

**A PROPOSAL TO AMEND NON-
FOSSIL FUEL OBLIGATION
CONTRACTS FOR MUNICIPAL
AND INDUSTRIAL WASTE
PROJECTS WITH COMBINED
HEAT AND POWER.**

Consultation Document

JULY 2006

Reasons for consultation.

This is a limited consultation to seek views of companies that entered into contracts under the Non-Fossil Fuel Orders (NFFO) rounds 4 and 5. The Government proposes to address an anomaly that has arisen in relation to payments under these contracts made to Municipal and Industrial Waste (MIW) generators with Combined Heat and Power (CHP).

Under these contracts if the generators meet the requirements of their contracts for supply of both electricity and the supply of heat to third parties they are paid a premium price by the purchaser, the Non Fossil Fuel Purchasing Agency Limited ("NFPA"). Generators that had contracts in place by 31 March 2004, are paid a reference price if they fail to meet the heat element of their contract.

The original intent was that the reference price should be lower than the premium price to create an incentive to generators to enter into heating contracts with third parties. Where generators fulfilled the heating elements of the contracts they would be paid a higher premium price. However, because of changes to the basis on which the reference price is calculated the reverse position has resulted and in fact the reference price is now approximately double the premium price.

Government wishes to amend the MIW-CHP generator contracts relating to NFFO rounds 4 and 5 to reduce the reference price to below the premium price. The amendment will reinstate the intended incentive for generators to enter into heating contracts with third parties, and reduce the price payable by the NFPA to the level as originally envisaged under the contracts when the generators were not performing their heating contracts.

Issued on: 11 July 2006

Respond by: 22 August 2006

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Section 1. Executive Summary

- 1.1 The Non Fossil Fuel Obligation (“NFFO”) arrangements preceded the introduction of the Renewables Obligation in 2002. NFFO was the Government’s main mechanism to encourage generation of more environmentally friendly electricity. Under the NFFO regime the then public electricity suppliers were required to enter into contracts with generators for the provision of specified amounts of non-fossil fuel generated electricity. In 2000 the contractual arrangements were changed so that the NFPA became the counterparty for the generators in place of the public electricity suppliers.
- 1.2 This limited consultation invites views from MIW-CHP generators that have NFFO contracts, under NFFO rounds 4 and 5.
- 1.3 Under these NFFO contracts if generators meet the contract requirements for generation of both electricity and heat they are paid “a premium price” for that electricity. Generators that have contracts in place are paid a “reference price” if they fail to meet the heat element of their contract. The heat element of the contract involves them entering into heating contracts with third parties.
- 1.4 The original intent was that the “premium price” would offer an above market price for electricity generated, to create an incentive to meet the heating elements of the contract. If the generators failed to meet the heating elements of the contract they would be paid a lower, “reference price” for electricity generated, comparable to open market rates. However, because of changes to the basis on which the reference price is calculated, it is now approximately double the premium price, which has created a disincentive to meet the heating elements of the contracts. Any excess payments would reduce the NFPA’s trading surplus which is payable into the Consolidated Fund. Any excess payments are, therefore, ultimately a loss borne by the Exchequer.
- 1.5 Government wishes to correct this disincentive by reducing the reference price to a level below the premium price, as originally intended and thereby reinstate the incentive to fulfil the heating element of the contracts. This would have the effect of reducing the price payable (i.e. the reference price) by the NFPA when the heating elements of the contracts are not fulfilled. We would aim for the correction to take effect on 1 October 2006.
- 1.6 There are 16 MIW-CHP generators with contracts issued under NFFO rounds 4 and 5 though currently only 4 are active. However it is conceivable that if the contracts were to remain unchanged other generators may be able to benefit from the higher reference price at some point in the future. In effect it is only 4 generators that would be directly affected now by our proposed changes. However, all 16

companies will have the opportunity to respond to this consultation and will be contacted directly by letter. In view of the very few stakeholders that would be affected by the proposed change, and the need to clarify the terms of contracts in operation as quickly as possible, this consultation has been limited in scope to focus on the views of those companies, within a shortened period of 6 weeks as agreed by the Minister for Energy Malcolm Wicks.

