



STATUTORY INSTRUMENTS

S.I. No. 563 of 2008



ELECTRICITY REGULATION ACT 1999 (ELECTRICITY) LEVY
ORDER 2008

(Prn. A8/2029)

ELECTRICITY REGULATION ACT 1999 (ELECTRICITY) LEVY
ORDER 2008

The Commission for Energy Regulation in exercise of the powers conferred on it by the Electricity Regulation Act 1999 (No. 23 of 1999) as amended, hereby makes the following Order:

1. (1) This Order may be cited as the Electricity Regulation Act 1999 (Electricity) Levy Order 2008.

(2) This Order shall come into operation on 31 December 2008.

(3) The Electricity Regulation Act, 1999 (Electricity) Levy Order, 2007 (S.I. No.823 of 2007) is revoked as and from 1 January 2009.

2. (1) In this Order—

“the Act” means the Electricity Regulation Act 1999 (No. 23 of 1999) as amended;

“actual quantity” means, in relation to a generator, its total Loss Adjusted Metered Generation and, in relation to a supplier, its total Loss Adjusted Metered Demand, subject to Article 5(2)(e);

“banking day(s)” means day(s) on which banks in Ireland generally are open for business (except in any event on Saturday or Sunday);

“Code” means the Single Electricity Market Trading and Settlement Code established pursuant to section 9BA(1) of the Act and designated pursuant to the Electricity Regulation Act 1999 (Single Electricity Market) Regulations, 2007 (S.I. 406/2007) as may be modified, substituted or replaced from time to time;

“the Commission” means the Commission for Energy Regulation established under the Act;

“generating unit” means a unit of a generating station;

“generator” means a person authorised or licensed to generate electricity pursuant to section 14 the Act;

“levy year” means a calendar year;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 30th December, 2008.*

“Loss Adjusted Metered Demand” means the variable quantity of that name provided for in, and calculated in accordance with, the Code and which is expressed in MWhrs;

“Loss Adjusted Metered Generation” means the variable quantity of that name provided for in, and calculated in accordance with, the Code and which is expressed in MWhrs;

“Meter Registration System Operator” means the distribution system operator acting in its capacity as Meter Registration System Operator as provided for pursuant to its licence, or such other entity as may be licensed to perform that function from time to time;

“MWhrs” means Megawatt hours;

“quarter” means a period of 3 months ending on 31 March, 30 June, 30 September, or 31 December;

“relevant quantity” means, in relation to a relevant undertaking, the forecast quantity of electricity in MWhrs, which it is estimated, will be generated, and/or supplied at the Trading Boundary, as the case may be;

“supplier” means a person authorised or licensed to supply electricity pursuant to Section 14 of the Act or a permit under Section 37 of the Principal Act;

“Trading Boundary” has the meaning ascribed to it in the Code, subject to Article 5(2)(e);

and any cognate words shall be construed accordingly.

(2) In this Order—

- (a) all words and expressions defined in the Act shall have the same meanings when used in this Order;
- (b) a reference to legislation is a reference to that legislation as amended from time to time;
- (c) a reference to an article or schedule is to an article of, or schedule to, this Order unless it is indicated that reference to some other Order is intended;
- (d) a reference to a sub-article is to the sub-article of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

3. This Order shall apply to the classes of electricity undertakings set out in the Schedule to this Order (“relevant undertakings”).

4. (1) A levy is hereby imposed on each relevant undertaking. This levy will be payable in respect of each levy year.

