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STATUTORY INSTRUMENTS

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**2014 No. 2043**

**The Electricity Capacity Regulations 2014**

**PART 7**

**Credit cover**

**CHAPTER 2**

**Applicant credit cover**

**Requirement to provide applicant credit cover**

**59.**—(1) An applicant to prequalify for a capacity auction in respect of a CMU (“CMU i”) must, if the applicant receives from the Delivery Body a conditional prequalification notice under capacity market rules, provide applicant credit cover in the amount determined in accordance with paragraph (2).

(2) The amount of applicant credit cover to be provided is—

- (a) in the case of an application to prequalify for a T-4 auction or a T-1 auction, an amount equal to £5,000 per MW of the de-rated capacity of CMU i;
- (b) in the case of an application to prequalify for a DSR transitional auction, an amount equal to £500 per MW of the de-rated capacity of CMU i.

(3) If A is required to provide credit cover under paragraph (1), A must do so within 5 working days after receiving the conditional prequalification notice.

**Credit obligation period**

**60.**—(1) Where A provides applicant credit cover in respect of a CMU (“CMU i”), A must maintain credit cover in the amount calculated in accordance with regulation 59 until the earliest of the following events has occurred—

- (a) where CMU i is an unproven demand side response CMU, A nominates before the capacity auction, in accordance with capacity market rules, a DSR bid capacity for CMU i which is less than the de-rated capacity of CMU i;
- (b) where A is required by capacity market rules to provide confirmation to the Delivery Body of its intention to bid in the capacity auction in respect of CMU i, it does not provide such confirmation within the time required by capacity market rules;
- (c) the capacity auction is—
  - (i) cancelled; or
  - (ii) postponed or stopped, and rearranged, and A gives notice to the Delivery Body (where permitted to do so by capacity market rules) that it does not intend to bid in the rearranged auction in respect of CMU i;
- (d) A is unsuccessful in its bid at the capacity auction in respect of CMU i;

- (e) A has transferred its capacity agreement in respect of CMU i to another person in accordance with capacity market rules and the transferee has provided replacement credit cover which the Settlement Body has approved;
- (f) where CMU i is a demand side response CMU, A has in accordance with capacity market rules provided to the Delivery Body a DSR test certificate which evidences—
- (i) a proven DSR capacity equal to or greater than CMU i’s unproven DSR capacity; or
  - (ii) a proven DSR capacity less than CMU i’s unproven DSR capacity, but equal to or greater than 90% of that capacity;
- (g) where CMU i is a prospective generating CMU—
- (i) A has achieved its financial commitment milestone in accordance with capacity market rules; and
  - (ii) if CMU i is a distribution CMU in respect of which A did not provide a copy of a distribution connection agreement with its application for prequalification, A has provided a copy of its distribution connection agreement to the Delivery Body in accordance with capacity market rules; or
- (h) the credit cover is drawn down under regulation 61.
- (2) Where paragraph (1)(a) applies, A must thereafter maintain credit cover in an amount equal to £5,000 per MW of the amount of the DSR bid capacity of CMU i until the earliest of the events in sub-paragraphs (b) to (h) of paragraph (1) has occurred.
- (3) Where paragraph (1)(f)(ii) applies—
- (a) the Settlement Body must draw down part of the credit cover calculated in accordance with paragraph (5); and
  - (b) the applicant must maintain credit cover in the amount so calculated until it has been drawn down, but is no longer required to maintain the remainder of the credit cover.
- (4) Where any other sub-paragraph of paragraph (1) applies, the applicant is no longer required to maintain any credit cover.
- (5) The amount of credit cover to be drawn down under paragraph (3)(a) (“DD”) must be calculated in accordance with the formula—
- $$DD = RA \times \frac{UC - PC}{UC}.$$
- (6) In paragraph (5)—
- “PC” means CMU i’s proven DSR capacity;
  - “RA” means the required amount for CMU i as calculated under regulation 59;
  - “UC” means CMU i’s unproven DSR capacity.
- (7) In this regulation “the capacity auction” means the capacity auction in relation to which applicant credit cover has been provided in respect of CMU i.

### **Draw down of applicant credit cover**

**61.**—(1) The Settlement Body must draw down applicant credit cover provided by A in respect of a CMU (“CMU i”) if—

- (a) where CMU i is an unproven demand side response CMU—
  - (i) the credit obligation period has not ended by the date on which the delivery year of A’s capacity agreement in respect of CMU i commences; or

- (ii) the Settlement Body receives a notice from the Delivery Body that A has provided a DSR test certificate which evidences a proven DSR capacity less than 90% of CMU i's unproven DSR capacity;
  - (b) where CMU i is a prospective generating CMU, the credit obligation period has not ended by the latest of the date in paragraph (i) and such of the dates in paragraphs (ii) and (iii) as are applicable—
    - (i) the date falling 18 months after the date on which A was awarded a capacity agreement in respect of CMU i;
    - (ii) if CMU i is a distribution CMU in respect of which regulation 60(1)(g)(ii) applies, the date 18 months prior to the commencement of the first delivery year of A's capacity agreement in respect of CMU i;
    - (iii) if the date by which a financial commitment milestone is required by capacity market rules to be met or a copy of a distribution connection agreement is required by capacity market rules to be provided in respect of CMU i is extended under regulation 33(2)(b), the date to which the requirement is extended; or
  - (c) payment of a termination fee has become due pursuant to an invoice issued under regulation 43, and the termination fee is unpaid.
- (2) Where the Settlement Body is required to drawn down applicant credit cover—
- (a) under sub-paragraph (a)(i) or (b) of paragraph (1), it must do so within 60 days from the date specified in that sub-paragraph;
  - (b) under sub-paragraph (a)(ii) of paragraph (1), it must do so within 60 days from the date on which the Settlement Body receives the notice referred to in that sub-paragraph;
  - (c) under sub-paragraph (c) of paragraph (1), it must do so as soon as reasonably practicable after the date on which payment of the termination fee becomes due.
- (3) Subject to paragraph (4), applicant credit cover which is drawn down in accordance with this regulation is forfeited by A.
- (4) If, after applicant credit cover has been drawn down, it is determined under Chapter 2 of Part 10 that the credit cover should not have been drawn down, the Settlement Body must pay to A the amount of the credit cover that was wrongly drawn down.

### **Effect of non-compliance**

**62.** A may not bid in a capacity auction in respect of a CMU for which applicant credit cover is required, if A has not complied with this Part in relation to the provision of applicant credit cover in respect of that CMU.