Consultation Question

1.7

Views are invited on the Government's favoured proposals as outlined in paragraph 3.10 along with comments and suggestions on alternative solutions. You may also wish to comment on the draft legislation (Annex E).

Partial Regulatory Impact Assessment

1.8 A partial regulatory impact assessment is attached at Annex D. You may wish to comment on the accuracy of this or if you think there will be further consequences resulting from the proposed change that have not been identified in this document or any other unintended consequences. Comments on the analysis of costs and benefits are welcome, as are suggestions of an alternative approach from regulation.

Section 2. How to respond

- 2.1 Responses to this consultation must be received by **22 August**. Responses can be submitted by email, letter or fax to:

Patrick Fownes-Walpole/ Carolyn Potts
Renewable Energy Policy
Department of Trade and Industry
Bay 2106
1 Victoria Street
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SW1H 0ET
Tel: 020 7215 2829 / 020 7215 0233
Fax: 020 7215 2890
Email: patrick.fownes-walpole@dti.gsi.gov.uk
carolyn.potts@dti.gsi.gov.uk

- 2.2 Please state if you are responding to the consultation as an individual, or representing the views of a company or other organisation. If responding on behalf of an organisation please make it clear who the organisation represents and where applicable how the views of members were assembled.
- 2.3 A list of those organisations and individuals consulted is in Annex A. We welcome suggestions of others who may wish to be involved in this consultation process.

Additional copies

- 2.4 You may make copies of this document without seeking permission. Further copies of the consultation document can be obtained from Patrick Fownes-Walpole or Carolyn Potts, contact details can be found above.
- 2.5 An electronic version can be found at www.dti.gov.uk/consultations/index.html
- 2.6 Other versions of the document in Braille, other languages or audio-cassette are available on request.

Confidentiality & Data Protection

- 2.7 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom

of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

- 2.8 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 2.9 The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Help with queries

- 2.10 Questions about the policy issues raised in the document can be addressed to Patrick Fownes-Walpole or Carolyn Potts, contact details can be found at page 6.
- 2.11 If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

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Consultation Co-ordinator
Department of Trade and Industry
Better Regulation Team
1 Victoria Street
London
SW1H 0ET
Tel: 020 7215 2146
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A copy of the Code of Practice on Consultation is at Annex C.

Section 3: Proposal

Policy background

- 3.1 Ahead of the introduction of the Renewables Obligation in 2002, Government support to renewables industry was through the Non-Fossil Fuel Orders (NFFO). NFFO involved generators bidding for contracts in a series of "rounds" within specified technology categories. NFFO-4 and NFFO-5 (the last two rounds) included the technology category "Municipal and Industrial Waste (MIW) with Combined Heat and Power (CHP)." Under these contracts, if generators met the contract requirements in terms of supplying heat to third parties they would be paid a "premium price," which is calculated to be an above market price for electricity. If they failed to meet this requirement then they were paid a "reference price," which was intended to be paid at a lower rate, and be comparable to the market price for electricity.
- 3.2 However, for contracts awarded under the NFFO arrangements in respect of MIW projects with CHP the "reference price" payable to those who fail to fulfil the heat element of their contracts - is now higher than the "premium price" payable to those who fulfil the heating requirements of the contract and is the reverse of what was intended.
- 3.3 This anomaly has arisen because of changes to the basis on which the reference price is calculated. This is due to amendments to the definition of reference price on the introduction of the New Electricity Trading Arrangements (NETA) in 2001. The new definition provided that the reference price was to be calculated by reference to the average price of electricity sold on by NFFO including the value of Renewable Obligation Certificates (ROCs) relating to that electricity and credited to the NFFO under the Renewables Obligation. The reference price therefore effectively includes a ROC component which is included across the reference price of electricity irrespective of whether or not it was generated from sources that were eligible for ROCs. This is why the reference price has exceeded the premium price for these contracts. The effect of this anomaly is that the present arrangements do not provide the intended incentives for contract holders to provide heat and has resulted in the NFFO being liable to pay more under the contracts than was meant to be the case. This cost impacts on the NFFO's trading surplus. Under section 33(5A) of the Electricity Act this surplus must be paid over to Ofgem; and it is then payable into the Consolidated Fund. A reduction in the surplus therefore represents a reduction in the funds available for other public purposes.

