
STATUTORY INSTRUMENTS

2014 No. 2043

The Electricity Capacity Regulations 2014

PART 1

Introduction

Interpretation

2.—(1) In these Regulations—

“the Act” means the Energy Act 2013;

“EA 1989” means the Electricity Act 1989⁽¹⁾;

“the Rules” means the Capacity Market Rules 2014⁽²⁾;

“active energy” and “active power” have the meanings given in the Rules;

“administrative parties” means—

- (a) the Secretary of State;
- (b) the Authority;
- (c) the Delivery Body; and
- (d) the Settlement Body;

“affected person” is to be interpreted in accordance with regulation 68(2);

“annual penalty cap”, in relation to a capacity committed CMU and a delivery year, means the maximum amount of capacity provider penalty charges that the capacity provider may be liable to pay in respect of that CMU for that delivery year;

“applicant” means a person who, in accordance with capacity market rules, has submitted or is entitled to submit an application for prequalification to bid in a capacity auction in respect of a CMU;

“auction clearing price” means, in relation to a capacity auction, the price per MW which, subject to—

- (a) sub-paragraphs (b) and (c) of regulation 30(4); and
- (b) any provision for adjustment of capacity payments for inflation,

is determined by the capacity auction to be the price at which capacity payments are payable in respect of capacity committed CMUs awarded a capacity obligation in that capacity auction;

“auctioneer” has the meaning given in regulation 24(2);

“auction guidelines” has the meaning given in regulation 21;

“auction parameters” has the meaning given in regulation 11;

⁽¹⁾ 1989 c.29.

⁽²⁾ The Capacity Market Rules 2014 are at <https://www.gov.uk/government/publications/capacity-market-rules>. Copies are available from the Department of Energy and Climate Change, 3 Whitehall Place, London SW1A 2AW.

“auction window” means a period in which a capacity auction is to be held, being, subject to regulation 87(1)(a), a period starting on 1st September and ending on the following 31st July;

“auxiliary load” means, in relation to a generating CMU or a generating unit, the total amount of electricity used by that unit for purposes directly related to its operation (including for fuel handling, fuel preparation, maintenance and the pumping of water), whether or not that electricity is generated by the unit or used while the unit is generating electricity;

“the Balancing and Settlement Code” means the code for governance of electricity balancing and settlement in Great Britain which is maintained in accordance with the conditions of licences granted under section 6(1) of the Electricity Act 1989⁽³⁾;

“base period” means a period starting on 1st October and ending on the following 30th April, to be used in calculating capacity payments for the purpose of adjusting for inflation the capacity cleared price applying to a capacity committed CMU, where paragraph 3 of Schedule 1 provides for such an adjustment to be made;

“bidder” means a person bidding in a capacity auction for a capacity obligation in respect of a CMU;

“bidding round” means a round of bidding in a capacity auction;

“capacity” means an amount of electrical generating capacity or DSR capacity, expressed in MW unless specified otherwise;

“capacity agreement” has the meaning given in regulation 30(1);

“capacity agreement notice” means a notice issued by the Delivery Body to a capacity provider under capacity market rules, containing data about a capacity agreement;

“capacity auction” means an auction under Part 4;

“capacity cleared price” has the meaning given in regulation 30(3) and (4);

“capacity committed CMU”, in relation to a delivery year, means a CMU that is identified in the capacity market register as being subject to a capacity obligation for that delivery year;

“the capacity market” means the scheme established by these Regulations and capacity market rules;

“capacity market register” means the register maintained by the Delivery Body in accordance with regulation 31;

“capacity market warning” has the meaning given in the Rules;

“capacity obligation” means an obligation awarded pursuant to a capacity auction, applying for one or more delivery years, to provide a determined amount of capacity when required to do so in accordance with capacity market rules;

“capacity payment” means a payment to a capacity provider under these Regulations for its commitment to meet a capacity obligation during a delivery year;

“capacity provider penalty charge” means an amount payable by a capacity provider under regulation 41;

“capacity year” means a period of one year starting on 1st October and ending on the following 30th September;

“a CFD” means a contract for difference under Chapter 2 of Part 2 of the Act;

“CFD counterparty” means a person designated as such under section 7 of the Act;

“CMU” means—

(3) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27) and subsection (1) of section 6 was amended by sections 136(1), 145(1) and (5) and 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004 (c.20), and by S.I. 2012/2400.