- (2) The levy imposed by sub-article (1) shall be payable in quarterly instalments no later than—
- (a) 31 January 2009 in respect of the first quarter in the levy year of 2009; and
 - (b) the last day of the first month of each subsequent quarter in each levy year.
5. (1) The levy imposed shall be payable by each relevant undertaking separately for each activity of generation, transmission, distribution or supply, as the case may be, that is carried out by that relevant undertaking in Ireland.
- (2) The amount of the levy imposed on a relevant undertaking in respect of any quarter shall be as follows:
- (a) in the case of the transmission system operator, licensed under section 14(1)(e) of the Act, a fixed payment of €126,348;
 - (b) in the case of the transmission system owner, licensed under section 14(1)(f) of the Act, a fixed payment of €126,348;
 - (c) in the case of the distribution system operator, licensed under section 14(1)(g) of the Act, a fixed payment of €227,426;
 - (d) in the case of the distribution system owner, licensed under section 14(1)(k) of the Act, a fixed payment of €25,270;
 - (e) in the case of a generator connected to the transmission or distribution system and where the generating units are registered under the Code, 3.7cent per MWhr at the Trading Boundary, rounded to the nearest euro, payable on the relevant quantity for that quarter plus the difference between the actual quantity and the relevant quantity for the previous quarter;
 - (f) in the case of a generator with generating units below the de minimis threshold of 10MW which the relevant generator is not required to register under the Code and which are not so registered, 3.7cent per MWhr at the Trading Boundary, rounded to the nearest euro, payable on the relevant quantity for that quarter plus the difference between the actual quantity and the relevant quantity for the previous quarter; and:
 - (a) the term “actual quantity” shall mean the quantity of electricity in MWhrs which has been generated at the Trading Boundary; and
 - (b) the term “Trading Boundary” shall mean the boundary between the transmission and distribution systems.
 - (g) in the case of a supplier, 3.7cent per MWhr of aggregated demand at the Trading Boundary, rounded to the nearest euro, payable on the

relevant quantity for that quarter plus the difference between the actual quantity and the relevant quantity for the previous quarter.

6. (1) Generators and suppliers shall—
- (a) no later than the first day of each quarter, submit to the Commission a statement of the relevant quantity for that quarter; and thereafter;
 - (b) within 25 working days of the end of each quarter, submit to the Commission
 - (i) in the case of generators, a statement certified by the Single Electricity Market operator or the Meter Registration System Operator as appropriate, of the actual quantity for the relevant undertaking in the previous quarter;
 - (ii) in the case of suppliers, a statement certified by the Single Electricity Market operator of the actual quantity for the relevant undertaking in the previous quarter.

(2) Where a relevant undertaking does not submit a statement of the relevant quantity in accordance with Article 6(1)(a), the amount payable for that quarter shall be 115% of the relevant quantity for the previous quarter. This shall not apply to the first quarter where such a statement is required.

(3) Where the amount paid by the relevant undertaking in accordance with Articles 4 and 5 in respect of the relevant quantity in any quarter is less than the actual quantity by reference to the said statement of actual quantity, the relevant undertaking concerned shall pay to the Commission the balance of the amount payable on the last day of the first month of the following quarter.

(4) Where the amount paid by a relevant undertaking in accordance with Articles 5 and 6 in respect of any quarter is more than the amount payable by reference to the said statement of actual quantity, the Commission shall make an adjustment to the amount payable by the relevant undertaking in the following quarter.

7. (1) Where any amount falling to be paid under Article 5 is not paid within the period for payment specified in Article 4, interest thereon shall accrue at the prescribed interest rate compounded monthly from the date when such payment is due until the same is made.

(2) In this Regulation, “the prescribed interest rate” means a rate 2% per annum above the Euribor rate.

8. (1) All payments shall be made in Euro on the due date by direct bank transfer or equivalent instantaneous transfer of funds to the bank account specified by the Commission.

(2) Each relevant undertaking shall notify the Commission as soon as payment has been made, indicating the date on which payment was made and the name of the bank effecting payment.

(3) A request for payment by the Commission to a relevant undertaking under this Order shall be made to each relevant undertaking in accordance with Section 4 of the Act.

SCHEDULE

The relevant undertakings for the purposes of this Levy Order are a class consisting of any holders of a licence granted under Section 14 of the Act or a permit under Section 37 of the Principal Act.

17 December 2008

MICHAEL G. TUTTY.
Chairperson of the Commission.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This order imposes a levy on certain specified classes of electricity undertakings, for the purpose of meeting expenses properly incurred by the Commission for Energy Regulation in the discharge of its functions under the Act.

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Le ceannach díreach ón
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PUBLISHED BY THE STATIONERY OFFICE
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€2.54

