

*Draft Regulations laid before Parliament under section 15(7) of the Nuclear Energy (Financing) Act 2022, for approval by resolution of each House of Parliament.*

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2023 No. 0000**

**ELECTRICITY**

**NUCLEAR ENERGY**

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

*Made*   -   -   -   -

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*Coming into force in accordance with regulation 1*

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## SCHEDULE

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 15(1) and (5), 17(2), (3) and (5), 18(2) and (3), 19(1), (2) and (4) to (8), 20, 21(1), (2), (4) and (5), and 22 to 24 of the Nuclear Energy (Financing) Act 2022<sup>(a)</sup>.

The Secretary of State has, in accordance with section 25(1) of that Act, consulted the persons listed in section 25(1)(a) to (c) and (e) to (g) and such other persons as the Secretary of State considered appropriate to consult<sup>(b)</sup>.

A draft of this instrument was laid before Parliament in accordance with section 15(7) of that Act and approved by a resolution of each House of Parliament.

## PART 1

### Introduction

#### **Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023.

(2) These Regulations come into force 21 days after the day on which they are made.

(3) These Regulations extend to England and Wales and Scotland.

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(a) 2022 c. 15.

(b) The Secretary of State has not consulted any persons under section 25(1)(d) of the Act as no nuclear company is a relevant licensee nuclear company at the time that these Regulations are made.

## Interpretation

### 2.—(1) In these Regulations—

“the Act” means the Nuclear Energy (Financing) Act 2022;

“absolute value”, in relation to an amount, means the magnitude of that amount without regard to whether that amount is positive or negative;

“additional reserve payment” means a payment an electricity supplier is required to make under regulation 13(3);

“adjusted interim levy rate” is to be construed in accordance with regulation 12(1);

“the Balancing and Settlement Code” means the code for the governance of electricity balancing and settlement in Great Britain, as amended from time to time, which is maintained in accordance with the conditions of transmission licences granted under section 6(1)(b) of the Electricity Act 1989(a);

“BM Unit” has the meaning given in the Balancing and Settlement Code (see section X of that code) and “registered”, in relation to a BM Unit, means registered in accordance with the requirements of section K of the Balancing and Settlement Code;

“BSC volume allocation run” means any one of the following—

- (a) an Initial Volume Allocation Run,
- (b) an Interim Information Volume Allocation Run,
- (c) a Reconciliation Volume Allocation Run (including a Final Reconciliation Volume Allocation Run or a Post-Final Volume Allocation Run);

“the BSCCo” means ELEXON Limited (company number 03782949) or any successor to that company acting in the capacity of the BSCCo within the meaning given in the Balancing and Settlement Code;

“EII excluded electricity” means electricity which constitutes EII excluded electricity within the meaning of regulation 6(1) of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015(b);

“electricity generation licence” has the meaning given in section 1(5) of the Act;

“electricity supplier” means a person who is the holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989;

“estimated quarterly obligation period electricity supply”, “estimated quarterly obligation period income”, and “estimated quarterly obligation period payment cost” are to be construed in accordance with regulation 6;

“final reconciliation determination” is to be construed in accordance with regulation 15(2);

“Final Reconciliation Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“first operational cost period” means the period—

- (a) beginning with the first payment period start date; and
- (b) ending with—
  - (i) except where paragraph (ii) applies, the earliest 31st March to occur after the first payment period start date; or
  - (ii) if the first payment period start date occurs on a 31st March, the first payment period start date;

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(a) 1989 c. 29. Section 6 was substituted by the Utilities Act 2000 (c. 27), section 30. Section 6(1)(b) was substituted by the Energy Act 2004 (c. 20), section 136(1).

(b) S.I. 2015/721. Relevant amending instruments are S.I. 2020/130.

“first payment period start date” means the date of entry into the first revenue collection contract by the revenue collection counterparty;

“first payment period end date” means the earlier of 31st March, 30th June, 30th September or 31st December following the first payment period start date;

“Initial Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“Interim Information Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“interim rate payment” is to be construed in accordance with regulation 7;

“letter of credit” means a letter from a person which contains an irrevocable and unconditional authorisation in favour of the revenue collection counterparty to be paid by that person on demand up to an amount stated in the letter;

“mutualisation amount” and “mutualisation notice” are to be construed in accordance with regulation 17;

“operational cost period” means—

- (a) the first operational cost period, or
- (b) any subsequent period beginning with 1st April in a year and ending with 31<sup>st</sup> March in the following year;

“Post-Final Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“quarterly obligation period” means—

- (a) in respect of the first such period, the period from the first payment period start date to the first payment period end date; and
- (b) for any other such period, a period of 3 months commencing with 1st April, 1st July, 1st October or 1st January (as applicable);

“RCC party” means a person, other than the revenue collection counterparty, who is a party to a revenue collection contract;

“RCC party payment” means any payment which an RCC party must make to the revenue collection counterparty under, or pursuant to, a revenue collection contract, and includes a payment made to a person to whom a benefit under, or pursuant to, a revenue collection contract has been assigned in accordance with the terms of that revenue collection contract;

“RCC period contribution” is to be construed in accordance with regulation 3;

“reconciliation determination” and “reconciliation period” are to be construed in accordance with regulation 15(1);

“reconciliation payment” means a payment an electricity supplier or the revenue collection counterparty is required to make under regulation 16(4);

“Reconciliation Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“reduced reserve payment” is to be construed in accordance with regulation 14(4)(b);

“relevant licence”, in relation to a particular RCC party, means that RCC party’s electricity generation licence;

“reserve payment” means a payment an electricity supplier is required to make under regulation 10(1);

“reserve period” means a period beginning with the 13th working day of a quarterly obligation period and ending with the 13th working day of the subsequent quarterly obligation period;

“revenue collection contract” has the meaning given in section 14(1) of the Act;

“revenue collection counterparty” has the meaning given in section 14(1) of the Act;

“revenue collection counterparty payment” means any payment which the revenue collection counterparty must make—

- (a) under or pursuant to a revenue collection contract;
- (b) to an RCC party for the purpose of compensating that person in respect of any breach of any duty (however that duty arises) owed to that person by the revenue collection counterparty which is connected to a revenue collection contract;

and includes any payment made to a person to whom a benefit under (or pursuant to) a revenue collection contract has been assigned in accordance with the terms of that revenue collection contract;

“SoS funds” means any financial assistance (within the meaning of section 41(4) of the Act) provided by the Secretary of State to the revenue collection counterparty for the purposes of making revenue collection counterparty payments and adjusting payments due from electricity suppliers in accordance with these Regulations;

“supplier” means an electricity supplier;

“total reserve amount” is to be construed in accordance with regulation 9(1)(a);

“working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971(a) in England, Wales or Scotland.

(2) Any reference in these Regulations to an amount of electricity is a reference to that amount expressed in megawatt hours.

(3) Any reference in these Regulations to a supply of electricity is a reference to its supply in Great Britain, and “supply” is to be construed in accordance with section 4(4) of the Electricity Act 1989(b).

(4) Any reference in these Regulations to an amount to be paid or provided is a reference to that amount expressed in pounds sterling and rounded to the nearest whole penny with any half of a penny being rounded upwards.

(5) Where more than one person is designated under section 16 of the Act as a revenue collection counterparty, these regulations apply subject to the modifications set out in the Schedule.

## PART 2

### Supplier obligation

#### CHAPTER 1

#### The supplier obligation

#### **The supplier obligation**

**3.—**(1) Every electricity supplier who supplies electricity during a quarterly obligation period must, subject to paragraph (3), pay an RCC period contribution to the revenue collection counterparty in respect of that period.

(2) That contribution is to be calculated in accordance with regulation 4.

(3) Where the amount of a supplier’s RCC period contribution in respect of a quarterly obligation period is a negative number—

- (a) the amount the supplier must pay under paragraph (1) in respect of that period is zero;
- and

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(a) 1971 c. 80; see section 1 and Schedule 1 (which was amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (2007 asp 2)).

(b) The definition of “supply” in section 4(4) was substituted by the Energy Act 2004 (c. 20), section 179(1).

- (b) the revenue collection counterparty must pay the absolute value of that amount to that supplier.
- (4) For the purpose of ensuring that the RCC period contribution is paid—
  - (a) an electricity supplier must make—
    - (i) interim rate payments in accordance with regulation 7(1),
    - (ii) supplier data reconciliation payments in accordance with regulation 8(2),
    - (iii) reserve payments in accordance with regulation 10(1),
    - (iv) any additional reserve payments required by regulation 13(3), and
    - (v) any reconciliation payments required by regulation 16(3)(a); and
  - (b) the revenue collection counterparty must make—
    - (i) counterparty data reconciliation payments in accordance with regulation 8(3), and
    - (ii) any required reconciliation payments in accordance with regulation 16(3)(b).

**RCC period contribution**

4.—(1) The RCC period contribution for a supplier for a quarterly obligation period is the amount given by—

$$[(GP + SoS\ repayment) - (CP + SoS\ payment + DI)] \times \left( \frac{SQS - XEP}{TQS - AXP} \right)$$

where—

GP is the total amount of revenue collection counterparty payments which the revenue collection counterparty was required to make in the quarterly obligation period;

SoS repayment is—

- (a) unless sub-paragraph (b) or (c) applies, the SoS payment in respect of the quarterly obligation period that ended three whole quarterly obligation periods before the quarterly obligation period for which this calculation is made (a “full SoS repayment”);
- (b) unless paragraph (c) applies and if the Secretary of State has specified that only a proportion of the full SoS repayment is to be used for the purposes of this paragraph, that amount;
- (c) where the contribution is for any of first four quarterly obligation periods, zero;

CP is the total amount of RCC party payments which the revenue collection counterparty received from RCC parties in the quarterly obligation period;

SoS payment is the total amount of any SoS funds that the Secretary of State has specified are to be used when calculating the RCC period contribution in respect of the quarterly obligation period;

DI is any amount of interest which was paid by virtue of regulation 7(6), 8(7), 10(2), 13(7), 16(5) or 17(7) during that period, less any amount of that interest which was paid to electricity suppliers by virtue of regulation 18(2);

SQS is the amount of electricity supplied by that supplier in the quarterly obligation period;

XEP is the amount of EII excluded electricity supplied by that supplier in the quarterly obligation period;

TQS is the total amount of electricity supplied by all suppliers in the quarterly obligation period; and

AXP is the total amount of EII excluded electricity supplied by all suppliers in the quarterly obligation period.

(2) For the purposes of this regulation, the amount of electricity supplied by a supplier in a quarterly obligation period is the amount of electricity which the BSCCo determines was supplied by that supplier on the basis of—

- (a) Final Reconciliation Volume Allocation Runs for each day within the quarterly obligation period; or
- (b) where a Post-Final Volume Allocation Run has occurred in relation to a day on which electricity was supplied, the Post-Final Volume Allocation Run for that day.

(3) Where the revenue collection counterparty makes a determination under these Regulations which requires the determination of the amount of electricity supplied on a day which is EII excluded electricity, it must, where possible, base that determination of EII excluded electricity on information derived from the most recent BSC volume allocation run carried out by the BSCCo in relation to the day on which the electricity was supplied.

## CHAPTER 2

### Interim daily levy

#### Setting the interim levy rate

5.—(1) The revenue collection counterparty must, in respect of every quarterly obligation period, determine an interim levy rate which is to apply for that period.

(2) The revenue collection counterparty must determine the interim levy rate for a quarterly obligation period at least 30 days before the commencement of that quarterly obligation period.

(3) Where the revenue collection counterparty has determined an interim levy rate for a quarterly obligation period it must—

- (a) as soon as reasonably practicable, publish a notice setting out that rate and issue that notice to every electricity supplier who has a BM Unit registered as at the day before the date of publication of the notice, and
- (b) issue that notice to every electricity supplier who has a BM Unit that becomes registered on or after the date of publication of the notice and by the last day of the quarterly obligation period to which that rate applies, as soon as reasonably practicable after the BM Unit is registered.

(4) Subject to paragraph (5), the interim levy rate for a quarterly obligation period is to be determined as the amount given by—

$$\frac{EOC - EOI}{EOS}$$

where—

EOC is the estimated quarterly obligation period payment cost, determined in accordance with regulation 6(1);

EOI is the estimated quarterly obligation period income, determined in accordance with regulation 6(2); and

EOS is the estimated quarterly obligation period electricity supply, estimated in accordance with regulation 6(4).

(5) Where the amount given by the calculation in paragraph (4) in relation to a quarterly obligation period is less than zero, the interim levy rate must be determined as zero for that period.

