STATUTORY INSTRUMENTS

2006 No. 2388

ELECTRICITY

The Electricity from Non-Fossil Fuel Sources Arrangements (England and Wales) Order 2006

Made - - - -	*5th September 2006*
Laid before Parliament	*8th September 2006*
Coming into force - -	*1st October 2006*

The Secretary of State, in exercise of the powers conferred by section 67(1)(c) of the Utilities Act 2000(**a**), makes the following Order:—

Citation, commencement and extent

1.—(1) This Order may be cited as the Electricity from Non-Fossil Fuel Sources Arrangements (England and Wales) Order 2006 and shall come into force on 1st October 2006.

(2) This Order extends to England and Wales only.

Interpretation

2. In this Order—

"generator" has the meaning given to that term by the NFFO Savings Order;

"new arrangements" has the meaning given to that term by the NFFO Savings Order;

"NFFO 4 Order" means the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1997(**b**);

"NFFO 5 Order" means the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998(**c**);

"NFFO Savings Order" means the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000(**d**);

"nominated person" has the meaning given to that term by the NFFO Savings Order; and

"relevant contracts" means the replacement power purchase agreements which constitute part of the new arrangements made by the nominated person pursuant to the NFFO Savings Order with a generator of a non-fossil fuel generating station described in Part V of Schedule 1 to the NFFO 4 Order or in Part III of Schedule 1 to the NFFO 5 Order and which are described further in the Schedule.

(**a**) 2000 c.27.
(**b**) S.I. 1997/248.
(**c**) S.I. 1998/2353.
(**d**) S.I. 2000/2727, as amended by S.I. 2001/3268.

Contracts

3. With effect from the coming into force of this Order, clause 14.2 of each of the relevant contracts shall be amended by deleting the final sentence of clause 14.2 and substituting the following—

> "If the Seller is not entitled to the Premium Price the price for Relevant Metered Output for the relevant Period of the Order shall be the lower of the Premium Price and the Reference Price within the meaning of the following sentence. For the purposes of this clause 14.2 "Reference Price" shall mean "Reference Price" as defined in clause 1.1 except that the reference to the "NFFO Contracts" in paragraph (A)(i) of that definition shall be a reference only to those NFFO Contracts within the Relevant Technology Band.".

Maragaret Hodge
Minister for Industry and the Regions
Department of Trade and Industry

5th September 2006

SCHEDULE

Article 2

Relevant contracts

	Contract	*Date entered into*	*Facility*	*Generator*
1.	Renewables NFFO 4 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	Edmonton B CHP Plant	London Waste Limited
2.	Renewables NFFO 4 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	City Energy CHP	Dreh Resources Limited
3.	Renewables NFFO 4 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	City Energy Portsmouth CHP	Dreh Resources Limited
4.	Renewables NFFO 4 Replacement Power Purchase Agreement BSC Exemptible Contract	08.03.2001	Start Regen	Heron Trust Limited
5.	Renewables NFFO 4 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	City Energy Sheffield CHP	Dreh Resources Limited
6.	Renewables NFFO 4 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	Coventry Waste to Energy Plant	Coventry and Solihull Waste Disposal Company Limited
7.	Renewables NFFO 4 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	Raikes Lane CHP	Greater Manchester Waste Limited
8.	Renewables NFFO 4 Replacement Power Purchase Agreement BSC Exemptible Contract	08.03.2001	Fibrepower (Slough)	Fibrepower (Slough) Limited
9.	Renewables NFFO 4 Replacement Power Purchase Agreement non BSC Party Contract	04.03.2002	Huddersfield Waste to Energy Facility	SITA Kirklees Limited
10.	Renewables NFFO 5 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	Eastcroft	WasteNotts (Reclamation) Limited
11.	Renewables NFFO 5 Replacement Power Purchase Agreement BSC Exemptible Party Contract	08.03.2001	Nine Elms CHP	Gent Fairhead Environmental Services Limited
12.	Renewables NFFO 5 Replacement Power Purchase Agreement BSC Exemptible Contract	08.03.2001	Acorn Energy Supplies	Acorn Energy Supplies Limited
13.	Renewables NFFO 5 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	Philadelphia Power Project	Compact Power Limited
14.	Renewables NFFO 5 Replacement Power Purchase Agreement non BSC Party Contract	08.03.2001	Chapel Renewable Energy Centre	Veolia es Aurora Limited
15.	Renewables NFFO 5 Replacement Power Purchase Agreement BSC Exemptible Contract	08.03.2001	Windwhistle Energy Project	Atlantic Energy Limited
16.	Renewables NFFO 5 Replacement Power Purchase Agreement BSC Exemptible Contract	08.03.2001	Dolcoath Energy	Atlantic Energy Limited

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies certain contracts between certain generators of electricity and the Non-Fossil Purchasing Agency Limited ("the NFPA"). Under the contracts in question, the intention was that, if the generators met certain requirements in terms of supplying heat, they would be paid a 'premium' price for the electricity which they generated by the NFPA. If they failed to meet those requirements, then they would receive from the NFPA a 'reference' price, fixed at a level below the premium price. Unfortunately, it has since emerged that the way in which the two prices are calculated results in the reference price being higher than the premium price, which has removed the intended financial incentive for generators to meet the requirements placed upon them in relation to supplying heat. The amendment to be made to the contracts in question by this Order will correct this anomaly.

£3.00

© Crown copyright 2006

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.
E1196 9/2006 161196T 19585