- (a) a generating CMU; or
- (b) a demand side response CMU;

“commissioned”, in relation to a generating unit, means that—

- (a) such procedures and tests have been completed as constitute, at the time they are undertaken, industry standards and practices for commissioning a generating unit of that type such that it is capable of operation at its connection capacity; and
- (b) the unit has not subsequently been decommissioned;

“the Connection and Use of System Code” means the code with that name for governance of connection to, and use of, the GB transmission system which is maintained in accordance with the conditions of licences granted under section 6(1) of EA 1989(4);

“connection capacity”, in relation to a generating CMU or a generating unit forming part of a CMU, means the amount which in accordance with capacity market rules is declared in an application for prequalification as the connection capacity of that generating CMU or generating unit;

“the court” has the meaning given in regulation 72(2);

“CPI” means the UK Consumer Prices Index (All Items) published monthly by the Office for National Statistics or, if such index ceases to be published, such other index as may replace it;

“credit cover” has the meaning given in regulation 53;

“customer” means a person to whom electrical power is provided (whether or not that is the same person as the person who provides the electrical power);

“decommissioned”, in relation to a generating unit, means that the generating unit has permanently been physically disconnected from the total system, or from equipment used to provide on-site supply;

“Delivery Body” means—

- (a) subject to paragraph (b), the national system operator; or
- (b) if the national system operator’s functions under Chapter 3 of Part 2 of the Act have been transferred to an alternative delivery body by an order under section 46 of the Act, that body;

“delivery year”—

- (a) in relation to a capacity auction, means the capacity year—
 - (i) for which each one year capacity obligation awarded as a result of that capacity auction has or will have effect; and
 - (ii) which is the first year of the period for which each multi-year capacity obligation awarded as a result of that capacity auction has effect;
- (b) in relation to a capacity obligation or a capacity agreement, means a capacity year in which that capacity obligation, or the capacity obligation imposed by that capacity agreement, has effect; and
- (c) otherwise, means any capacity year in which one or more capacity obligations has or will have effect;

“demand curve”, in relation to a capacity auction, means a specification (which may be in the form of a curve on a graph) of how the total amount of capacity for which capacity agreements are to be issued is to vary depending on the auction clearing price;

(4) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27) and subsection (1) of section 6 was amended by sections 136(1), 145(1) and (5) and 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004 (c.20), and by S.I. 2012/2400.

“demand side response” means the activity of reducing the metered volume of imported electricity of one or more customers below a baseline, by a means other than a permanent reduction in electricity use;

“demand side response CMU” has the meaning given in regulation 5;

“demand side response CMU component” means—

(a) a DSR customer’s consumption of electricity as measured by a single half hourly meter;
or

(b) a permitted on-site generating unit,

which forms part of the means by which a DSR provider commits to provide capacity as described in regulation 5(1);

“de-rated capacity” has the meaning given in the Rules;

“de-rating factor” has the meaning given in the Rules;

“distribution CMU” means a generating CMU consisting of one or more generating units which export electricity to a distribution network;

“distribution connection agreement” has the meaning given in the Rules;

“distribution network” means a distribution network in Great Britain operated under a licence granted pursuant to section 6(1)(c) of EA 1989(5);

“distribution network operator” means a person who operates a distribution network;

“DSR bid capacity” means, in relation to a demand side response CMU, the amount of capacity bid into a capacity auction by a bidder in respect of that CMU, being the de-rated capacity of that CMU or, if less, the capacity nominated by the applicant in accordance with the Rules;

“DSR capacity” means—

(a) in the case of a proven demand side response CMU, its proven DSR capacity; and

(b) in the case of an unproven demand side response CMU, its unproven DSR capacity,

as determined in accordance with capacity market rules;

“DSR customer” has the meaning given in regulation 5(2);

“DSR provider” has the meaning given in regulation 5(1);

“DSR test” has the meaning given in the Rules;

“DSR test certificate” has the meaning given in the Rules;

“DSR transitional auction” has the meaning given in regulation 29(1);

“electricity capacity report” means a report by the Delivery Body under regulation 7;

“electricity interconnector” has the meaning given in section 4(3E) of EA 1989(6);

“electricity supplier” has the meaning given in regulation 3(2);

“export” means the flow of electricity from a generating unit on to a distribution network or the GB transmission system, or to an on-site consumer;

“financial commitment milestone” has the meaning given in the Rules;

“GB transmission system” means the national transmission system for Great Britain (and for this purpose “transmission system” has the same meaning as in EA 1989(7));

(5) Section 6(1)(c) of EA 1989 was substituted by section 30 of the Utilities Act 2000 (c.27). Other amendments have been made to section 6 which are not relevant.

(6) Section 4(3E) of EA 1989 was inserted by section 145(1) and (3) of the Energy Act 2004 (c.20). Other amendments have been made to section 4 which are not relevant.

(7) See section 4(4) of EA 1989. The definition of “transmission system” in that subsection was substituted by section 135(1) and (4) of the Energy Act 2004 (c.20).