#### Estimated cost, income & electricity supply

6.—(1) The estimated quarterly obligation period payment cost in respect of a quarterly obligation period (“the rate period”) is the sum of the revenue collection counterparty’s estimate of—

- (a) any SoS repayment in respect of that rate period, and



- (b) the revenue collection counterparty's estimate, made in accordance with the revenue collection contracts, of the GP required to be paid by the revenue collection counterparty in respect of that rate period.
- (2) The estimated quarterly obligation period income in respect of the rate period is the sum of—
- (a) any SoS funds that the Secretary of State has specified will be available in respect of that rate period and that the Secretary of State has specified should be taken into account when calculating the interim levy rate under regulation 5 or adjusting the levy rate under regulation 12 (as applicable); and
  - (b) the revenue collection counterparty's estimate, having regard to the matters set out in paragraph (3), of the CP that will be paid to the revenue collection counterparty in respect of that rate period.
- (3) The matters referred to in paragraph (2)(b) are—
- (a) the revenue collection counterparty's estimate, made in accordance with the revenue collection contracts, of the CP required to be paid to the revenue collection counterparty during the rate period, and
  - (b) the revenue collection counterparty's estimate of the likelihood of the RCC parties failing to make the payments required under the revenue collection contracts.
- (4) The estimated quarterly obligation period electricity supply in respect of the rate period is the amount of electricity which the revenue collection counterparty estimates will be supplied by all electricity suppliers in the rate period, less the amount of EII excluded electricity which it estimates will be supplied by all suppliers in that rate period.
- (5) In this regulation “CP”, “GP” and “SoS repayment” have the meaning given in regulation 4.

### **Interim rate payments**

7.—(1) An electricity supplier must make a payment (“an interim rate payment”) to the revenue collection counterparty in respect of each day on which that supplier supplies electricity in Great Britain during a quarterly obligation period.

(2) The amount of an interim rate payment to be paid by a supplier in respect of a day is equal to the amount of electricity supplied by that supplier on that day, less any amount of EII excluded electricity supplied by that supplier on that day, multiplied by the interim levy rate which applies in relation to that day.

(3) The interim levy rate which applies in relation to a day is—

- (a) the rate determined under regulation 5, or
- (b) where an adjusted interim rate which has been determined under regulation 11(1)(a) has effect in accordance with regulation 12(4), that rate.

(4) The revenue collection counterparty must, as soon as reasonably practicable after the BSCCo has carried out an Interim Information Volume Allocation Run in respect of a day in a quarterly obligation period, issue a notice to each electricity supplier who supplied electricity on that day stating the interim rate payment which the supplier to whom the notice is issued must pay in respect of that day.

(5) A supplier must make an interim rate payment in respect of a day by the 5th working day after the day on which the revenue collection counterparty has issued a notice under paragraph (4) to that supplier.

(6) Where a supplier fails to pay all or part of an interim rate payment by the day on which that payment must be made, that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the day on which that payment should have been made.

(7) For the purposes of paragraph (2), the amount of electricity supplied by an electricity supplier on a particular day is the amount of electricity which the BSCCo determines, on the basis

of an Interim Information Volume Allocation Run in respect of that day, as the amount of electricity supplied by that supplier on that day.

### **Data reconciliation of interim rate payments**

**8.**—(1) This regulation applies where, before the conclusion of a quarterly obligation period, the BSCCo carries out a relevant allocation run in respect of a day in that period and the reconciled interim rate amount in relation to that day for an electricity supplier is different to the net levied interim rate payment for that supplier.

(2) Where that reconciled interim rate amount is more than the net levied interim rate payment the supplier must pay the difference to the revenue collection counterparty.

(3) Where that reconciled interim rate amount is less than the net levied interim rate payment the revenue collection counterparty must pay the difference to the supplier.

(4) The revenue collection counterparty must, as soon as reasonably practicable after the BSCCo has carried out a relevant allocation run in respect of a day, issue a notice to each electricity supplier which states the amount which must be paid by virtue of paragraph (2) or (3).

(5) An electricity supplier who is required to make payment by virtue of paragraph (2) must make that payment by the 5th working day after the day on which the revenue collection counterparty issues the notice to that supplier under paragraph (4).

(6) The revenue collection counterparty must make a payment it is required to make by virtue of paragraph (3) by the 8th working day after the day on which the BSCCo carried out the relevant allocation run following which the revenue collection counterparty is required to make that payment.

(7) Where a supplier fails to pay all or part of a payment it is required to make by virtue of paragraph (2), that supplier must pay the revenue collection counterparty simple interest at the rate specified in regulation 36(1) on any unpaid amount from the day after the day on which that payment should have been made.

(8) For the purposes of this regulation—

- (a) the reconciled interim rate amount for a supplier in relation to a day is equal to the amount of electricity supplied by that supplier on that day less any amount of EII excluded electricity supplied by that supplier on that day multiplied by the interim levy rate which applies to that day by virtue of regulation 7(3);
- (b) the net levied interim rate payment for a supplier in relation to a day is the sum of the interim rate payment that supplier was required to pay in respect of that day, and any payments that supplier was previously required to pay in respect of that day, by virtue of paragraph (2), less any payments the revenue collection counterparty was previously required to pay to that supplier in respect of that day by virtue of paragraph (3);
- (c) a relevant allocation run is an Initial Volume Allocation Run or a Reconciliation Volume Allocation Run; and
- (d) the amount of electricity supplied by an electricity supplier on a particular day is the amount of electricity which the BSCCo determines, on the basis of the most recent relevant allocation run in relation to that day, as the amount of electricity supplied by that supplier on that day.

## **CHAPTER 3**

### **Payments for reserve**

#### **Reserve payments**

**9.**—(1) The revenue collection counterparty must determine—

- (a) the total amount of reserve payments (“the total reserve amount”) to be collected from suppliers in respect of each quarterly obligation period, calculated in accordance with paragraph (6); and

- (b) the amount of each electricity supplier’s reserve payment in respect of each quarterly obligation period, calculated in accordance with regulation 10.
- (2) The revenue collection counterparty must make and publish its determination of the total reserve amount for a quarterly obligation period before the relevant day.
- (3) The revenue collection counterparty must determine the amount of each electricity supplier’s reserve payment for a quarterly obligation period before the end of the period of 8 working days beginning with the relevant day.
- (4) The revenue collection counterparty must issue to every relevant supplier a notice which sets out the amount of that supplier’s reserve payment for a quarterly obligation period before the end of the period of 8 working days beginning with the relevant day.
- (5) For the purpose of paragraph (4), a “relevant supplier” is an electricity supplier who supplied electricity during the reference period (within the meaning given by regulation 10(4)).
- (6) The total reserve amount for a quarterly obligation period is the amount which the revenue collection counterparty determines it would need to be paid for there to be a 19 in 20 probability of it being able to make all the payments it is required to make to RCC parties during the reserve period which commences during that quarterly obligation period having regard to—
- (a) the revenue collection counterparty’s estimate of the payments it expects to receive from the RCC parties during that reserve period;
  - (b) the revenue collection counterparty’s estimate of the payments it will be required to make to RCC parties and electricity suppliers during that reserve period;
  - (c) the likelihood of any supplier failing to make payments it is required to make under these Regulations during that reserve period; and
  - (d) any SoS funds that the Secretary of State has specified will be available in respect of that reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount.
- (7) In this regulation the “relevant day” means the day which is 30 days before the beginning of the relevant quarterly obligation period.

### **Individual suppliers’ reserve amounts**

**10.**—(1) An electricity supplier who supplied electricity during the reference period must make a reserve payment to the revenue collection counterparty in respect of a quarterly obligation period (“the relevant period”) by—

- (a) in the case of the first quarterly obligation period, the 5th working day after the first payment period start date;
- (b) in the case of a subsequent quarterly obligation period, the 5th working day after the day on which the revenue collection counterparty has issued a notice to that supplier under regulation 15(3) for the relevant period.

(2) Where a supplier fails to pay all or part of a reserve payment by the date by which it must be paid in accordance with paragraph (1), that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the date by which that amount should have been paid.

(3) Subject to regulation 14, the amount of a supplier’s reserve payment in respect of the relevant period is the amount given by—

$$TRA \times \left( \frac{SRE - SXE}{RE - XE} \right)$$

where—

TRA is total reserve amount for that period;

SRE is the amount of electricity supplied by that supplier in the reference period as determined on the date on which that total reserve amount is determined;

SXE is the amount of EII excluded electricity supplied by that supplier in the reference period as determined on the date on which that total reserve amount is determined;

RE is the total amount of electricity supplied by all suppliers in the reference period as determined on the date on which that total reserve amount is determined; and

XE is the total amount of EII excluded electricity supplied by all suppliers in the reference period as determined on the date on which that total reserve amount is determined.

(4) The reference period is the most recent period of 30 consecutive days in respect of which the BSCCo has carried out an Initial Volume Allocation Run before the revenue collection counterparty makes its determination under regulation 9(1)(a) in respect of the relevant period.

(5) For the purposes of paragraph (3) the amount of electricity supplied by an electricity supplier in a reference period or adjusted reference period is the amount of all electricity which the BSCCo determines was supplied by that supplier in that period, on the basis of the most recent BSC volume allocation run which the BSCCo has carried out.

## CHAPTER 4

### Adjustments to interim rate and additional reserve payments

#### **In period adjustments**

**11.**—(1) Where the revenue collection counterparty is of the opinion that there is a high degree of likelihood that it will be unable to make all payments it is required to make to RCC parties in respect of a quarterly obligation period it may, if it thinks it expedient to do so—

- (a) determine an adjusted interim levy rate in respect of that period in accordance with regulation 12;
- (b) determine an additional total reserve amount in respect of that period in accordance with regulation 13;
- (c) determine an adjusted interim levy rate and an additional total reserve amount in respect of that period.

(2) The revenue collection counterparty must take such steps as it considers necessary to ensure that electricity suppliers are kept informed of the likelihood that it will be unable to make all payments it is required to make to RCC parties in respect of a quarterly obligation period.

(3) Where the revenue collection counterparty is of the opinion that there is a high degree of likelihood that it will collect significantly more from suppliers under regulations 7(1) and 10(1) in respect of a quarterly obligation period than the amount it requires to be able to make all payments it is required to make to RCC parties in respect of that period it may, in accordance with regulation 12, determine an adjusted interim levy rate in respect of that period.

#### **Adjusted interim levy rate**

**12.**—(1) Subject to paragraph (2), an adjusted interim levy rate (“adjusted interim levy rate”) for a quarterly obligation period (“the rate period”) is to be determined as the amount given by—

$$\frac{EOC - (EOI + SPC)}{EPS}$$

where—

EOC is the estimated quarterly obligation period payment cost in respect of the rate period, estimated in accordance with regulation 6(1) as at the time of the determination of the adjusted interim levy rate;

EOI is the estimated quarterly obligation period income in respect of the rate period, estimated in accordance with regulation 6(2) as at the time of the determination of the adjusted interim levy rate;

SPC is the sum of—

- (a) the total amount of interim rate payments which have been received by the revenue collection counterparty in respect of electricity supply during the rate period as at the time of the determination of the adjusted interim levy rate; and
- (b) the total amount of interim rate payments which the revenue collection counterparty estimates it will receive in respect of electricity supply during the rate period, in the period from the time of the determination of the adjusted interim levy rate until the adjusted interim levy rate has effect; and

EPS is the amount of electricity which the revenue collection counterparty estimates will be supplied by all electricity suppliers in that period from the time the adjusted interim levy rate has effect until the conclusion of the rate period, less the amount of EII excluded electricity which it estimates will be supplied by all suppliers in that period.

(2) Where the rate determined in accordance with paragraph (1) would be a negative number, the revenue collection counterparty must determine the adjusted interim levy rate as zero.

(3) Where the revenue collection counterparty has determined an adjusted interim levy rate it must—

- (a) as soon as reasonably practicable, publish a notice setting out that rate and issue that notice to every electricity supplier who has a BM Unit registered as at the day before the date of publication of the notice,
- (b) issue that notice to every electricity supplier who has a BM Unit that becomes registered on or after the date of publication of the notice and by the last day of the quarterly obligation period during which that rate has effect, as soon as reasonably practicable after the BM Unit is registered; and
- (c) where paragraph (5) applies, specify a date on which the rate shall have effect.

(4) Where the adjusted interim levy rate is greater than the previous levy rate, it has effect from the latest of—

- (a) the commencement of the rate period;
- (b) the 30th day after the revenue collection counterparty has published the notice under paragraph (3);
- (c) any later date in the rate period which the revenue collection counterparty specifies in the notice under paragraph (3).

(5) Where the adjusted interim levy rate is less than the previous levy rate, it has effect from the date specified in the notice published under paragraph (3).

(6) For the purpose of paragraphs (4) and (5), “previous levy rate” means the interim levy rate or the adjusted interim levy rate, whichever is most recently determined in respect of the rate period.

### **Additional total reserve amount**

**13.—**(1) An additional total reserve amount in respect of a quarterly obligation period is the amount which the revenue collection counterparty determines it would need to be paid, having regard to the matters set out in paragraph (2)—

- (a) to be able to make any revenue collection counterparty payments it has failed to make during the reserve period which commences during that quarterly obligation period; and
- (b) for there to be a 19 in 20 probability of it being able to make all payments it is required to make to RCC parties during the reserve period after the making of the determination.

(2) The matters referred in paragraph (1) are—

- (a) the amount of interim rate payments which it expects to be paid during the reserve period after the making of the determination of the additional total reserve amount;
- (b) any other amount which it expects to be paid by suppliers during the reserve period after the making of that determination;

- (c) the likelihood of any supplier failing to make payments it is required to make under these Regulations during the reserve period;
- (d) the revenue collection counterparty's estimate of the payments it expects to receive from the RCC parties and electricity suppliers during the reserve period;
- (e) the revenue collection counterparty's estimate of the payments it will be required to make to the RCC parties and electricity suppliers during the reserve period; and
- (f) the amount of any SoS funds that the Secretary of State has specified will be available in respect of the reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount.

