STATUTORY INSTRUMENTS

2014 No. 2010

ELECTRICITY

The Contracts for Difference (Definition of Eligible Generator) Regulations 2014

Made - - - - 31st July 2014

Coming into force in accordance with regulation 1

The Secretary of State has before making these Regulations—

(a) consulted the persons listed in section 24(1)(a) to (g) of the Energy Act 2013(**a**) and such other persons as the Secretary of State considered it appropriate to consult; and

(b) had regard to the matters in section 5(2) of that Act.

In accordance with section 6(8)(b) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 6(1) and 10(3) of the Energy Act 2013, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Contracts for Difference (Definition of Eligible Generator) Regulations 2014 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) The following definitions have general application—

"accredited CHP station" means a CHP station which is accredited under the CHPQA;

"anaerobic digestion" means the bacterial fermentation of organic material in the absence of free oxygen;

"biomass" means material which is, or is derived directly or indirectly from, algae, animal or plant matter, bacteria or fungi, including where such material is contained in waste; but does not mean fossil fuel or peat;

"biomass conversion station" means a generating station which—

(a) was a relevant fossil fuel generating station (or part of such a station) and which was altered to enable it to be fuelled by solid biomass; and

(b) is or is to be fuelled by solid biomass;

(**a**) 2013 c. 32.

"CHPQA" means the Combined Heat and Power Quality Assurance Standard, Issue 5, November 2013(**a**);

"CHP station" means a combined heat and power generating station;

"combined heat and power generating station" means a station which generates electricity and is (or may be) operated in order to supply to any premises—

(a) heat produced in association with the electricity generated; or

(b) steam produced from, or air or water heated by, such heat;

"complete CCS system" means a system of plant and facilities for—

(a) capturing some or all of the carbon dioxide (or any substance consisting primarily of carbon dioxide) that is produced by, or in connection with, the generation of electricity by a generating station;

(b) transporting the carbon dioxide (or substance) captured; and

(c) disposing of it by way of permanent storage;

"dedicated biomass with CHP station" means a generating station which—

(a) is an accredited CHP station;

(b) is fuelled by solid biomass; and

(c) has not been a relevant fossil fuel generating station (or part of such a station);

"energy from waste with CHP station" means a generating station which—

(a) is an accredited CHP station; and

(b) is fuelled by biomass or waste (or both), excluding—

(i) gas formed by the anaerobic digestion of material, where that material is, or is derived from, waste; or

(ii) gas or liquid formed by gasification or pyrolysis of biomass or waste;

"fossil fuel" means—

(a) coal and substances produced directly or indirectly from coal;

(b) crude liquid petroleum or petroleum products;

(c) lignite; or

(d) natural gas;

"gasification" means the substoichiometric oxidation or steam reformation of a substance to produce a gaseous mixture and that mixture contains at least two of (a), (b) and (c) from the following list—

(a) the oxides of carbon;

(b) methane;

(c) hydrogen;

"generating station" means a station which generates electricity;

"hydro generating station" means—

(a) a generating station driven by water, including any turbine used to generate electricity supplied with water by or from the same civil works but excluding any compensation flow turbine; or

(b) a compensation flow turbine which generates electricity;

(**a**) Copies may be obtained from the Department of Energy and Climate Change at the address shown in the explanatory note and at: http://chpqa.decc.gov.uk/assets/CHPQADocuments/CHPQAStandardIssue5.pdf.

"landfill" has the meaning given in Article 2(g) of Council Directive 1999/31/EC on the landfill of waste(**a**);

"landfill gas" means gas formed by the digestion of material in a landfill;

"photovoltaic array" means equipment which directly converts solar radiation into electricity;

"pyrolysis" means the thermal degradation of a substance in the absence of any oxidising agent (other than that which forms part of the substance itself) to produce—

(a) char; and

(b) a gas or a liquid, or both;

"relevant fossil fuel generating station" means a generating station—

(a) where—

(i) during any 6 month period since it was commissioned as such a station, it generated electricity from fossil fuel; and

(ii) the energy content of that fuel represented more than 15% of the energy content of all fuels used to generate electricity in that period, excluding fuels used for relevant ancillary purposes; and

(b) in respect of which no ROC has been claimed for ROC generation types;

"sewage gas" means gas formed by the anaerobic digestion of sewage (including sewage which has been treated or processed);

"tidal movement" means the release of water impounded behind a barrier using the difference in tidal levels;

"tidal stream" means the motion of naturally occurring tidal currents in water;

"waste" has the meaning given in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste(**b**) but does not include landfill gas or sewage gas;

"wave" means the energy created from the motion of naturally occurring waves on water.

(2) The following definitions apply in relation to a hydro generating station—

"civil works" means all man-made structures and works for holding water which are located on the inlet side of a turbine ("turbine A"), excluding any such structures or works which are used in respect of the supply of water to another turbine before water is supplied to the structures and works which supply turbine A;

"compensation flow turbine" means a turbine driven by a compensation flow supplied by or from civil works in a natural water course where there is a statutory obligation to maintain that compensation flow in that water course, including any infrastructure associated with the turbine in the generation of electricity;

"driven by water" excludes ocean currents or water derived from naturally occurring subterranean heat.

