
STATUTORY INSTRUMENTS

2014 No. 2014

**The Contracts for Difference (Electricity
Supplier Obligations) Regulations 2014**

PART 2

Supplier obligation

CHAPTER 6

Mutualisation

Mutualisation

17.—(1) Where an electricity supplier (“the defaulting supplier”) fails to make a relevant payment the CFD counterparty may, subject to paragraph (3), require every other electricity supplier (“the 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.

(2) A mutualisation notice must state—

- (a) the amount which the defaulting supplier failed to pay;
- (b) the date by which the defaulting supplier should have paid that amount;
- (c) the provision of these Regulations under which the defaulting supplier should have paid;
- (d) in the case of a payment under regulation 8(1), the day to which that payment relates;
- (e) the amount (“the mutualisation amount”) which the non-defaulting supplier to whom the notice is issued must pay, calculated in accordance with paragraph (7);
- (f) the date (“the mutualisation date”) by which the mutualisation amount must be paid, which must be no earlier than 5 working days after the date on which the notice was issued and must be the same for each mutualisation notice issued in respect of the amount which the defaulting supplier failed to pay.

(3) A mutualisation notice may only be issued where the CFD counterparty is of the opinion that it will not hold any collateral (within the meaning given by regulation 19) provided by the defaulting supplier by the 5th working day after the day on which the CFD counterparty intends to issue that notice.

(4) Where the CFD counterparty issues mutualisation notices to non-defaulting suppliers it must, at the same time, issue a notice to the defaulting supplier which states the matters mentioned in paragraphs (2)(a) to (d) and (f).

(5) Where the CFD 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.

(6) Where an electricity supplier fails to pay all or part of a mutualisation payment in accordance with paragraph (5), that supplier must pay the CFD counterparty simple interest on any unpaid amount at the rate specified in regulation 35(1) from the day after the day on which the payment should have been made.

(7) The mutualisation amount to be stated in a mutualisation notice to be issued to a non-defaulting supplier is the amount given by—

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

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; and

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.

(8) For the purposes of paragraph (7)—

(a) the reference period is—

(i) in respect of a default which constituted a failure to make a payment under regulation 8(1), the day to which that payment relates, or

(ii) in respect of any other default, the most recent period of 30 consecutive days in respect of which the BSSCo has carried out an Initial Volume Allocation Run; and

(b) the amount of electricity supplied by an electricity supplier in a reference period is the amount of electricity which the BSSCo determines, on the basis of the most recent BSC reconciliation run which the BSSCo has carried out in relation to each day in that period, as the amount of electricity supplied by that supplier in that reference period.

(9) In this regulation and regulation 18 “relevant payment” means any payment which an electricity supplier is required to make by virtue of regulation 8(1), 9(2), 11(1), 14(3), 16(3)(a) or 17(5).