(3) Where the revenue collection counterparty determines an additional total reserve amount, each electricity supplier who supplied electricity during the adjusted reference period must pay an additional reserve payment.

(4) An electricity supplier's additional reserve payment is the amount given by—

$$(TAA) \times \left( \frac{SRE - SXE}{RE - XE} \right)$$

where—

TAA is the additional total reserve amount;

SRE is the amount of electricity (within the meaning given by regulation 10(5)) supplied by that supplier in the adjusted reference period as determined at the time that additional total reserve amount is determined;

SXE is the amount of EII excluded electricity supplied by that supplier in the adjusted reference period as determined on the date on which that additional total reserve amount is determined;

RE is the total amount of electricity (within the meaning given by regulation 10(5)) supplied by all suppliers in the adjusted reference period, as determined at the time that additional total reserve amount is determined; and

XE is the total amount of EII excluded electricity supplied by all suppliers in the adjusted reference period as determined on the date on which that additional total reserve amount is determined.

(5) Where the revenue collection counterparty has determined an additional total reserve amount it must—

- (a) publish a notice setting out its determination of the additional total reserve amount, and
- (b) issue a notice to every electricity supplier who supplied electricity during the adjusted reference period setting out its determination of that supplier's additional reserve payment.

(6) An electricity supplier must pay an additional reserve payment in respect of the reserve period by the later of—

- (a) the date by which a reserve payment is due from that supplier in respect of that period;
- (b) the 30th day after the revenue collection counterparty has published a notice under paragraph (5)(a); or
- (c) any later date which the revenue collection counterparty specifies in the notice published under paragraph (5)(a).

(7) Where a supplier fails to make all or part of an additional reserve payment by the date it must be paid in accordance with paragraph (6), that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the date by which that amount should have been paid.

(8) For the purposes of—

- (a) paragraphs (3), (4) and (5), “the adjusted reference period” means the most recent period of 30 consecutive days in respect of which the BSCCo has carried out an Initial Volume Allocation Run;
- (b) paragraph (4), the amount of electricity supplied by an electricity supplier in a reference period or adjusted reference period is the amount of all electricity which the BSCCo determines was supplied by that supplier in that period, on the basis of the most recent BSC volume allocation run which the BSCCo has carried out.

**Determination of reduced total reserve amount**

**14.—**(1) This regulation applies where the revenue collection counterparty is of the opinion that there is a high degree of likelihood that it will collect significantly more from suppliers under regulations 7(1) and 10(1) in respect of a quarterly obligation period than the amount it requires to be able to make all payments it is required to make during the reserve period which commences during that quarterly obligation period, taking into account any SoS funds that the Secretary of State has specified will be available in respect of that reserve period and that the Secretary of State has specified should be taken into account when adjusting the total reserve amount.

(2) Subject to paragraph (3), where this regulation applies the revenue collection counterparty may determine again the total reserve amount in respect of that quarterly obligation period in accordance with regulation 9(1)(a) and (6) (the “reduced total reserve amount”).

(3) The revenue collection counterparty may not make a determination under paragraph (2) after the date which is 5 working days before the date on which electricity suppliers must make a reserve payment under regulation 10(1).

(4) Where the revenue collection counterparty makes a determination under paragraph (2) in respect of a quarterly obligation period, it must—

- (a) publish a notice setting out its determination of the reduced total reserve amount for that period;
- (b) recalculate the amount (the “reduced reserve payment”) each supplier must pay under regulation 10(1) in respect of that period in accordance with regulation 10(3); and
- (c) issue a notice to each electricity supplier who was issued a notice under regulation 9(4) in respect of that period setting out the reduced reserve payment that supplier must pay under regulation 10(1) in respect of that period.

(5) The requirement to issue a notice under paragraph (4)(c) does not apply where a notice has been issued under regulation 15(3) in respect of the same obligation period.

(6) Where the revenue collection counterparty issues a notice to a supplier under paragraph (4)(c) and that supplier has already made a reserve payment in respect of the quarterly obligation period to which it relates which exceeds the reduced reserve payment due from that supplier, the revenue collection counterparty must pay back to that supplier the difference between the amount of that reserve payment and the reduced reserve payment now due from that supplier as soon as reasonably practicable.

**CHAPTER 5**

**Reconciliation payments**

**Reconciliation payments**

**15.—**(1) The revenue collection counterparty must calculate, in accordance with regulation 16(1), the amounts to be paid as reconciliation payments by electricity suppliers or by that counterparty (“a reconciliation determination”) in respect of a quarterly obligation period (“the reconciliation period”)—

- (a) as soon as reasonably practicable after the revenue collection counterparty has issued a notice under regulation 7(4) in respect of the day which is the last day of the reconciliation period, and in any event before the conclusion of the quarterly obligation period which immediately follows the reconciliation period; and

- (b) once in every subsequent quarterly obligation period until the final reconciliation determination has been carried out in respect of the reconciliation period, as soon as reasonably practicable after the revenue collection counterparty has issued a notice under regulation 7(4) in respect of the last day of the quarterly obligation period which concluded immediately prior to that subsequent period, and in any event before the conclusion of that subsequent period.
- (2) The final reconciliation determination in respect of the reconciliation period is the 10th reconciliation determination made in respect of that period.
- (3) Where the revenue collection counterparty makes a reconciliation determination it must, as soon as reasonably practicable, issue a notice to each relevant supplier setting out—
  - (a) the amount of any reconciliation payment which the revenue collection counterparty must make to that supplier following that determination; and
  - (b) the amount of any reconciliation payment which that supplier must make to the revenue collection counterparty following that determination.
- (4) For the purpose of paragraph (3), a “relevant supplier” is an electricity supplier who—
  - (a) supplied electricity during the reconciliation period,
  - (b) is due to make or receive a reconciliation payment, or
  - (c) is due to make a reserve payment.

**Determination of reconciliation payments**

- 16.—**(1) The amount of a reconciliation payment to be paid to or by a supplier in respect of the reconciliation period is the revenue collection counterparty’s calculation, at the time of making that calculation, of the RCC period contribution in relation to that supplier in respect of the reconciliation period, less the net levied amount for that supplier in respect of that period.
- (2) For the purposes of the calculation of a RCC period contribution, where a Final Reconciliation Volume Allocation Run or Post-Final Volume Allocation Run has not been carried out by the BSCCo in relation to a day in the reconciliation period, the amount of electricity supplied on that day by a supplier is to be determined on the basis of the most recent BSC volume allocation run which the BSCCo has carried out in relation to that day.
- (3) Where the amount of a reconciliation payment in relation to an electricity supplier—
- (a) is a positive number, that supplier must pay that amount to the revenue collection counterparty;
  - (b) is a negative number, the revenue collection counterparty must pay the absolute value of that amount to that supplier.
- (4) Where, following a reconciliation determination, the revenue collection counterparty must make a reconciliation payment to an electricity supplier, or that electricity supplier must make a reconciliation payment to the revenue collection counterparty, that payment must be made by the 5th working day after the day on which the revenue collection counterparty has issued a notice to that supplier under regulation 15(3) in respect of that reconciliation determination.
- (5) Where an electricity supplier is required to pay a reconciliation payment and it fails to pay all or part of that payment by the day on which that payment must be made, that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the day on which the payment should have been made.
- (6) For the purposes of paragraph (1), the net levied amount for a supplier in respect of a reconciliation period is the amount of the supplier obligation amount less the counterparty obligation amount.
- (7) For the purposes paragraph (6)—
- “the supplier obligation amount” is the sum of the following amounts—
- (a) any payment that supplier was required to make under regulation 7(1) in respect of a day in the reconciliation period;



- (b) the sum of any payments that supplier was required to make under regulation 8(2) in respect of days in the reconciliation period;
- (c) any payment that supplier was required to make under regulation 10(1) in respect of the reconciliation period;
- (d) any payment that supplier was required to make under regulation 13(3) in respect of the reconciliation period; and
- (e) the sum of any reconciliation payments which that supplier was required to make under paragraph (3)(a) in respect of any previous reconciliation determination made in relation to the reconciliation period;

“the counterparty obligation amount” is the sum of the following amounts—

- (a) the sum of any payments the revenue collection counterparty was required to make under regulation 8(3) in respect of days in the reconciliation period; and
- (b) the sum of any reconciliation payments which the revenue collection counterparty was required to make under paragraph (3)(b) in respect of any previous reconciliation determination made in relation to the reconciliation period.

## CHAPTER 6

### Mutualisation

#### **Mutualisation**

**17.—**(1) Where an electricity supplier (“the defaulting supplier”) fails to make a relevant payment the revenue collection counterparty may, subject to paragraph (5), require 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 who supplied electricity during the reference period.

(2) For the purposes of this regulation a “non-defaulting supplier” in relation to a mutualisation notice means an electricity supplier who has—

- (a) not failed to make any relevant payment within the time limit for making the payment under these Regulations;
- (b) failed to make one or more relevant payments all of which have subsequently been paid to the revenue collection counterparty by the time the defaulting supplier was required to make the relevant payment referred to in paragraph (1); or
- (c) failed to make one or more relevant payments not all of which have subsequently been paid to the revenue collection counterparty by the time the defaulting supplier was required to make the relevant payment referred to in paragraph (1), but the revenue collection counterparty is of the opinion that it will hold some collateral provided by that supplier by the 5th working day after the day on which the revenue collection counterparty intends to issue that mutualisation notice.

(3) 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 amount (“the mutualisation amount”) which the non-defaulting supplier to whom the notice is issued must pay, calculated in accordance with paragraph (7);
- (d) the date (“the mutualisation date”) by which the mutualisation amount must be paid, which must be—
  - (i) in the case of a mutualisation notice issued in respect of a relevant payment which the defaulting supplier was required to make by virtue of regulation 7(1) or 8(2), no earlier than 5 working days after the date on which the notice was issued; or
  - (ii) in the case of a mutualisation notice issued in respect of any other relevant payment which the defaulting supplier was required to make, no earlier than 30 days after the date on which the notice was issued.

(4) A mutualisation date must be the same for each mutualisation notice issued in respect of a relevant payment which a defaulting supplier failed to pay.

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

(6) Where the revenue collection 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.

(7) Where an electricity supplier fails to pay all or part of a mutualisation payment in accordance with paragraph (6), that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the day on which the payment should have been made.

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

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

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;

EXE is the amount of EII excluded electricity supplied by the non-defaulting supplier in the reference period as determined immediately before the notice is issued;

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; and

AXE is the total amount of EII excluded electricity supplied by all non-defaulting suppliers in the reference period as determined immediately before the notice is issued.

(9) In this regulation—

- (a) “collateral” is to be construed in accordance with regulation 19(7);
- (b) “relevant payment” means any payment which an electricity supplier is required to make by virtue of regulation 7(1), 8(2), 10(1), 13(3), 16(3)(a) or 17(6);
- (c) the reference period is the most recent period, occurring before the mutualisation notice (to which the reference period relates) has been issued, of 30 consecutive days in respect of which the BSCCo has carried out an Initial Volume Allocation Run; and
- (d) the amount of electricity supplied by an electricity supplier in a reference period is the amount of electricity which the BSCCo determines, on the basis of the most recent BSC volume allocation run which the BSCCo has carried out in relation to each day in that period, as the amount of electricity supplied by that supplier in that reference period.

### **Repayment of mutualised amounts**

**18.—**(1) Where the revenue collection counterparty has issued a mutualisation notice in respect of a failure of an electricity supplier (“the defaulting supplier”) to make a relevant payment (“the relevant default”) and subsequently recovers any amount from that supplier in respect of that failure, that amount must be paid to electricity suppliers who were required to pay mutualisation amounts in respect of that failure in accordance with paragraphs (2) and (3).

(2) The amount which the revenue collection counterparty must, by virtue of paragraph (1), pay an electricity supplier who was required to pay a mutualisation amount (“the non-defaulting supplier”) is the amount given by—

$$AR \times \left( \frac{SU}{AU} \right)$$

where—

AR is the amount recovered from the defaulting supplier in respect of the relevant default, including any interest paid by the defaulting supplier in respect of that failure;

SU is the mutualisation amount which the non-defaulting supplier was required to pay in respect of the relevant default; and

AU is the total amount of mutualisation payments which were required to be paid by all non-defaulting suppliers in respect of the relevant default.

(3) Any amount which the revenue collection counterparty is required to pay by virtue of paragraph (1) must be paid by the 15th working day after the day on which it recovers the amount to be paid.

(4) In paragraph (1), “relevant payment” means any payment which an electricity supplier is required to make by virtue of regulation 7(1), 8(2), 10(1), 13(3), 16(3)(a) or 17(6).

## CHAPTER 7

### Collateral

#### **Requirement to provide collateral**

**19.**—(1) This regulation applies at all times after an electricity supplier makes an electricity supply in a quarterly obligation period in respect of which it is required to make an interim rate payment.

(2) Where this regulation applies the supplier must ensure that, on any day, the revenue collection counterparty holds sufficient collateral from the supplier to meet the supplier’s collateral requirement for that day.