“general eligibility criteria” means the criteria in regulation 15;

“generating CMU” has the meaning given in regulation 4;

“generating technology class” has the meaning given in the Rules;

“generating unit” means any equipment in which electrical conductors are used or supported or of which they form part which produces electricity, including such equipment which produces electricity from storage;

“the Grid Code” means the code with that name specifying technical requirements for connection to, and use of, the GB transmission system which is maintained in accordance with the conditions of licences granted under section 6(1) of EA 1989⁽⁸⁾;

“group of companies” means a company and all the subsidiaries of that company within the meaning of section 1159 of the Companies Act 2006⁽⁹⁾;

“half hourly meter” means a meter which measures import or export of electricity on a half hourly basis;

“import” means the flow of electricity from a distribution network or the GB transmission system or a permitted on-site generating unit to any building, facility, installation, plant or equipment which consumes electricity;

“industry code” means—

- (a) the Balancing and Settlement Code;
- (b) the Connection and Use of System Code; or
- (c) the Grid Code;

“insolvent”, in relation to a capacity provider, means that—

- (a) a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer (in Great Britain or in any other jurisdiction) has been appointed in respect of the capacity provider or any of its assets; or
- (b) a court in Great Britain has with respect to the capacity provider—
 - (i) made a judgment of insolvency or bankruptcy;
 - (ii) entered an order for relief; or
 - (iii) made an order for its winding-up or liquidation,or an analogous step has been taken by a court in any other jurisdiction, and such judgment, order or other analogous step has not been dismissed, stayed or discharged;

“interconnected capacity” means capacity provided by the transmission of electricity to Great Britain through an electricity interconnector;

“metered volume” means, for a CMU, a generating unit or a demand side response CMU component and a settlement period, the net aggregate volume of active energy, measured by one or more meters, which flowed in that settlement period to or from that CMU, unit or component;

“minimum capacity threshold” has the meaning given in regulation 15;

“monthly penalty cap”, in relation to a capacity obligation and a month of a delivery year, means the maximum amount of capacity provider penalty charges which may be payable in respect of that capacity obligation for that month;

“MPAN” means a meter point administration number;

(8) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27) and subsection (1) of section 6 was amended by sections 136(1), 145(1) and (5) and 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004 (c.20), and by S.I. 2012/2400.

(9) 2006 c.46.

“multi-year capacity obligation” means a capacity obligation for a period of more than one delivery year;

“MW” means megawatts;

“MWh” means megawatt hours;

“net output”, in relation to a generating CMU or a generating unit, means the amount of electricity produced by the CMU or unit minus its auxiliary load;

“the offshore area” means the areas comprising—

- (a) the sea adjacent to Great Britain from the low water mark to the landward baseline of the United Kingdom territorial sea;
- (b) the United Kingdom territorial sea, except that part of it which is adjacent to Northern Ireland and extends seaward for 3 miles from the landward baseline; and
- (c) the sea in any designated area within the meaning of section 1(7) of the Continental Shelf Act 1964⁽¹⁰⁾;

“on-site consumer” means a building, facility, installation, plant or equipment which—

- (a) is on the same site, or connected to a distribution network at the same point of connection, as a generating unit; and
- (b) consumes electricity from that generating unit;

“on-site supply” means the supply of electricity by a generating unit to an on-site consumer;

“permitted on-site generating unit” means a generating unit which—

- (a) is primarily used to provide on-site supply; and
- (b) does not supply electricity to a distribution network or the GB transmission system other than in settlement periods where—
 - (i) the electricity requirements of the on-site consumer are fully and exclusively met by on-site supply from the generating unit;
 - (ii) those requirements are less than the available capacity of the generating unit; and
 - (iii) neither the generating unit nor the on-site consumer imports any electricity;

“prequalification” means the process set out in the Rules for determining whether an applicant is eligible to bid in a capacity auction in respect of a CMU;

“prequalification decision” means a decision by the Delivery Body under the Rules as to whether a CMU has prequalified for a capacity auction;

“prequalification window” means the period specified in auction guidelines before a capacity auction during which a person wishing to apply for prequalification for the capacity auction in respect of a CMU must make an application to the Delivery Body;

“prequalified”, in relation to a CMU and a capacity auction, is to be interpreted in accordance with regulation 14;

“prequalify”, in relation to the Delivery Body, means to decide that a CMU has prequalified for a capacity auction;

“price cap” means, in respect of a capacity auction, the price to be used by the auctioneer in the first bidding round of the capacity auction;

“price duration equivalence” has the meaning given in regulation 11(3);

“price-taker” means a prequalified CMU other than one which has, in accordance with capacity market rules, been registered as a price-maker on the capacity market register;

(10) 1964 c.29. Section 1(7) was amended by section 37 of, and paragraph 1 of Schedule 3 to, the Oil and Gas (Enterprise) Act 1982 (c.23), and section 103 of the Energy Act 2011 (c.16). Other amendments have been made to section 1 which are not relevant.