Options

- 3.4 We have looked at four options to re-instate the intended incentive for companies to fulfil the terms of their contracts.
- 3.5 First we explored whether NFFA could vary the contracts with the generators by mutual agreement to reduce the reference price to below the premium price. However, we do not consider this to be a long term solution, not least as there would be no guarantee that all the companies affected would willingly vary their contract.
- 3.6 Second, we looked at relaxing the heat requirement of the contracts so that the amount of heat that would have to be supplied would be reduced as a quid pro quo for accepting a lower reference price. We concluded this was not possible as there was no legislative basis for reducing the heating requirements on the generators without the introduction of primary legislation.
- 3.7 The third option we looked at was raising the premium price to a level above the reference price to reinstate the intended incentive for MIW CHP generators to fulfil the heating element of their contract. This option was discounted on two grounds. First it would be unacceptably expensive, as the reference price is already considerably above the market price for electricity. And second, such a move would disadvantage those generators who are parties to NFFO contracts other than MIW CHP contracts. In effect MIW CHP generators would be paid more for the electricity generated than other NFFO contract holders regardless of whether they met the heat requirement of their contract.

Recommended Proposal

- 3.8 The Fourth option we examined was to amend the contract so that the reference price could be reduced to a level below the premium price. We have concluded that any such change would need to be by a statutory instrument made under section 67(1) (c) of the Utilities Act
- 3.9 Such a change would reinstate the intended incentive for generators to fulfill the heating element of their contracts and thereby meet the original Government objective of encouraging effective capture and use of heat in MIW CHP stations. It would also ensure that the NPFA only paid a higher premium price when the heating elements of the contracts were performed. It is Government's view this would be the most fair approach in that it would not affect anyone other than the MIW CHP stations that are failing to meet the requirements of their contracts. This approach has the advantage of providing clarity going forward for the suppliers with contracts and for Government.
- 3.10 The Government therefore proposes to amend the relevant NFFO contracts to reduce the reference price to the market price equivalent by**

a statutory instrument to vary the relevant contracts relating to NFFO round 4 and 5. It is anticipated that the order would take effect on 1 October.

- 3.11 The order would be made under section 67(1)(c) of the Utilities Act, which provides power to the Secretary of State to amend the contracts by Order. A copy of the draft order is included at Annex E.

Section 4. Question

4. 1 Views are invited on the Government's favoured proposals as outlined in paragraph 3.10 along with comments and suggestions on alternative solutions. You may also wish to comment on the RIA (Annex C) and the draft legislation (Annex D).

Section 5: What happens next?

- 5.1 Decisions made thereafter and in the light of this consultation will be made public promptly with a summary of views expressed and reasons given for final decisions taken (unless respondents expressly state they do not wish their response to be public). This information will be published on the DTI website, paper copies of the summary of responses will be available on request.
- 5.2 Generators directly affected will be notified of the Government's final decision.
- 5.3 Subject to consultation responses, Government would intend to lay an order to vary the terms of the contracts as set out above to come into force on 1 October. The effect of this would be to reduce the reference price from that date.
- 5.4 The Department may, in accordance with the Freedom of Information Act make available, on public request, individual responses. If you do not wish for your response to be publicly available please state this clearly in the response.

Responses should be returned to:

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Department of Trade and Industry
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1 Victoria Street
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carolyn.potts@dti.gsi.gov.uk

Individuals/Organisations consulted

- MIW-CHP generators with contracts issued under NFFO rounds 4 and 5.
- NFPA
- Ofgem
- Combined Heat and Power Association

Glossary

CHP – Combined Heat and Power

MIW – Municipal Industrial Waste

NETA – New Electricity Trading Arrangement

NFFO – Non-Fossil Fuel Obligation

NFPA – Non-Fossil Purchasing Agency

RO – Renewables Obligation

NB: This consultation will run in a reduced timeframe of 6 weeks, rather than the 12 weeks set out in the consultation criteria below. This is due to the technical nature of the proposals and the limited number of companies affected. Further explanation is set out at paragraph 1.6 of the consultation document.