(3) The supplier’s collateral requirement for a day (“the relevant day”) is determined by reference to the most recent period of 21 consecutive days prior to the last working day before the relevant day, in respect of which the BSCCo had carried out a BSC volume allocation run (“the relevant period”).

(4) For each day in the relevant period, the amount of electricity supplied by the supplier on that day, less any amount of EII excluded electricity supplied by that supplier on that day, (both as determined on the last working day before the relevant day), multiplied by the interim levy rate which applies in relation to the relevant day, gives a relevant amount.

(5) The sum of the relevant amounts is the supplier’s collateral requirement for the relevant day.

(6) The supplier is not to be treated as having breached its obligation under paragraph (2) where, after the first occasion on which it provided sufficient collateral to the revenue collection counterparty to meet its collateral requirement for a day—

- (a) the amount of that supplier’s collateral held by the revenue collection counterparty fell below that supplier’s collateral requirement for a subsequent day; and
- (b) by the second working day (“the cure day”) after that subsequent day, the supplier provides sufficient collateral to the revenue collection counterparty to meet its collateral requirement for the cure day.

(7) Collateral may be provided in the form of—

- (a) cash;
- (b) appropriate letters of credit; or
- (c) a combination of the two.

(8) For the purposes of this regulation—

- (a) collateral is held by the revenue collection counterparty where it is provided to the revenue collection counterparty and not called (within the meaning of regulation 21);

- (b) the amount of electricity supplied by a supplier on any day is the amount which the BSCCo determines, on the basis of the most recent BSC volume allocation run carried out by the BSCCo in relation to that day, as the amount of electricity that the supplier supplied on that day; and
  - (c) the interim levy rate which applies in relation to a day is the interim levy rate which applies in relation to that day by virtue of regulation 7(3).
- (9) Regulation 20 makes further provision about appropriate letters of credit.

**Appropriate letters of credit**

**20.**—(1) For the purposes of regulation 19, a letter of credit is appropriate if—

- (a) it is issued by a person who holds a required rating; and
- (b) it is provided on terms which the revenue collection counterparty considers are appropriate.

(2) The terms which the revenue collection counterparty may consider are appropriate under paragraph (1)(b) include terms relating to—

- (a) the manner in which any demand for payment under a letter of credit is to be made;
- (b) the manner in which any payment under a letter of credit is to be made; and
- (c) requirements about the holding of funds to meet demands for payment under a letter of credit.

(3) Where an electricity supplier has provided the revenue collection counterparty with a letter of credit issued by a person who ceases to hold a required rating that letter will not constitute an appropriate letter of credit from the 10th working day after the day on which that person ceases to hold that rating.

(4) Subject to paragraph (5), a person holds a required rating if that person has been assessed by—

- (a) Fitch Ratings as having a short term debt rating of “F1” or better;
- (b) Moody’s as having a short term debt rating of “P-1” or better; or
- (c) Standard and Poor’s as having a short term debt rating of “A-1” or better.

(5) Where the revenue collection counterparty is of the opinion that the requirement that appropriate letters of credit must be issued by persons holding a short term debt rating mentioned in paragraph (4)(a) to (c) is too onerous in the circumstances, and subject to having regard to its duty under regulation 28(1), it may issue a notice to BM registered electricity suppliers specifying alternative short term debt ratings, and that notice shall remain in force until such time as it is withdrawn.

(6) In paragraph (5), “BM registered electricity suppliers” means electricity suppliers who have a BM Unit registered as at the day before the date the notice is issued.

(7) The revenue collection counterparty may withdraw a notice under paragraph (5) (“the first notice”) by issuing a further notice (“the withdrawal notice”) to electricity suppliers who were sent the first notice setting out the date from which the first notice is to be withdrawn (that date being no earlier than 10 working days after the day on which the withdrawal notice is issued).

(8) The revenue collection counterparty must, before the first revenue collection contract is entered into, publish a document setting out the terms of letters of credit which it is likely to regard as appropriate for the purposes of paragraph (1)(b), and must keep any such document under review and publish any revision from time to time.

(9) In this regulation—

“Fitch Ratings” means Fitch Ratings Limited (registered company number 01316230);

“Moody’s” means the corporation known as Moody’s Investors Service Inc., incorporated in the US State of Delaware with the file number 0577904;

“Standard and Poor’s” means the corporation known as Standard & Poor’s Financial Services LLC, incorporated in the US State of Delaware with the file number 4621989.

### **Calling of collateral**

**21.**—(1) Collateral provided by an electricity supplier is called by the revenue collection counterparty where the revenue collection counterparty issues a notice to that supplier which sets out the amount of collateral which is to be called.

(2) The revenue collection counterparty may issue a notice under paragraph (1) to an electricity supplier if that supplier has failed to make a relevant payment and—

- (a) 2 working days have passed since the day on which that supplier should have made that payment; or
- (b) the revenue collection counterparty is of the opinion that there is no prospect of that supplier making that payment by 2 working days after the day on which that supplier should have made that payment.

(3) The amount of collateral which may be called by the revenue collection counterparty where a supplier has failed to make a relevant payment is the lesser of—

- (a) the amount of collateral provided by that supplier; or
- (b) the amount of that relevant payment or, where there is more than one relevant payment which that supplier has failed to make and in respect of which a notice under paragraph (1) could be issued, the sum of all relevant payments in respect of which a notice under paragraph (1) could be issued.

(4) Where the whole or part of a supplier’s collateral which was provided in the form of cash has been called by the revenue collection counterparty, that amount is to be treated as a payment made by that supplier to the revenue collection counterparty at the time that collateral was called.

(5) Where the whole or part of a supplier’s collateral which was provided in the form of a letter of credit has been called by the revenue collection counterparty—

- (a) the revenue collection counterparty must take steps to demand payment from the person who provided the letter in the amount of the lesser of—
  - (i) the amount which can be demanded under that letter, or
  - (ii) the amount of collateral which has been called; and
- (b) the amount which has been paid to the revenue collection counterparty under that letter is to be treated as a payment by that supplier to the revenue collection counterparty made at the time that amount is received by the revenue collection counterparty.

(6) In this regulation “relevant payment” means any payment which a supplier is required to make by virtue of regulation 7(1), 8(2), 10(1), 13(3), 16(3)(a) or 17(6) which has not been made by that supplier by the time that payment should have been made, and which remains unpaid.

### **Withdrawal of collateral and payment of interest**

**22.**—(1) Where the collateral provided by an electricity supplier and held by the revenue collection counterparty is more than that supplier’s collateral requirement, that supplier may make a request that the revenue collection counterparty repay or return as much collateral as exceeds the supplier’s collateral requirement by giving a notice to the revenue collection counterparty.

(2) Where a request under paragraph (1) has been received by the revenue collection counterparty, it must, before the 2nd working day after the day on which the request was received, repay or return the lesser of—

- (a) the amount requested by the supplier; or
- (b) the amount of collateral which the revenue collection counterparty determines exceeds that supplier’s collateral requirement at the time the payment is to be made.

(3) Where a supplier has provided collateral in the form of cash and the revenue collection counterparty holds that sum in an account which bears interest, it must pay to that supplier an

amount equal to any such interest earned in relation to that sum within 15 working days of receiving that interest.

## PART 3

### Operational costs

#### **The operational costs levy**

**23.**—(1) An electricity supplier must make a payment (“an operational cost payment”) to the revenue collection counterparty for each day that supplier makes an electricity supply during an operational cost period.

(2) The amount of an operational cost payment to be paid by a supplier in respect of a day is equal to the amount of electricity supplied by that supplier on that day, less any amount of EII excluded electricity supplied by that supplier on that day, multiplied by the operational levy rate.

(3) The revenue collection counterparty must, as soon as reasonably practicable after the BSCCo has carried out an Initial Volume Allocation Run in respect of a day in an operational cost period, issue a notice to each electricity supplier who supplied electricity on that day stating the operational cost payment which the supplier to whom the notice is issued must pay in respect of that day.

(4) An electricity supplier must make an operational cost payment in respect of a day by the operational cost payment date in relation to that payment.

(5) The operational cost payment date in relation to an operational cost payment is the 5th working day after the day on which the revenue collection counterparty has issued a notice under paragraph (3) to the supplier who must make that payment.

(6) Where an electricity supplier fails to make an operational cost payment by the operational cost payment date in relation to that payment, that supplier must pay the revenue collection counterparty simple interest on any unpaid amount at the rate specified in regulation 36(1) from the day after the operational cost payment date.

(7) For the purposes of this regulation—

(a) the operational levy rate is as follows—

(i) £0.0020 per megawatt hour for any day before 1st April 2023;

(ii) £0.0025 per megawatt hour for any day during for the period that begins with 1st April 2023 and ends on 31st March 2024;

(iii) £0.0028 per megawatt hour for any day after 31st March 2024;

(b) the amount of electricity supplied by an electricity supplier on a particular day is the amount of electricity which the BSCCo determines, on the basis of an Initial Volume Allocation Run carried out in relation to that day, as the amount of electricity which that supplier supplied on that day.

#### **Repayment of excess**

**24.**—(1) The revenue collection counterparty must determine, as soon as reasonably practicable after the conclusion of an operational cost period, whether the amounts received under regulation 23(1) in respect of that period and received by virtue of regulation 23(6) during that period are greater than the costs which it incurred in respect of the relevant period in relation to that operational cost period.

(2) Where the revenue collection counterparty determines that those amounts are greater than those costs it must pay the difference to electricity suppliers as soon as reasonably practicable after making that determination.

(3) Where the revenue collection counterparty must make a payment under paragraph (2), the amount which the revenue collection counterparty must pay to an electricity supplier in respect of an operational cost period is the amount given by—

$$(RA - CO) \times \left( \frac{SE - EX}{ST - XT} \right)$$

where—

RA is the sum of—

- (a) any amounts received by the revenue collection counterparty under regulation 23(1) in respect of that period,
- (b) any amounts received by the revenue collection counterparty by virtue of regulation 23(6) during that period, and
- (c) any amounts which were paid to the revenue collection counterparty during the relevant period for the purpose of compensating it for any costs incurred by it in respect of a breach of any duty or obligation owed to it (whether or not under these Regulations);

CO is the costs the revenue collection counterparty determines it has incurred in respect of the relevant period;

SE is the amount of electricity supplied by the supplier in that period;

EX is the amount of EII excluded electricity supplied by that supplier in that period;

ST is the total amount of electricity supplied by all suppliers in that period; and

XT is the total amount of EII excluded electricity supplied by all suppliers in that period.

(4) For the purposes of paragraph (3) the amount of electricity supplied by a supplier in an operational cost period is the amount of electricity which the BSCCo determines, on the basis of Initial Volume Allocation Runs, as the amount of electricity that supplier supplied in that period.

(5) In this regulation—

- (a) “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; and
- (b) “relevant period” in relation to an operational cost period means—
  - (i) in relation to the first operational cost period, the period beginning with the coming into force of these Regulations and ending with the day the first operational cost period ends; or
  - (ii) in relation to any other operational cost period, that operational cost period.

## PART 4

### Miscellaneous

#### CHAPTER 1

##### Enforcement and disputes

#### **Enforcement of requirements**

**25.—**(1) Any requirement of an electricity supplier under these Regulations is enforceable by the Authority as if any such requirement was a relevant requirement on a regulated person for the purposes of section 25 of the Electricity Act 1989(a).

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(a) 1989 c. 29. The definition of “regulated person” was amended by S.I. 2011/2704, 2017/493 and 2019/530. The definition of “relevant requirement” was amended by S.I. 2011/2704, 2020/96 and 2020/1016. Other amendments to section 25 of the

(2) Where the revenue collection counterparty determines that an electricity supplier has not complied with any requirement to pay an amount required under these Regulations it may issue a notice to that supplier setting out—

- (a) the amount which the revenue collection counterparty determines that supplier should have paid;
- (b) the basis on which the revenue collection counterparty determined the amount;
- (c) the date on which the amount should have been paid; and
- (d) the rate, if any, of interest which applies to the amount.

(3) Where the revenue collection counterparty determines that an electricity supplier has not complied with a requirement to ensure that the revenue collection counterparty holds sufficient collateral under regulation 19(2), it may issue a notice to that supplier which specifies the amount of collateral which the supplier would have to provide to meet that supplier's collateral requirement for the day on which the notice is issued.

(4) Where the revenue collection counterparty has issued a notice to a supplier under paragraph (3) that supplier is required to pay the amount specified in the notice to the revenue collection counterparty in cash by the next working day after the notice has been issued.

(5) Where an electricity supplier makes a payment under paragraph (4) the amount of that payment constitutes collateral held by the revenue collection counterparty for the purposes of regulation 19.

(6) Where the revenue collection counterparty issues a notice to a supplier under paragraph (2) or (3)—

- (a) it must also provide a copy of that notice to the Authority; and
- (b) it may publish a copy of that notice, or a summary of that notice.

## **Dispute notices**

**26.**—(1) An electricity supplier may dispute any determination made by the revenue collection counterparty under these Regulations, other than a determination made under or by virtue of regulation 27 of these Regulations, by giving a notice to the revenue collection counterparty setting out—

- (a) the determination the supplier is disputing; and
- (b) the basis on which the supplier disputes the determination.