(3) The following definitions apply in relation to a relevant fossil fuel generating station—

"combustion system" means a boiler, turbine or engine in which combustion occurs;

"commissioned" means the date of completion of those procedures and tests in accordance with applicable industry standards which demonstrate that the generating station is capable of commercial operation;

"energy content" means the energy contained within fuel or waste (measured by a calorimeter or determined in some other equivalent way) expressed as its gross calorific value within the meaning of "British Standard BS 7420:1991 (Guide for determination of calorific values of solid, liquid or gaseous fuels (including definitions)", published by the British Standard Institute on 28th June 1991(**c**);

(**a**) OJ No L 182, 16.7.1999, p. 1.
(**b**) OJ No L 312, 22.11.2008, p. 3.
(**c**) ISBN 0580194825. Copies may be obtained from the British Standards Institution: www.bsi-global.come/en/.

"generation of electricity in standby" means the generation of electricity by the station where—

(a) the generation occurs using equipment which is not frequently used to generate electricity; and

(b) the electricity generated is only used by the generation station;

"relevant ancillary purposes" means—

(a) the cleansing of fuels, other than the fossil fuel, from the generating station's combustion system prior to the combustion system being heated to its normal operating temperature;

(b) the heating of the generating station's combustion system to achieve or maintain its normal operating temperature;

(c) the ignition of fuels of low or variable calorific value;

(d) the control of corrosion, emissions or fouling; or

(e) the generation of electricity in standby or the testing of the station's ability to generate electricity in standby;

"ROC" means—

(a) in respect of a generating station in England or Wales, a certificate issued under the Renewables Obligation Order 2009(**a**); or

(b) in respect of a generating station in Scotland, a certificate issued under the Renewables Obligation (Scotland) Order 2009(**b**);

"ROC generation types" means those types of generating stations defined as "dedicated biomass", "station conversion" or "unit conversion" under the relevant ROC.

Definition of eligible generator

3.—(1) This regulation defines "eligible generator" for the purposes of Chapter 2 of Part 2 of the Energy Act 2013.

(2) A person ("A") who intends to carry out a generating activity in relation to an eligible generating station is an eligible generator in respect of the station.

(3) Where—

(a) a person ("B") intends—

(i) to operate; or

(ii) to participate in the operation of,

an eligible generating station; and

(b) A is an eligible generator in respect of the eligible generating station,

B is also an eligible generator in respect of the eligible generating station.

(4) Where—

(a) A or B is an eligible generator in respect of an eligible generating station;

(b) A or B is a corporate body; and

(c) a corporate body ("C") is associated with A or B,

C is also an eligible generator in respect of the eligible generating station.

(5) In this regulation—

"associated" has the same meaning as it has in section 67 of the Energy Act 2008(**c**) and as if that section applied to Scotland;

"carry out a generating activity" means—

(**a**) S.I. 2009/785 as amended by: S.I. 2010/829, 2010/1107, 2011/984, 2011/988, 2013/768.
(**b**) S.S.I. 2009/140 as amended by: S.S.I. 2009/276, 2010/147, 2011/225, 2013/116.
(**c**) 2008 c.32.

(a) to establish an eligible generating station, including where a relevant fossil fuel generating station (or part of it) has been altered to become a biomass conversion station (or part of such a station); or

(b) to alter an eligible generating station in order to increase the generating capacity of that station by 5 megawatts or more;

"eligible generating station" means a generating station of a type described in the Schedule.

Amber Rudd
Parliamentary Under-Secretary of State
31st July 2014 Department of Energy and Climate Change

SCHEDULE

Regulation 3(5)

Eligible generating stations

1. An "eligible generating station" means a generating station of any of the following types—

(a) a biomass conversion station;

(b) a dedicated biomass with CHP station;

(c) an energy from waste with CHP station;

(d) a generating station connected to a complete CCS system;

(e) a hydro generating station;

(f) a nuclear power station; or

(g) a station which generates electricity by the use of any of the following sources of energy—

(i) gas, other than landfill gas or sewage gas, formed by the anaerobic digestion of material;

(ii) gas or liquid formed by gasification or pyrolysis of biomass or waste;

(iii) landfill gas;

(iv) naturally occurring subterranean heat;

(v) sewage gas;

(vi) solar radiation when captured by a photovoltaic array;

(vii) tidal movement where the station has a declared net capacity of less than 1 gigawatt;

(viii) tidal stream;

(ix) waves; or

(x) wind.

2. In paragraph 1(g)(vii), "declared net capacity" means the capacity of electricity generation of a generating station calculated by A-B, where—

"A" means the maximum capacity of electricity generation at which a generating station is able to be operated for a sustained period without damage being caused to it (assuming the source of energy used to generate electricity is available without interruption); and

"B" means the amount of electricity that is consumed by the station whilst operating at such maximum capacity.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations define the term "eligible generator" for the purposes of Chapter 2 of Part 2 of the Energy Act 2013 (c. 32). Regulation 2 contains definitions. Regulation 3 defines the persons who are an "eligible generator" in respect of an "eligible generating station", the types of which station are set out in the Schedule.

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 of Energy and Climate Change at 3 Whitehall Place, London, SW1A 2AW and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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