The Consultation Code of Practice Criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The complete code is available on the Cabinet Office's web site, address <http://www.cabinetoffice.gov.uk/regulation/consultation/index.asp>

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

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or e-mail to: mary.smeeth@dti.gsi.gov.uk

PARTIAL REGULATORY IMPACT ASSESSMENT

Changes to the Non-Fossil Fuel Obligation Contract

1. Purpose and Intended Effect

The Objective

- 1.1 To amend certain Non-Fossil Fuel Obligation (NFFO) contracts (made pursuant to the Electricity (Non Fossil Fuel Sources) England and Wales Order 1997 and the Electricity (non Fossil Fuel Sources) England and Wales Order 1998) and to correct an anomaly which has arisen since its introduction. This anomaly means that the Government's policy intention is no longer being reflected under the legislation. Government therefore proposes to correct this by introducing an order to amend the relevant NFFO contracts so as to reduce the 'reference price' in those contracts to a lower level than the 'premium price'.

Background

- 1.2 Support for renewables electricity generation is provided under section 32 of the Electricity Act 1989. As originally enacted it enabled the Secretary of State to require the then privatised electricity suppliers to enter into contracts with generators of renewables electricity for the provision of specified amounts of renewables generating capacity. A series of orders were made under section 32 and are known as the NFFO Orders. The contracts made under the NFFO Orders between the public electricity suppliers and the generators for the supply of generating capacity are known as NFFO contracts.
- 1.3 In its original form section 32(2) of the Electricity Act referred only to "non-fossil fuel generating stations" as being capable of satisfying the requirements of an NFFO Order. However, section 32 of the Electricity Act was amended by the Environment Act 1995 to include combined heat and power (CHP) stations generally and CHP stations of any particular description "as being particular descriptions of non-fossil fuel generating stations". The effect of this amendment was that NFFO Orders could be made requiring public electricity suppliers to enter into contracts with CHP stations of particular descriptions. The fourth and fifth NFFO Orders took advantage of this new power.
- 1.4 In 2002 the Renewables Obligation was introduced, replacing the NFFO scheme. However, obligations in the NFFO contracts were preserved using two statutory instruments made under section 67 of the Utilities

Act: (i) the Electricity from Non-Fossil Fuel Sources Savings arrangements Order 2000 and (ii) the Electricity from Non-Fossil Fuel Savings Arrangements (Amendment Order) 2001 (known collectively as "the NFFO Savings Order". The NFFO Savings Order required the obligations of the then public electricity suppliers under the original NFFO contracts to be discharged through replacement contracts made by a single purpose company, nominated jointly by them, called the Non-Fossil Purchasing Agency (NFPA). Under the new arrangements the NFPA is required to sell the electricity, which it purchases from the generators to the supply successor companies on the open market.

- 1.5 Generators with NFFO contracts can only benefit from the successor scheme, the Renewables Obligation, for the element of generation which exceeds their NFFO contract obligation, and where they've been accredited as eligible for RO support by Ofgem.
- 1.6 Under the relevant NFFO contracts NFPA contracted for the purchase of the electricity generated by the MIW CHP stations. Third parties, such as industrial premises and hospitals, entered into separate heating contracts with the MIW CHP stations to purchase the heat they generated. In order to satisfy the requirements of the definition of an MIW CHP station in the relevant orders the NFFO contracts provided that, during periods in which the MIW CHP stations performed their obligations under the heating contracts, they would receive a premium price for the electricity, which they provided to the NFPA. Whereas during any period in which they failed to perform their heating contracts they would receive only a reference price. This was given effect in the relevant contracts. By fixing the premium price higher than the reference price the policy intent was that MIW CHP stations would have a double incentive for performing their heating contracts as they would get both the price payable for the heat under the heating contracts and the premium price for the electricity supplied to the NFPA under the NFFO contracts.