(2) For the purposes of paragraph (1), a dispute about a determination made by the revenue collection counterparty includes a dispute about the failure of the revenue collection counterparty to make a determination.

(3) A notice under paragraph (1) must be given by an electricity supplier before the later of—

- (a) the 28th day after the day on which the determination was made by the revenue collection counterparty;
- (b) in the case of a determination in respect of which the revenue collection counterparty must issue a notice, the 28th day after the day on which that notice was issued;
- (c) in the case of a dispute about the failure of the revenue collection counterparty to make a determination, the 28th day after the day on which the revenue collection counterparty should have made the relevant determination which is in dispute.

(4) An electricity supplier may not dispute a determination if and to the extent that the dispute is about a determination, made by the BSCCo, of an amount of electricity supplied (whether by that supplier or any other supplier).

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Electricity Act 1989 were made by section 54(3) of, and Schedule 10 to, the Competition Act 1998 (c. 41); sections 3(2), 60(1) to (5) and 108 of, and Schedule 6 and 8 to, the Utilities Act 2000 (c. 27); section 63(1) of, and Schedule 7 to, the Consumers, Estate Agents and Redress Act 2007 (c. 17); section 51(5) of, and Schedule 14 to, the Enterprise and Regulatory Reform Act 2013 (c. 24); S.I. 2011/2704; and S.I. 2020/96.



(5) Where an electricity supplier has given a notice under paragraph (1) in respect of a determination, that determination still has effect notwithstanding the giving of that notice.

### **Determination of disputes**

**27.**—(1) Where the revenue collection counterparty receives a notice under regulation 26(1) (“a dispute notice”) about a determination (or a failure to make a determination) under any provision of these Regulations (“a relevant provision”) it must, by the 28th day after the day on which it receives that notice either—

- (a) reject the notice; or
- (b) accept the notice (in full or in part) and make such determination under that provision as it thinks is necessary in consequence.

(2) Whether the revenue collection counterparty rejects or accepts a dispute notice, it must, on the same day, issue a notice (“a decision notice”) to the person who gave that dispute notice, setting out its decision and the reasons for it.

(3) Where the revenue collection counterparty makes a determination under a relevant provision by virtue of paragraph (1)(b) it must, on the same day, issue to each electricity supplier who may be affected by the making of that determination a notice which sets out that determination.

(4) Where the revenue collection counterparty makes a determination under a relevant provision by virtue of paragraph (1)(b) and—

- (a) that provision requires the determination to be made by a particular time which has passed, that determination has effect notwithstanding that requirement;
- (b) that provision requires something to be done by it by a particular time which has passed, that thing must be done as soon as reasonably practicable after the determination.

(5) Where the revenue collection counterparty makes a determination under a relevant provision by virtue of paragraph (1)(b) and that provision requires an electricity supplier to make a payment, that payment must be made (notwithstanding what that provision says about the time by which a payment must be made) by the date specified by the revenue collection counterparty in the notice issued under paragraph (3) to that supplier, that date being no earlier than—

- (a) the date by which, in the opinion of the revenue collection counterparty, it would be reasonably practicable for that electricity supplier to make that payment; or
- (b) the earliest date by which that supplier would have had to have made that payment if the determination had been made at the time the determination which is the subject of the dispute notice was or (in the case where the revenue collection counterparty failed to make a determination) should have been made.

(6) Where an electricity supplier has paid an amount to the revenue collection counterparty, or the revenue collection counterparty has paid an amount to that electricity supplier, and a determination made under a relevant provision by virtue of paragraph (1)(b) means that that amount should not have been paid, that amount must be returned to the person who paid it by—

- (a) the 5th working day after the day on which the notice issued in respect of that determination was issued under paragraph (3);
- (b) where the revenue collection counterparty is of the opinion that it would not be reasonably practicable for that amount to be returned by that date, such later date as the revenue collection counterparty specifies in the notice issued under paragraph (3) to that supplier in respect of that determination.

### **Duties of the revenue collection counterparty to enforce and notify**

**28.**—(1) The revenue collection counterparty must exercise its functions in the manner best calculated to ensure the collection of all amounts which are required to be paid or provided by electricity suppliers under these Regulations.

(2) If the revenue collection counterparty considers it may be, or become, unable to fulfil its functions, it must promptly notify the Secretary of State and must provide such further details as the Secretary of State may request.

(3) In paragraphs (1) and (2) “functions” includes—

- (a) any function conferred by these Regulations;
- (b) the recovery of any sum as a civil debt by virtue of section 19 of the Act; and
- (c) any duties or obligations of the revenue collection counterparty under any revenue collection contract.

(4) The revenue collection counterparty must take such steps as it considers necessary to ensure that electricity suppliers are—

- (a) informed of their liabilities under these Regulations; and
- (b) provided with information about liabilities which they may incur under these Regulations.

(5) Where the revenue collection counterparty writes-off any debt owed to it by an electricity supplier, it must issue a notice of that fact to every electricity supplier who was required to make a payment under regulation 17(6) in relation to that debt.

(6) The revenue collection counterparty must publish information which relates to its estimates of the liabilities of electricity suppliers arising during three consecutive quarterly obligation periods (“the projection period”).

(7) The revenue collection counterparty must publish information under paragraph (6)—

- (a) no later than 30 days before the start of the first quarterly obligation period to which that information relates; or
- (b) where the revenue collection counterparty reasonably believes that it has received insufficient information from the Authority for the purpose of publishing information under paragraph (6), as soon as reasonably practicable following the receipt of the information the revenue collection counterparty requires.

(8) The information published under paragraph (6) must include—

- (a) an estimate of the interim levy rate (see regulation 5(1)) that would apply to each quarterly obligation period during the projection period; and
- (b) an estimate of the total reserve amount for each quarterly obligation period during the projection period.

## **Notices and publications**

**29.**—(1) Where the revenue collection counterparty is permitted or required to issue a notice (including a copy of a notice) to a person, that notice must be in writing and is issued if it has been sent (by or on behalf of the revenue collection counterparty) by post or electronic means to that person’s proper address.

(2) In paragraph (1), “proper address” means—

- (a) in the case of a body corporate—
  - (i) the registered or principal office of that person, or
  - (ii) an email address provided (and not withdrawn) by that person;
- (b) in the case of a partnership—
  - (i) the principal office of the partnership, or
  - (ii) an email address provided (and not withdrawn) by—
    - (aa) that partnership,
    - (bb) a partner, or
    - (cc) a person having control or management of the partnership business;

- (c) in the case of any other person, that person's last known address, which includes an email address (where that email address was provided, and has not been withdrawn, by that person).

(3) So as to enable the revenue collection counterparty to discharge its functions under these Regulations, an electricity supplier must, within 2 working days of first making an electricity supply after the first payment period start date, provide an email address to the revenue collection counterparty at which it can be contacted, and if that supplier subsequently changes that email address it must notify the revenue collection counterparty of that change.

(4) Where the revenue collection counterparty issues a notice to an electricity supplier under regulation 5(3)(a) or (b) it must set out an address and an email address for correspondence in that notice.

(5) An electricity supplier may give a notice to the revenue collection counterparty by sending it by post or electronic means to the address or email address contained in the most recent notice issued to that supplier under regulation 5(3)(a) or (b).

(6) Where the revenue collection counterparty is required to publish any information under these Regulations the revenue collection counterparty must publish that information in such manner as the revenue collection counterparty considers appropriate for the purpose of bringing it to the attention of persons who may be affected by that information.

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

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(a) 1998 c. 11.

## PART 5

### Directions to offer to contract

#### Directions under section 18 of the Act

37.—(1) A direction given by the Secretary of State to a revenue collection counterparty under section 18(1) of the Act must—

- (a) be in writing and dated;
- (b) specify the full contract terms on which the revenue collection counterparty is to offer to contract, in the form of a draft revenue collection contract;
- (c) prohibit the revenue collection counterparty from modifying those terms when offering to contract with a designated nuclear company unless the revenue collection counterparty has received the prior written consent of the Secretary of State to the modification;
- (d) specify a date by which the revenue collection counterparty must comply with the direction;
- (e) specify the period for which the revenue collection counterparty must keep the offer open for acceptance (following the expiry of which the offer lapses).

(2) In paragraph (1)(c), “modifying” includes making additions, omissions, amendments or substitutions.

(3) The Secretary of State must give a copy of the direction to the designated nuclear company specified in the direction (“the specified person”) as soon as reasonably practicable after the direction has been given to the revenue collection counterparty.

#### Form and content of specified terms

38. For the purposes of regulation 37(1)(b) the terms must include terms that set out—

- (a) the circumstances in which the revenue collection counterparty must make payments to the specified person;
- (b) any circumstances in which the revenue collection counterparty is not required to make payments to the specified person;
- (c) the circumstances in which the specified person must make payments to the revenue collection counterparty;
- (d) any circumstances in which the specified person is not required to make payments to the revenue collection counterparty;
- (e) where the specified person’s relevant licence requires that payments under paragraph (a) or (c) are to be calculated in accordance with amounts notified to the revenue collection counterparty by the Authority, that payments must be calculated in accordance with that requirement;
- (f) where the specified person’s relevant licence requires that payments are not required to be paid by the revenue collection counterparty to the specified person (or vice versa), that the circumstances set out under paragraph (b) or (d) must be in accordance with that requirement;
- (g) the periods within which amounts payable by virtue of paragraph (a) or (c) must be paid;
- (h) the circumstances in which the specified person is required to receive the consent of the revenue collection counterparty before transferring the contract or assigning its rights or obligations under the contract;
- (i) a mechanism for the sharing of information between the parties to the contract; and
- (j) details of any information included in the terms that is confidential information for the purposes of regulation 40(3).

### **Revocation of directions**

**39.**—(1) The Secretary of State may by notice (“a revocation notice”) revoke a direction given under section 18(1) of the Act (“the direction”).

(2) A revocation notice must—

- (a) be in writing and be dated;
- (b) identify the direction to which it applies; and
- (c) be given to the revenue collection counterparty and the relevant specified person.

(3) Where the Secretary of State gives a revocation notice under paragraph (1), the revenue collection counterparty must immediately withdraw any offer to contract that it has made in compliance with the direction.

(4) A revocation notice has no effect if it is given after the specified person has accepted an offer to contract on the specified terms made by the revenue collection counterparty in compliance with the direction.

### **Publication of revenue collection contracts**

**40.**—(1) If a specified person accepts an offer to contract on the specified terms, the revenue collection counterparty must publish the resulting revenue collection contract.

(2) The revenue collection counterparty must exclude any confidential information from the revenue collection contract that is published.

(3) For the purposes of paragraph (2), “confidential information” means information which—

- (a) is identified in the specified terms as information to which paragraph (4) applies; and
- (b) the specified terms provide must not be disclosed.

(4) This paragraph applies to information if, in the opinion of the Secretary of State at the time the relevant direction is given, it is information—

- (a) which constitutes a trade secret;
- (b) the disclosure of which would or would be likely to prejudice the commercial interests of any person; or
- (c) the disclosure of which would constitute a breach of confidence actionable by any person.

### **Interpretation of Part 5**

**41.** In this Part, “specified person” is to be construed in accordance with regulation 37(3).

## **PART 6**

### **Information and advice**

#### **Requests for information**

**42.**—(1) The revenue collection counterparty may request information from an electricity supplier which the revenue collection counterparty reasonably requires in connection with the performance of the revenue collection counterparty’s functions.

(2) The revenue collection counterparty may request information from a CFD counterparty which the revenue collection counterparty reasonably requires in connection with the revenue collection counterparty’s determination of amounts of EII excluded electricity under these Regulations.

(3) The Authority may request information which they reasonably require in connection with the performance of the Authority’s functions from any of the following persons—

- (a) the revenue collection counterparty;



(b) the national system operator.

(4) The Secretary of State may request information relating to revenue collection contracts which they reasonably require in connection with the performance of the Secretary of State's functions from any of the following persons—

- (a) the revenue collection counterparty;
- (b) the Authority;
- (c) a nuclear administrator;
- (d) the national system operator;
- (e) an RCC party.

(5) The Secretary of State may request the Authority to provide information to the revenue collection counterparty which the Secretary of State reasonably considers the revenue collection counterparty requires in connection with the performance of the revenue collection counterparty's functions.

(6) The information which the Secretary of State may request under paragraph (5) includes information about amounts calculated by the Authority in accordance with an RCC party's relevant licence.

(7) The Secretary of State may request a nuclear administrator to provide information to the Authority which the Secretary of State reasonably considers the Authority requires in connection with the performance of the Authority's functions.

(8) A person who receives a request under this regulation must comply with the request within such period as the person making the request may reasonably require.

#### **Provision of information other than by request**

**43.**—(1) This regulation applies regardless of whether a request for information under regulation 42 has been made.

(2) Any of the following persons may provide to the revenue collection counterparty information which the person reasonably considers the revenue collection counterparty requires in connection with the performance of the revenue collection counterparty's functions—

- (a) the Authority;
- (b) a CFD counterparty.

(3) The revenue collection counterparty may provide to the Authority information which the revenue collection counterparty reasonably considers the Authority requires in connection with the performance of the Authority's functions.

(4) Any of the following persons may provide to the Secretary of State information relating to revenue collection contracts which the person reasonably considers the Secretary of State requires in connection with the performance of the Secretary of State's functions—

- (a) the revenue collection counterparty;
- (b) the Authority;
- (c) a nuclear administrator.