“price-taker threshold”, in relation to a capacity auction, means the maximum price at which a price-taker may withdraw from the capacity auction;

“prospective generating CMU” means, subject to regulation 53(4), a generating CMU which consists of one or more prospective generating units;

“prospective generating unit” has the meaning given in regulation 4;

“proven demand side response CMU” means a demand side response CMU in respect of which a DSR test has been carried out;

“proven DSR capacity” has the meaning given in the Rules;

“relevant settlement period” means a settlement period in respect of which—

- (a) there is a system stress event; and
- (b) a capacity market warning is in force;

“reliability standard” has the meaning given in regulation 6;

“ROC” has the same meaning as it has in the ROO;

“ROO” means—

- (a) in relation to England and Wales, the Renewables Obligation Order 2009(11);
- (b) in relation to Scotland, the Renewables Obligation (Scotland) Order 2009(12);

“Settlement Body” means the person appointed to that position under regulation 80;

“settlement period” means a period of 30 minutes beginning on an hour or half-hour;

“site” is to be interpreted in accordance with paragraph (2);

“storage facility” means a facility which consists of—

- (a) a means of converting imported electricity into a form of energy which can be stored, and of storing the energy which has been so converted; and
- (b) a generating unit which is wholly or mainly used to re-convert the stored energy into electrical energy;

“system stress event” has the meaning given in the Rules;

“T-1 auction” means a capacity auction, other than a DSR transitional auction, held during the auction window commencing not less than 1 year and not more than 2 years before the start of the delivery year for which the capacity auction is held;

“T-4 auction” means, subject to regulation 87(1), a capacity auction held during the auction window commencing not less than 4 years and not more than 5 years before the start of the delivery year for which the capacity auction is held;

“target capacity”, in relation to a capacity year, means the aggregate amount of de-rated capacity which the person determining or recommending the target capacity considers would be adequate in order to meet the reliability standard for that capacity year;

“termination fee” means a fee payable by a capacity provider under regulation 43 where a capacity agreement is terminated;

“TF1” means a termination fee payable under regulation 43(3);

“TF2” means a termination fee payable under regulation 43(4);

“total system” means the GB transmission system and each distribution network;

(11) S.I. 2009/785, amended by S.I. 2010/1107, S.I. 2011/984, S.I. 2011/988, S.I. 2013/768 and S.I. 2014/893.

(12) S.S.I. 2009/140, amended by S.S.I. 2009/276, S.S.I. 2010/147, S.S.I. 2011/225, S.S.I. 2011/226, S.S.I. 2013/116 and S.S.I. 2014/94.

“unproven demand side response CMU” means a demand side response CMU other than a proven demand side response CMU;

“unproven DSR capacity” has the meaning given in the Rules;

“volume” means a volume of electrical generating capacity or DSR capacity in a time period, expressed in MWh;

“winter” means a period starting on 1st October and ending on the following 30th April;

“working day” means any day other than a Saturday or Sunday or a day which is a bank holiday or public holiday in England and Wales.

(2) For the purposes of these Regulations, two or more installations are to be treated as being on the same site as each other if they are—

- (a) on the same premises;
- (b) on premises immediately adjoining each other, or separated from each other only by a road, railway or watercourse;
- (c) on premises which are separated from each other by other premises, where all the premises referred to are occupied by the same person or by companies which are in the same group of companies; or
- (d) connected by private wires.

(3) In paragraph (2)—

“installation” means—

- (a) a generating unit;
- (b) a demand side response CMU component; or
- (c) a building, facility or item of plant or equipment; and

“private wires” means electric lines connected to a generating station which are owned by—

- (a) the generator;
- (b) a consumer who receives a supply of electricity from the generator;
- (c) the owner, lessor or lessee of the generator or of one of the premises to which a supply of electricity is made by the generator; or
- (d) any of the persons described in paragraphs (a) to (c) jointly with any other of the persons described in those paragraphs,

provided that the owner of those wires is not the holder of a distribution licence under section 6(1)(c) of EA 1989⁽¹³⁾.

(4) Where anything is required or permitted by these Regulations to be done on or by a working day—

- (a) such thing must be done by 5.00 p.m. on that day; and
- (b) if the thing is done—
 - (i) after 5.00 p.m. on a working day; or
 - (ii) on a day which is not a working day,
 it is to be treated as having been done on the next working day.

⁽¹³⁾ Section 6(1)(c) of EA 1989 was substituted by section 30 of the Utilities Act 2000 (c.27). Other amendments have been made to section 6 which are not relevant.