Rationale for Government intervention

How the anomaly has arisen

- 1.7 When the New Electricity Trading Arrangements (NETA) were introduced in 2001, the original definition of the reference price became obsolete because it was calculated by reference to the price of electricity under the pool system, which the NETA system replaced. The replacement definition of the reference price in the contracts included the value of ROCs associated with the electricity generation ("the ROC component"). However, the reference price includes a ROC component irrespective of whether the electricity came from ROC eligible sources. Because the reference price includes a ROC component but the premium price does not, the reference price is now higher than the contract premium price.
- 1.8 This means that where a generator is not performing the heating element in its contracts (i.e. the supply of heat to third parties) it receives a

reference price for the electricity it provides to NFPA. However, the reference price is now higher than the premium price that it would have received had it fulfilled the heating element of the contract. The current situation penalises those generators who are meeting the heating element of their contracts, contrary to what was actually intended. This is the anomaly that this proposal seeks to address. The proposed change would rectify this position and provide the requisite price incentive to those generators involved to perform the heating element of their contract, as originally intended.

2. Consultation

Within Government

- 2.1 Within Government DTI officials have made Treasury aware of these proposals in view of the impact of these proposals on the NFPA trading surplus which is which is paid by Ofgem into the Consolidated Fund as hereditary revenues of the Crown.

Public Consultation

- 2.2 In view the technical nature of the change and the small number of generators affected; this proposal is the subject of a limited six week consultation.
- 2.3 NFPA and Ofgem have been consulted in the development of the proposals and will also have the opportunity to respond to the six week consultation.

3. Costs and Benefits

Business Sectors Affected

- 3.1 As NFFO has now been succeeded by the Renewables Obligation the proposed change to the reference price will in practical terms affect only the 4 renewable electricity generators who have live MIW CHP contracts issued under NFFO rounds 4 and 5. There will be no direct effect on the wider renewable energy sector.
- 3.2 As a result of changes to the RO from April 2006, Energy from Waste generating stations with good quality CHP can now claim ROCs on any biomass element of the waste burned, if they meet the requirements for Good Quality CHP status and applied for accreditation from Ofgem. Under clause 15.4 of the Renewables Obligation, these ROCs would be issued by Ofgem to the supplier nominated by the nominated person (that is the successful bidder in the relevant NFPA auction and not to the generator). If bidders became sufficiently confident that these ROCs

would attach to such schemes, the prices paid to NFPA could begin to include an element reflecting this so they could potentially rise above current levels.

Benefits

- 3.3 By reducing the reference price to below the premium price the incentive for fulfilling the heating element of those contracts will be restored as originally intended.
- 3.4 Those generators meeting the heating elements of their contracts will benefit from the intended subsidy, within the premium price; whilst those generators who are not fulfilling the heating element of their contract will not be able to benefit from the unintended subsidy within the inflated reference price, but will only be entitled to the reduced reference price.

Costs

- 3.5 The cost to generators who do not fulfil the heating element of their contract will be that they will no longer be able to benefit from the anomaly. These generators will be entitled to claim only the reduced reference price from the date that the proposed change would take effect. However, given that any excess financial benefit to generators would be as a result of an unintended consequence it is difficult to justify this as a genuine cost.
- 3.6 NFPA estimate that if no action is taken, and all 4 live contracts failed to meet the heating element of their contracts, and claimed the reference price at its current level then it would cost **£9-10 million per year** above the brown power auction price.
- 3.7 Were all 16 MIW/CHP projects to be commissioned, and the reference price paid for all, the hypothetical additional cost would be in the order of **£45million per year** above the brown power auction price. However, NFPA judge it unlikely that any of the other 12 projects could be developed to take advantage of this anomaly, though this cannot be ruled out entirely. The excess costs would be paid from the NFPA's trading surplus which is paid by Ofgem into the Consolidated Fund as hereditary revenues of the Crown. A reduction in the surplus therefore represents a reduction in the funds available for other public purposes.