#### **Provision of advice to the Secretary of State**

**44.**—(1) The Secretary of State may request advice relating to revenue collection contracts which they reasonably require in connection with the performance of the Secretary of State's functions from any of the following persons—

- (a) the revenue collection counterparty;
- (b) the Authority;
- (c) the national system operator.

(2) A person who receives a request under paragraph (1) must comply with the request within such period as the Secretary of State may reasonably require.

### **Restrictions on disclosing information or advice**

**45.**—(1) Subject to paragraph (2), a person who obtains information or advice under this Part must not disclose the information or advice to another person.

(2) Paragraph (1) does not apply to the disclosure of information or advice by the person—

- (a) if the disclosure is required by law (including by virtue of a request for information or advice made under this Part);
- (b) if the disclosure is required to comply with an order of a court or for the purposes of any legal proceedings;
- (c) if the disclosure is made with the consent of the person from whom the information or advice was obtained;
- (d) if the disclosure is of information that has already lawfully been made available to the public;
- (e) in the case of a disclosure by the revenue collection counterparty, if the revenue collection counterparty reasonably considers the disclosure to be necessary in connection with the performance of the revenue collection counterparty's functions;
- (f) in the case of a disclosure by the Authority, if the Authority reasonably considers the disclosure to be necessary in connection with the performance of the Authority's functions;
- (g) in the case of a disclosure by the Secretary of State, if the Secretary of State reasonably considers the disclosure to be necessary in connection with the performance of the Secretary of State's functions.

### **Supplementary provision for Part 6**

**46.**—(1) A requirement imposed under this Part on the revenue collection counterparty, a CFD counterparty, the national system operator, a nuclear administrator or an RCC party is to be treated as a relevant requirement on that person as if they were a regulated person for the purposes of section 25 of the Electricity Act 1989(a).

(2) A person who discloses information as a result of this Part must exercise reasonable care as to its accuracy.

(3) Nothing in this Part—

- (a) authorises or requires a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, a requirement imposed under this Part is to be taken into account);
- (b) requires a person to disclose information that the person does not hold and is not entitled to obtain;
- (c) affects any power or duty to disclose or provide information or advice which exists apart from this Part.

(4) In this regulation, “the data protection legislation” has the same meaning as in section 3(9) of the Data Protection Act 2018(b).

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(a) 1989 c. 29. Section 25 was amended by the Competition Act 1998 (c. 41), section 54(3) and Schedule 10; the Utilities Act 2000 (c. 27), sections 3(2), 60(1) to (3) and (5), 108, Schedule 6, and Schedule 8; the Consumers, Estate Agents and Redress Act 2007 (c. 17), section 63(1) and Schedule 7; the Enterprise and Regulatory Reform Act 2013 (c. 24), section 51(5) and Schedule 14; and S.I. 2011/2704, 2017/493, 2019/530, 2020/96.

(b) 2018 c. 12. Section 3(9) has been amended by S.I. 2019/419.

## Interpretation of Part 6

47. In this Part—

“Authority’s functions” means—

- (a) functions conferred on the Authority by or by virtue of the Act (including by these Regulations); and
- (b) the Authority’s functions relating to the regulation of any RCC party in accordance with its relevant licence;

“CFD counterparty” means the person or persons designated as a counterparty for contracts for difference in accordance with section 7 of the Energy Act 2013(a);

“nuclear administrator” has the meaning given in section 39(1) of the Act;

“revenue collection counterparty’s functions” means—

- (a) functions conferred on the revenue collection counterparty by or by virtue of the Act (including by these Regulations); and
- (b) duties or obligations of the revenue collection counterparty arising under or by virtue of any revenue collection contract to which it is a party;

“Secretary of State’s functions” means—

- (a) functions conferred on the Secretary of State by or by virtue of the Act (including by these Regulations); and
- (b) the Secretary of State’s functions in relation to the formulation, development, monitoring and review of energy policy.

	<i>Name</i>
	Title
Date	Department for Business, Energy and Industrial Strategy

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(a) 2013 c. 32.

## SCHEDULE

Regulation 2(5)

1. Regulation 2 has effect as if—
  - (a) every reference to “the revenue collection counterparty”, except the reference in the definition of “letter of credit” in paragraph (1), were to “a revenue collection counterparty”; and
  - (b) in paragraph (1), the words “to whom it is provided,” appeared after the words “the revenue collection counterparty” in the definition of “letter of credit”.
2. Regulation 3 has effect as if—
  - (a) in paragraph (1), the reference to “the revenue collection counterparty” were to “each revenue collection counterparty”;
  - (b) in paragraph (3), the reference to “a supplier’s RCC period contribution” were to “a supplier’s RCC period contribution in respect of a revenue collection counterparty”;
  - (c) in paragraph (4), the reference to “the RCC period contribution” were to “the RCC period contribution in respect of a revenue collection counterparty”; and
  - (d) in paragraphs (3)(b) and (4)(b), each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”.
3. Regulation 4 has effect as if—
  - (a) in paragraph (1)—
    - (i) the reference to “the RCC period contribution” were to “the RCC period contribution in respect of a revenue collection counterparty”; and
    - (ii) each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”; and
  - (b) in paragraph (3), the reference to “the revenue collection counterparty” were to “a revenue collection counterparty”.
4. Regulation 5 has effect as if—
  - (a) each reference to “the revenue collection counterparty” were a reference to “a revenue collection counterparty”; and
  - (b) in relation to a revenue collection counterparty designated under section 16 of the Act on or after the first payment period start date, there is no requirement for that revenue collection counterparty to determine an interim levy rate in respect of the first quarterly obligation period which commences after its designation.
5. Regulation 6 has effect as if—
  - (a) in paragraphs (1), (2) and (3), each reference to—
    - (i) “the revenue collection counterparty’s” were to “each revenue collection counterparty’s”;
    - (ii) “the revenue collection counterparty” were to “that revenue collection counterparty”; and
    - (iii) “revenue collection contracts” were to “revenue collection contracts to which that revenue collection counterparty is a party”; and
  - (b) in paragraph (4), the reference to “the revenue collection counterparty” were to “a revenue collection counterparty”;
6. Regulation 7 has effect as if—
  - (a) in paragraphs (1) and (4), each reference to “the revenue collection counterparty” were to “each revenue collection counterparty”;
  - (b) in paragraph (2)—

- (i) the words “to a revenue collection counterparty” appeared after the words “by a supplier”; and
  - (ii) the words “which that revenue collection counterparty determined and” appeared after the words “interim levy rate”;
- (c) after paragraph (2), there appeared the following provision—
- “(2A) Where a revenue collection counterparty has not determined an interim levy rate which applies in relation to a day, there is no requirement to make an interim rate payment to that revenue collection counterparty in respect of that day.”;
- (d) in paragraph (4)—
- (i) the reference to “The revenue collection counterparty” were to “Each revenue collection counterparty which determines an interim rate in respect of a day in a quarterly obligation period”;
  - (ii) the reference to “a day in a quarterly obligation period” were to “that day”; and
  - (iii) the words “to that revenue collection counterparty” appeared after the words “must pay”; and
- (e) in paragraphs (5) and (6), the words “to a revenue collection counterparty” appeared after the words “interim rate payment” and each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”.

**7. Regulation 8 has effect as if—**

- (a) in paragraph (1)—
  - (i) the words “in relation to a revenue collection counterparty” appeared after the words “regulation applies”; and
  - (ii) the words “in relation to that revenue collection counterparty” appeared after the words “that day” and after the words “that supplier”;
- (b) in paragraphs (2) and (3)—
  - (i) the words “in relation to a revenue collection counterparty” appeared after the words “net levied interim rate payment”;
  - (ii) the references to “the revenue collection counterparty” were to “that revenue collection counterparty”;
- (c) in paragraph (4) the reference to “The revenue collection counterparty” were to “A revenue collection counterparty”;
- (d) in paragraph (5)—
  - (i) the words “to a revenue collection counterparty” appeared after the words “make payment”; and
  - (ii) each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”;
- (e) in paragraph (6), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and the second reference were to “that revenue collection counterparty”;
- (f) in paragraph (7)—
  - (i) the words “to a revenue collection counterparty” appeared after the word “make”; and
  - (ii) each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”;
- (g) in paragraph (8)—
  - (i) in subparagraph (a)—
    - (aa) the words “in relation to a revenue collection counterparty” appeared after the words “in relation to a day”; and

- (bb) the words “which that revenue collection counterparty determined and” appeared after the words “interim levy rate”; and
- (ii) in subparagraph (b)—
  - (aa) the words “in relation to a revenue collection counterparty” appeared after the words “in relation to a day”;
  - (bb) the words “to that revenue collection counterparty” appeared after the words “in respect of that day” in each place they appear; and
  - (cc) the reference to “the revenue collection counterparty” were to “that revenue collection counterparty”.

**8. Regulation 9 has effect as if—**

- (a) every reference to “the revenue collection counterparty” were a reference to “a revenue collection counterparty”;
- (b) in paragraph (1)(a), the words “by it” appeared after the words “to be collected”;
- (c) in paragraphs (1)(b) and (3), the words “to it” appeared after the words “reserve payment”; and
- (d) in relation to a revenue collection counterparty designated under section 16 of the Act on or after the first payment period start date there is no requirement for that revenue collection counterparty to determine a total reserve amount or the amount of each supplier’s reserve payment in respect of the first quarterly obligation period which commences after its designation, and therefore no such payments are required to be made to it in respect of that period.

**9. Regulation 10 has effect as if—**

- (a) in paragraph (1), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and the second reference were to “that revenue collection counterparty”;
- (b) in paragraph (2)—
  - (i) the words “to a revenue collection counterparty” appeared after the words “reserve payment”; and
  - (ii) the reference to “the revenue collection counterparty” were to “that revenue collection counterparty”; and
- (c) in paragraph (3)—
  - (i) the words “in relation to a revenue collection counterparty” appeared after the words “in respect of the relevant period”; and
  - (ii) the words “determined by that revenue collection counterparty” appeared after the words “total reserve amount for that period”.

**10. Regulation 11 has effect as if every reference to “the revenue collection counterparty” were to “a revenue collection counterparty”.**

**11. Regulation 12 has effect as if—**

- (a) in paragraph (1)—
  - (i) the words “in relation to a revenue collection counterparty” appeared after the words “(“the rate period”)”; and
  - (ii) every reference to “the revenue collection counterparty” were to “that revenue collection counterparty”;
- (b) in paragraph (2)—
  - (i) the words “by a revenue collection counterparty” appeared after the words “paragraph (1)”, and
  - (ii) the reference to “the revenue collection counterparty” were to “that revenue collection counterparty”;

- (c) in paragraph (3), the reference to “the revenue collection counterparty” were to “a revenue collection counterparty”; and
- (d) in paragraph (4)—
  - (i) the words “determined by a revenue collection counterparty” appeared after the words “adjusted interim levy rate”; and
  - (ii) each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”.

**12. Regulation 13 has effect as if—**

- (a) in paragraph (1)—
  - (i) the words “in relation to a revenue collection counterparty” appeared after the words “the quarterly obligation period” where those words appear for the first time; and
  - (ii) the reference to “the revenue collection counterparty” were to “that revenue collection counterparty”;
- (b) in paragraph (2), the references to “the revenue collection counterparty’s” were to “that revenue collection counterparty’s”;
- (c) in paragraph (3)—
  - (i) the reference to “the revenue collection counterparty” were to “a revenue collection counterparty”; and
  - (ii) the words “to that revenue collection counterparty” appeared after the words “additional reserve payment”;
- (d) in paragraph (4)—
  - (i) the words “in relation to a revenue collection counterparty” appeared after the words “An electricity supplier’s additional reserve payment”; and
  - (ii) the words “determined by that revenue collection counterparty” appeared after the words “the additional total reserve amount”;
- (e) in paragraph (5), the reference to “the revenue collection counterparty” were to “a revenue collection counterparty”; and
- (f) in paragraphs (6) and (7)—
  - (i) the words “to a revenue collection counterparty” appeared after the words “additional reserve payment”; and
  - (ii) each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”;

**13. Regulation 14 has effect as if every reference to “the revenue collection counterparty” were to “a revenue collection counterparty” except the reference in paragraph (2), and the second reference in paragraph (6), which are to “that revenue collection counterparty”.**

**14. Regulation 15 has effect as if—**

- (a) in paragraph (1), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and every subsequent reference were to “that revenue collection counterparty”; and
- (b) in paragraph (3), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and the other reference to it were to “that revenue collection counterparty”.

**15. Regulation 16 has effect as if—**

- (a) in paragraph (1)—
  - (i) the words “in relation to a revenue collection counterparty” appeared after the words “by a supplier” and “for that supplier”;

- (ii) the reference to “the revenue collection counterparty’s” were to “that revenue collection counterparty’s”; and
- (iii) the words “in respect of that revenue collection counterparty” appeared after the words “RCC period contribution”;
- (b) in paragraphs (3) and (5), each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”;
- (c) in paragraph (3), the words “and a revenue collection counterparty” appeared after the words “an electricity supplier”;
- (d) in paragraph (4), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty”;
- (e) in paragraph (5), the words “to a revenue collection counterparty” appeared after the words “reconciliation payment”;
- (f) in paragraph (6), the words “in relation to a revenue collection counterparty (“the relevant counterparty”)” appeared after the words “net levied amount for a supplier”; and
- (g) in paragraph (7)—
  - (i) in the definition of “the supplier obligation amount”, the words “to the relevant counterparty” appeared after each instance of the words “to make”; and
  - (ii) in the definition of “the counterparty obligation amount”, each reference to “the revenue collection counterparty” were to “the relevant counterparty”.

