the purposes of giving a supply to any premises or enabling a supply to be given;

(2) the operator defaulting in the performance of any of his material obligations under the relevant arrangements and in the case of a default which is, in the opinion of the relevant public electricity supplier (acting reasonably), capable of remedy continuing to be unremedied at the expiry of 28 days following the date on which the supplier shall have given notice thereof to the operator;

(3) a binding order being made or an effective resolution being passed for the winding up of the operator (otherwise than for the purposes of reconstruction or amalgamation on terms previously approved in writing by the relevant public electricity supplier (whose approval shall not unreasonably be withheld)) and within 28 days of his appointment the liquidator of the operator not having provided to the supplier a guarantee of performance of the obligations of the operator under the relevant arrangements in such form and amount as the supplier (acting reasonably) may require.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order imposes on public electricity suppliers in England and Wales obligations to make arrangements to secure the availability during specified periods of specified aggregate amounts of generating capacity from non-fossil fuel generating stations of particular descriptions. The arrangements must be made, and evidence of their making must be produced to the Director General of Electricity Supply, before 1st April 1997.



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Article 3, read with the Tables in Schedule 1, imposes on the suppliers obligations to secure the availability during specified periods of specified amounts of capacity from non-fossil fuel generating stations of the descriptions (anaerobic digestion, biomass, hydro, landfill gas, municipal and industrial waste with combined heat and power, municipal and industrial waste fluidised bed combustion, wind exceeding 0.768 megawatts of capacity and wind not exceeding that amount) specified in Schedule 1 and falling within the description of such stations specified in article 3(2). The amounts are specified in megawatts (one megawatt equals one million watts).

Article 4 provides a mechanism whereby, if certain conditions are not satisfied (see Schedule 2) or if certain events occur (see Schedule 3), the Order is to have effect as if the relevant period specified in the appropriate Table in Schedule 1 were replaced by a different period and as if the relevant amount of capacity specified in that Table were a reduced amount, the amount of the reduction being the amount of capacity which has ceased to be available by reason of (as the case may be) the condition not having been satisfied or the event having occurred.

A compliance cost assessment has been prepared, a copy of which has been placed in the library of each House of Parliament. Copies of the assessment may be obtained free of charge by postal application to the Department of Trade and Industry, Energy Technologies Directorate, Room 1.D.50, 1 Victoria Street, London, SW1H 0ET.