4. Alternative Options

- 4.1 **Do Nothing** – NFPA could pay out the higher reference price to generators who do not meet the heating requirement of their contract on an ongoing basis. However, this would result in a drain of public funds away from Government and would reward those who do not meet the heating elements of their contracts. This approach would also go against

the original intent of the policy to incentivise generation of renewable heat through the NFFO arrangements.

- 4.2 We looked at whether NFPA could vary the contracts with the generators by mutual agreement to reduce the reference price to below the premium price. However, there would be no guarantee that the companies affected would willingly vary their contract.
- 4.3 We also looked at relaxing the heat requirement of the contracts so that the amount of heat that would have to be supplied would be reduced as an incentive for generators to accept a lower reference price. We concluded this was not possible as there was no legislative basis for reducing the heating requirements on the generators without the introduction of primary legislation.
- 4.4 The only remaining option would be to raise the premium price to a level above the reference price to reinstate the intended incentive for MIW CHP generators to fulfil the heating element of their contract. However, this option was quickly discounted on two grounds. First it would be unacceptably expensive, as the reference price is already considerably above the market price for electricity. And second, such a move would disadvantage those generators who are parties to NFFO contracts other than MIW CHP contracts. In effect MIW CHP generators would be paid more for the electricity generated than other NFFO contract holders regardless of whether they met the heat requirement of their contract.

5. Consultation with Small Business: The Small Firms' Impact Test

- 5.1 As only 4 companies are in practice affected by this proposal, none of which are small firms, a small firms impact test has not been undertaken, the Small Business Service are aware of this.

6. Competition Assessment

- 6.1 Those generators who do not fulfil the heating element of their contracts are currently receiving a higher price for the electricity, putting them at an unfair competitive advantage.

7. Enforcement and Sanctions, Compliance and Monitoring

- 7.1 Ofgem is given specific ongoing duties under the Orders. It acts as an independent body to ensure that all parties continue to meet their

Obligations under the relevant Orders¹. Ofgem also deals with certain administrative issues between NFPA and the generators. The DTI is responsible for monitoring the impact of NFFO and the RO on the development of renewable energy and collects detailed information on growth in renewable energy generation and projects under development.

8. Summary and Conclusion

- 8.1 The NFFO scheme was introduced with the intention of encouraging renewable generation in the UK. Due to regulatory changes following the introduction of the scheme there have been unintended consequences which have resulted in those generators not fulfilling the heating element of their contract receiving more subsidy than those generators who do fulfil the heating element. Government proposes to reinstate the incentive for the generators concerned to fulfil the heat element of their contracts, by means of an Order (draft at Annex E) to reduce the "reference price" to a level below the "premium price".

¹ The Electricity from Non-Fossil Fuel Sources Saving Arrangements (Amendment) Order 2000 and The Electricity from Non-Fossil Fuel Sources Savings Arrangements (Amendment) Order 2001.

 STATUTORY INSTRUMENTS

2006 No. 0000

ELECTRICITY

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

<i>Made</i> - - - -	<i>[] September 2006</i>
<i>Laid before Parliament</i>	<i>[] September 2006</i>
<i>Coming into force</i> - -	<i>[1st] October 2006</i>

The Secretary of State, in exercise of the powers conferred on him by section 67(1)(c) of the Utilities Act 2000⁽²⁾, 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 applies 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⁽³⁾;

"NFFO 5 Order" means the Electricity (Non-Fossil Fuel Sources) (England and Wales) Order 1998⁽⁴⁾;

"NFFO Savings Order" means the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000⁽⁵⁾;

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

"relevant contracts" means the replacement power purchase agreements representing 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

⁽²⁾ 2000 c.27.

⁽³⁾ S.I. 1997/248.

⁽⁴⁾ S.I. 1998/2353.

⁽⁵⁾ S.I. 2000/2727, as amended by S.I. 2001/3268.

NFFO 4 Order or in Part III of Schedule 1 to the NFFO 5 Order and which are described further in the Schedule.

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.”

Date

Malcolm Wicks
Minister for Energy,
Department of Trade and Industry

SCHEDULE

Relevant contracts between the generators and the nominated person

	<i>Contract</i>	<i>Date</i>	<i>Facility</i>	<i>Generators</i>
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)