**16. Regulation 17 has effect as if—**

- (a) in paragraph (1), the words “to a revenue collection counterparty,” appeared after the words “make a relevant payment”;
- (b) in paragraphs (1) and (2), the references to “the revenue collection counterparty” were to “that revenue collection counterparty”;
- (c) in paragraph (5)—
  - (i) the words “by a revenue collection counterparty” appeared after the words “may only be issued”; and
  - (ii) each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”;
- (d) in paragraph (6)—
  - (i) the reference to “the revenue collection counterparty” were a reference to “a revenue collection counterparty”; and
  - (ii) the words “to that revenue collection counterparty” appeared after the words “amount specified in the notice”;
- (e) in paragraph (7)—
  - (i) the words “to a revenue collection counterparty” appeared after the words “mutualisation payment”; and
  - (ii) the reference in that paragraph to “the revenue collection counterparty” were a reference to “that revenue collection counterparty”.

**17. Regulation 18 has effect as if the references to “the revenue collection counterparty” in that regulation were to “a revenue collection counterparty”.**

**18. Regulation 19 has effect as if—**

- (a) in paragraph (2)—
  - (i) the reference to “the revenue collection counterparty” were to “each revenue collection counterparty”; and
  - (ii) the words “in relation to that revenue collection counterparty” appeared after the words “for that day”;



- (b) in paragraph (3), the words “in relation to a revenue collection counterparty” appeared before the words “is determined by”;
- (c) in paragraph (4), the words “determined by that revenue collection counterparty” appeared after the words “interim levy rate”;
- (d) in paragraph (6)—
  - (i) the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and every other such reference were to “that revenue collection counterparty”;
  - (ii) the words “in relation to a revenue collection counterparty” appeared before the words “where, after”;
  - (iii) in subparagraphs (a) and (b), the words “in relation to that revenue collection counterparty” appeared after the words “collateral requirement”; and
- (e) in paragraph (8), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and the subsequent reference were to “that revenue collection counterparty”.

**19. Regulation 20 has effect as if—**

- (a) in paragraph (1)(b), the words “to which it is to be provided” appeared after the words “the revenue collection counterparty”;
- (b) in paragraphs (2), (3), (5), (7) and (8), each reference to “the revenue collection counterparty” were to “a revenue collection counterparty”;
- (c) in paragraph (5), the words “which apply to letters of credit which are to be provided to it” appeared after the words “alternative short term debt ratings”; and
- (d) in paragraph (8), the requirement to publish a document applies to a revenue collection counterparty who was designated after the first revenue collection contract is entered into as if the reference to “before the first revenue collection contract is entered into” in that paragraph were to “as soon as reasonably practicable after that revenue collection counterparty is designated under section 16 of the Act”.

**20. Regulation 21 has effect as if—**

- (a) in paragraphs (1), (2), (3), (4) and (5), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and all other references to “the revenue collection counterparty” were to “that revenue collection counterparty”; and
- (b) the words “to that revenue collection counterparty” appeared—
  - (i) after the words “relevant payment” in paragraph (2);
  - (ii) before the words “is the lesser of” in paragraph (3);
  - (iii) after the words “collateral provided” in paragraph (3)(a); and
  - (iv) after the words “failed to make” in paragraph (3)(b).

**21. Regulation 22 has effect as if—**

- (a) the first reference in paragraphs (1) and (2), and the reference in paragraph (3), to “the revenue collection counterparty” were to “a revenue collection counterparty” and every other reference to “the revenue collection counterparty” were to “that revenue collection counterparty”; and
- (b) the words “in relation to that revenue collection counterparty” appeared after the words “collateral requirement” in each place those words occur.

**22. Regulation 23 has effect as if every reference to “the revenue collection counterparty” were to “the first revenue collection counterparty designated under section 16 of the Act”.**

**23. Regulation 24 has effect as if the references in paragraphs (1), (2) and (5), and the first reference in paragraph (3), to “the revenue collection counterparty” were to “the first revenue**

collection counterparty designated under section 16 of the Act” and every other reference to “the revenue collection counterparty” were to “that revenue collection counterparty”.

**24. Regulation 25 has effect as if—**

- (a) the first reference to “the revenue collection counterparty” in paragraphs (2), (3), (4) and (6) were to “a revenue collection counterparty” and every other reference in that regulation to “the revenue collection counterparty” were to “that revenue collection counterparty”; and
- (b) the words “to a revenue collection counterparty” appeared after the words “makes a payment” in paragraph (5).

**25. Regulation 26 has effect as if the first reference to “the revenue collection counterparty” in paragraphs (1), (2) and (3)(c), and the reference to it in paragraph (3)(a) and (b), were to “a revenue collection counterparty” and every other reference in that regulation to “the revenue collection counterparty” were to “that revenue collection counterparty”.**

**26. Regulation 27 has effect as if—**

- (a) in paragraphs (5) and (6), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and each subsequent reference were to “that revenue collection counterparty”; and
- (b) every other reference to “the revenue collection counterparty” were to “a revenue collection counterparty”.

**27. Regulation 28 has effect as if—**

- (a) every reference in that regulation to “the revenue collection counterparty”, except the second reference in paragraph (7)(b), were a reference to “a revenue collection counterparty”;
- (b) the words “to it” appeared—
  - (i) after the words “paid or provided” in paragraph (1); and
  - (ii) after the words “their liabilities” in paragraph (4)(a);
- (c) in paragraph (4)(b), the words “to that revenue collection counterparty” appeared after the word “liabilities”; and
- (d) in paragraph (7)(b), the second reference to “the revenue collection counterparty” were a reference to “a revenue collection counterparty”.

**28. Regulation 29 has effect as if—**

- (a) the first reference in paragraphs (1) and (6), and the reference in paragraphs (4) and (5), to “the revenue collection counterparty” were to “a revenue collection counterparty”;
- (b) in paragraph (3)—
  - (i) each reference to “the revenue collection counterparty” were to “each revenue collection counterparty”; and
  - (ii) the words “be contacted” were followed by “and where a revenue collection counterparty was not designated at the time of making that first supply that supplier must provide that email address to that revenue collection counterparty within 2 working days of its designation under section 16 of the Act”;
- (c) every other reference to “the revenue collection counterparty” in that regulation were to “that revenue collection counterparty”; and
- (d) in paragraph (5), the words “by that revenue collection counterparty” appeared after the words “notice issued”.

**29. Regulation 30 has effect as if—**

- (a) the first reference in that regulation to “the revenue collection counterparty” were to “a revenue collection counterparty” and every other reference to “the revenue collection counterparty” in that regulation were to “that revenue collection counterparty”; and

- (b) in paragraph (1)(b), the words “to that revenue collection counterparty” appeared after the words “liable to pay”.

**30. Regulation 31 has effect as if—**

- (a) in paragraph (1), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and the second reference were to “that revenue collection counterparty”; and
- (b) in paragraphs (2)(a), (3)(b) and (4)(a), each reference to “the revenue collection counterparty” were to “that revenue collection counterparty”.

**31. Regulation 32 has effect as if—**

- (a) the reference in paragraph (1), and the first reference in paragraph (5), to “the revenue collection counterparty” were to “a revenue collection counterparty” and every other reference to “the revenue collection counterparty” in that regulation were to “that revenue collection counterparty”; and
- (b) in paragraph (2), the words “owed to that revenue collection counterparty” appeared after each reference to “supplier”.

**32. Regulation 33 has effect as if—**

- (a) in paragraph (1), the first reference to “the revenue collection counterparty” were to “the first revenue collection counterparty designated under section 16 of the Act”;
- (b) in paragraph (2), the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty”;
- (c) in paragraph (3), the first reference to “the revenue collection counterparty” were to “the first revenue collection counterparty designated under section 16 of the Act”; and
- (d) every other reference to “the revenue collection counterparty” were to “that revenue collection counterparty”.

**33. Regulation 34 has effect as if—**

- (a) the first reference in paragraphs (1), (2) and (4), to “the revenue collection counterparty” were to “a revenue collection counterparty” and every other reference in paragraphs (2) and (4) to “the revenue collection counterparty” were to “that revenue collection counterparty”; and
- (b) in paragraph (3), the words “by a revenue collection counterparty that is unable fully to meet its liabilities under, or pursuant to, a revenue collection contract” appeared after the words “which may be used”.

**34. Regulation 39 has effect as if—**

- (a) in paragraph (2)(c), the reference to “the revenue collection counterparty” were to “the revenue collection counterparty to which the direction relates”; and
- (b) in paragraphs (3) and (4), each reference to “the revenue collection counterparty” were to “the revenue collection counterparty to which the revocation notice relates”.

**35. Regulation 40 has effect as if the reference to “the revenue collection counterparty” in paragraph (1) were to “the revenue collection counterparty that made the offer”.**

**36. Regulation 42 has effect as if—**

- (a) in paragraphs (1), (2) and (5)—
  - (i) the first reference in each paragraph to “the revenue collection counterparty” were to “a revenue collection counterparty”;
  - (ii) the second reference in each paragraph to “the revenue collection counterparty” were to “that revenue collection counterparty”; and
  - (iii) each reference to “the revenue collection counterparty’s” were to “that revenue collection counterparty’s”; and

- (b) in paragraphs (3) and (4), each reference to “the revenue collection counterparty” were to “a revenue collection counterparty”.

**37.** Regulation 43 has effect as if—

- (a) in paragraphs (2) and (3)—
  - (i) the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and the other reference were to “that revenue collection counterparty”; and
  - (ii) the reference to “the revenue collection counterparty’s” were to “that revenue collection counterparty’s”; and
- (b) in paragraph (4)(a) the reference to “the revenue collection counterparty” were to “a revenue collection counterparty”.

**38.** Regulations 44, 46 and 47 have effect as if each reference to “the revenue collection counterparty” were to “a revenue collection counterparty”.

**39.** Regulation 45(2)(e) has effect as if—

- (a) the first reference to “the revenue collection counterparty” were to “a revenue collection counterparty” and the other reference were to “that revenue collection counterparty”; and
- (b) the reference to “the revenue collection counterparty’s” were to “that revenue collection counterparty’s”.

## **EXPLANATORY NOTE**

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

These Regulations impose a number of obligations on persons who supply electricity in Great Britain pursuant to an electricity supply licence (granted by the Gas and Electricity Markets Authority under section 6 of the Electricity Act 1989). Those obligations principally consist of requirements to make payments to the revenue collection counterparty, a person who is designated as such under section 15 of the Nuclear Energy (Financing) Act 2022 (“the 2022 Act”). The payments are made to enable the revenue collection counterparty to meet its costs, which include the costs it incurs in meeting obligations it has under revenue collection contracts. The counterparty is also, in some circumstances, required to make payments to electricity suppliers.

Revenue collection contracts are contracts which the revenue collection counterparty must offer to enter into with a designated nuclear company by virtue of section 18 of the 2022 Act. A designated nuclear company is a company that holds an electricity generation licence in respect of a nuclear energy generation project and has been designated in relation to that project under section 2 of the 2022 Act.

### **Part 1**

Regulation 2 contains definitions used in these Regulations. There are terms used in these Regulations which are defined in the Balancing and Settlement Code. That code is available at available at the following website: [www.elexon.co.uk](http://www.elexon.co.uk). A hard copy of that code may be requested from Elexon Limited (4th Floor, 350 Euston Road, London NW1 3AW). The Balancing and Settlement Code Company (the BSCCo) makes determinations under that code about the amount of electricity supplied in Great Britain, and these determinations are relied upon for various purposes in these Regulations. Every licensed electricity supplier is a party to that code.

### **Part 2**

Regulation 3 sets out the obligation of electricity suppliers to contribute towards the costs of revenue collection contracts in respect of a quarterly obligation period. There are four such periods a year, each lasting three months. The regulation also provides the obligation of the revenue collection counterparty to make payments to suppliers where a supplier’s contribution in respect of

a period is calculated as being a negative number. Whilst this regulation sets out the principal obligation to make such payments, the obligation will be met by the making of interim payments, reserve payments and reconciliation payments.

Regulation 4 sets out the calculation for an electricity supplier's contribution in respect of a quarterly obligation period. This is calculated in the following way. First the sum of the following amounts is calculated: (a) the amount required to be paid by the revenue collection counterparty under, or pursuant to, revenue collection contracts (or to a party of those contracts for a related breach of duty) during the period; and (b) the amount of financial assistance funds the Secretary of State has provided to the revenue collection counterparty that the Secretary of State has specified is to be used when calculating the contribution for the period (the "SoS Payment"). Second, from the resulting sum, the sum of the following amount is subtracted: (i) the amount of payments the revenue collection counterparty received under, or pursuant to, revenue collection contracts during the period; (ii) the amount of the SoS Payment for the quarterly obligation period that ended three quarterly obligation periods before the period for which the calculation is made; and (iii) the amount of interest payable to the revenue collection counterparty under the regulations. Finally, once the subtraction has been performed, the resulting amount is then multiplied by the fraction of supplier's share of the electricity market, excluding any EII excluded electricity (within the meaning of regulation 6(1) of S.I. 2015/721).

Regulation 4(3) provides that determinations by the revenue collection counterparty about amounts of EII excluded electricity supplied must be based on information derived from the most recent BSC volume allocation run.

Regulation 5 requires the revenue collection counterparty to determine a rate which applies to a quarterly obligation period. That rate will be the basis on which electricity suppliers make interim daily payments to that revenue collection counterparty during that period. The rate is set on the basis of the amount of money which the revenue collection counterparty believes it will need to make payments under, or pursuant to, revenue collection contracts (or to a party to those contracts for a related breach of duty) during that period, less the amount of money which it believes it will be paid under, or pursuant to, revenue collection contracts during that period. The rate is then arrived at by dividing that amount by the amount of electricity (excluding EII excluded electricity) which the revenue collection counterparty estimates will be supplied during that period.

Regulation 6 sets out the basis on which the revenue collection counterparty must estimate the matters referred to in regulation 5.

Regulation 7 requires an electricity supplier who supplies electricity on a day in a quarterly obligation period to make a payment in respect of that day (an interim rate payment). The payment is calculated by multiplying the rate determined by the revenue collection counterparty by the amount of electricity supplied by that supplier (excluding EII excluded electricity) on that day. The revenue collection counterparty must issue a notice to that supplier once the first information about electricity supply on that day is available (this will be available once the BSCCo has carried out the Interim Information Volume Allocation Run in relation to that day). The supplier must then pay the amount within 5 working days after the day that notice was issued. As a consequence, the payments are likely to be daily payments (subject to how working days fall). The regulation also provides that interest must be paid on amounts which are not paid on time.

Regulation 8 provides for payments to be made by a supplier to the revenue collection counterparty, or by the revenue collection counterparty to that supplier, where the BSCCo revises its determination of an amount of electricity supplied following the carrying out of an Initial Volume Allocation Run or Reconciliation Volume Allocation Run. The payments are made for the purpose of ensuring that the amount paid by a supplier as an interim rate payment reflects, as much as possible, the amount of electricity actually supplied. These payments will not be made after the conclusion of a quarterly obligation period as amounts will be subsequently reconciled once every quarter.

Regulation 9 requires the revenue collection counterparty to calculate a "total reserve amount" to be paid to it in respect of a quarterly obligation period and the share of that amount which each supplier must pay (that supplier's reserve payment). The revenue collection counterparty must

make a determination about total reserve payments at least 30 days before that period and determinations about supplier reserve payments before the end of the period of 8 working days starting with the day which is 30 days before the period.

The revenue collection counterparty determines the total reserve amount by modelling how much money it would need to have during a period to meet all payments it might have to make to the parties to a revenue collection contract (RCC parties). This determination is based upon a probabilistic assessment of the amount the revenue collection counterparty would need in 95% of possible cases.

Regulation 10 provides that an electricity supplier must make reserve payments by the 5th working day after the revenue collection counterparty has issued a notice to them. Each supplier's reserve payment is calculated by multiplying the total reserve amount for a period by the supplier's share of the electricity market (excluding EII excluded electricity) for the most recent period of 30 consecutive days for which an Initial Volume Allocation Run has been carried out.

Regulation 11 allows the revenue collection counterparty to vary an interim levy rate, and/or require a further reserve payment from suppliers where, after setting the rate and determining the total reserve amount, it later appears that it will not receive enough money to make all the payments to RCC parties it must make during that period. The regulation also allows the revenue collection counterparty to reduce the interim levy rate if it appears that it will receive significantly more than enough money to make payments to the RCC parties during that period.

Regulation 12 sets out the means for determining an adjusted interim rate. The rate is arrived at in the same manner as the rate determined under regulation 5, but taking into account such payments as have already been made and may be made before the coming into effect of the adjusted rate. An adjusted rate will not have effect before at least 30 days after that rate has been determined.

Regulation 13 sets out the means for determining an additional total reserve amount for a quarterly obligation period, and the share of that amount which each supplier must pay. An additional total reserve amount is arrived at in a similar manner to the total reserve amount. The same probabilistic assessment is made in respect of the payments which must be made by the revenue collection counterparty for as much of the period as remains after the making of the determination. A supplier will have to pay its share of the amount no earlier than 30 days after it has been notified of the amount it has to pay.

Regulation 14 allows the revenue collection counterparty to reduce the total reserve amount without notice by recalculating it where it considers that it would collect significantly more from suppliers than needed in order to make all payments during the reserve period. This needs to be done in advance of the issue of the reconciliation notice which triggers payment of a suppliers' reserve payment.

Regulation 15 makes provision for the revenue collection counterparty to calculate reconciliation payments which must be made by it to a supplier, or by that supplier to it. Reconciliation payments must be determined in respect of a quarterly obligation period once in every subsequent quarterly obligation. This will happen 10 times.

Regulation 16 sets out the means for calculating a reconciliation payment. To calculate such a payment the revenue collection counterparty must calculate the RCC period contribution of a supplier using the latest data available. This is then compared against the total amount of payments under Chapter 2 and 3 which that supplier was required to pay to the revenue collection counterparty, and which were required to be paid by the revenue collection counterparty to that supplier. The difference between the two determines the amount and direction of a reconciliation payment.

Regulation 17 makes provision for the circumstances in which an electricity supplier defaults on a payment it was required to make. In those circumstances other electricity suppliers can be required to pay further amounts to cover the amount of that default (a mutualisation of that default).

Regulation 18 makes provision for the circumstances where, following a mutualisation of a default, the revenue collection counterparty is able to recover amounts from the supplier who

defaulted. In those circumstances, suppliers who were subject to the obligation to pay in respect of that default must be paid a share of the amount recovered, and a share of any default interest which was paid in respect of that default.

Regulation 19 imposes a requirement on electricity suppliers to provide collateral in respect of their obligations under this Part. The amount of collateral which must be provided by a supplier is calculated by reference to the amount of electricity supplied for a recent period of 21 days. A supplier may choose to provide collateral as cash or as letters of credit. As that requirement is calculated daily the requirement may fluctuate and electricity suppliers may have to provide additional collateral. Suppliers will also have to provide additional collateral where their collateral is used (“called”) by the revenue collection counterparty.

Regulation 20 makes provision about the terms of letters of credit which may be provided by electricity suppliers to meet their collateral requirement. The revenue collection counterparty may determine whether the terms of a letter of credit are appropriate. The regulation also makes provision about the required credit rating of a person issuing such a letter.

Regulation 21 contains provision about how collateral is called by the revenue collection counterparty. It may be called by the revenue collection counterparty when an electricity supplier fails to make a payment it is required to make under this Part. The revenue collection counterparty may then issue a notice to that supplier informing it that an amount of that supplier’s collateral is called. This may trigger the requirement to provide further collateral. Where collateral was provided as cash, this cash is treated as having been paid to the revenue collection counterparty and will discharge that supplier’s obligations as a payment would have done. Where collateral was provided as a letter of credit, the obligations of a supplier will only be discharged where the person issuing the letter of credit has paid the revenue collection counterparty under it.

Regulation 22 allows an electricity supplier to request the return of collateral where the amount provided exceeds the amount of that supplier’s collateral requirement at that time. The regulation also provides that any interest which has been earned on the holding of cash collateral by the revenue collection counterparty must be paid to the supplier who provided that collateral.

### **Part 3**

Regulation 23 requires electricity suppliers to make operational cost payments to the revenue collection counterparty. The payments are calculated by reference to the amount of electricity supplied on a day, and a rate specified in this regulation. Payments must be made daily, except in relation to the first operational costs period where the sum of the payments for that period must be made after the revenue collection counterparty has given notice of the amounts of all the payments which are due in respect of that period, so they are, in effect, required to be paid by the same date, which will be after the conclusion of that period.

Regulation 24 makes provision about the circumstances where the revenue collection counterparty has received more in operational cost payments than the amount of its costs. In those circumstances the revenue collection counterparty must pay electricity suppliers any excess based on the amount of electricity supplied over the operational cost period.

### **Part 4**

Regulation 25 makes provision about enforcement of the requirements of electricity suppliers under these Regulations. It enables the Gas and Electricity Markets Authority (the Authority) to deal with any breach of such requirements as if those requirements were, in effect, requirements under an electricity supply licence. It also provides for notices to be issued by the revenue collection counterparty where a supplier has breached a requirement to make a payment, or a requirement to provide collateral. In the case of a breach of a collateral requirement, a supplier will then have to provide that collateral as cash.

Regulation 26 enables an electricity supplier to dispute any determination made by the revenue collection counterparty. Determinations about an amount of electricity supplied which is determined by the BSCCo are excluded from this provision.

Regulation 27 sets out the duties of the revenue collection counterparty in relation to the determination of disputes including the steps it must take if it accepts a dispute. It also makes provision dealing with the effect of determinations made following the determination of a dispute.

Regulation 28 imposes general duties on the revenue collection counterparty including a duty in relation to the collection of sums to be paid under these Regulations, and duties to keep electricity suppliers informed of their liabilities under these Regulations.

Regulation 29 makes provision about the issuing of notices by the revenue collection counterparty under these Regulations and the giving of notices by electricity suppliers, including provision about the giving and issuing of notices electronically.

Regulation 30 enables the revenue collection counterparty to set off amounts it has to pay to a supplier against amounts that supplier must pay.

Regulation 31 enables the revenue collection counterparty to net payments due to suppliers against payments due from suppliers. Such payments can be netted against one another automatically where they are due at the same time.

Regulation 32 deals with the circumstances where an electricity supplier makes a partial payment such that not all of its liabilities at that time will be discharged by the making of that payment. In those circumstances that payment will be allocated to the outstanding debts of that supplier in an order determined partially by this regulation and partially by the revenue collection counterparty in its discretion.

Regulation 33 prohibits the revenue collection counterparty from using payments received from a supplier under regulation 23 for any purpose other than meeting its costs. Payments received from suppliers under other regulations may only be used for the purposes of making payments under, or pursuant to, the revenue collection contracts (or payments to a party to those contracts for a related breach of duty) and making repayments due to the Secretary of State in relation to funds provided to the revenue collection counterparty by the Secretary of State.

Regulation 34 deals with the circumstances where the revenue collection counterparty does not hold enough money to make all payments it is required to make under revenue collection contracts. In those circumstances the amount that the revenue collection counterparty holds will be divided between the revenue collection contracts such that a proportional share of the total available may be paid under each revenue collection contract.

Regulation 35 contains provision designed to have effect in relation to the terms of revenue collection contracts. The terms of revenue collection contracts may include limited recourse provisions which prevent a party to those agreements from taking steps to recover more from the revenue collection contract than it has raised under these Regulations (or is available from other sources). Regulation 35 applies the apportionment provision in regulation 34 to such revenue collection contracts in accordance with those terms.

Regulation 36 sets out the rate of interest which applies to a requirement of a supplier to pay interest under these Regulations.

## **Part 5**

Regulation 37 sets out the requirements for directions given by the Secretary of State directing the revenue collection counterparty to offer to contract with a designated nuclear company on specified terms.

Regulation 38 sets out requirements for the form and content of the specified terms.



Regulation 39 specifies the procedure that the Secretary of State must follow when revoking a direction made under regulation 37 and the effect such a revocation has.

Regulation 40 requires the revenue collection counterparty to publish a revenue collection contract, excluding confidential information, when a designated nuclear company accepts an offer to enter into such a contract.

Regulation 41 contains a definition used in Part 5 of these Regulations.

## **Part 6**

Regulation 42 gives the revenue collection counterparty, the Authority and the Secretary of State power to request information from certain persons in connection with their relevant functions. Persons who receive such requests must comply with them within such period as the person making the request reasonably requires.

Regulation 43 provides that certain persons may provide information (whether or not a request for information has been made) to the revenue collection counterparty, Authority and Secretary of State where the person reasonably considers the recipients requires the information in connection with their relevant functions.

Regulation 44 enables the Secretary of State to request advice relating to revenue collection contracts that is reasonably required in connection with the Secretary of State's relevant functions, from the revenue collection counterparty, the Authority, or the person operating the national transmission system for Great Britain.

Regulation 45 provides that information or advice provided under Part 6 of these Regulations may not be disclosed to another person subject to certain exemptions.

Regulation 46 sets out various supplementary matters relating to Part 6 of these Regulations. These include provision that requirements imposed on certain persons under Part 6 are to be treated as having effect on that person as if the requirement were a relevant requirement placed on a regulated person for the purposes of section 25 of the Electricity Act 1989 (c. 29).

Regulation 47 contains definitions used in Part 6 of these Regulations.

## **Schedule**

The Schedule sets out the way the provisions of these Regulations will operate when there is more than one revenue collection counterparty designated. In those circumstances electricity suppliers would be required to contribute separately to the costs of revenue collection contracts in relation to each revenue collection counterparty.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET and is published with the Explanatory Memorandum alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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