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L.N. 170 of 2015

MALTA RESOURCES AUTHORITY ACT (CAP. 423)

Sale of Electricity generated from Cogeneration Units Regulations, 2015

IN exercise of the powers conferred by article 28(1) of the Malta Resources Authority Act, the Minister for Energy and Health, after consultation with the Malta Resources Authority, has made the following regulations:-

Citation and purpose.

1. (1) The title of these regulations is the Sale of Electricity Generated from Cogeneration Units Regulations, 2015.

(2) The purpose of these regulations is to regulate the sale of electricity generated from cogeneration units and supplied to the distribution system operator.

Interpretation.

2. (1) Unless otherwise stated in these regulations, the definitions in the Act shall apply.

(2) In these regulations, unless the context otherwise requires:

"the Act" means the Malta Resources Authority Act; Cap. 423.

"annual", "*annum*" or "year" means the period of time commencing on the 1st January and ending on the 31st December of each year as prescribed in the Second Schedule;

"the Authority" means the Malta Resources Authority as established by the Act;

"change of use of premises" means the change in the classification of a premises in terms of these regulations whether domestic or residential or non-residential or institutional household;

"co-generation" means the simultaneous generation in one process of thermal energy and electrical or mechanical energy;

"cogeneration unit" means a unit that is able to operate in cogeneration mode;

"commissioned" means the first time a cogeneration unit is put into operation, following the establishment of operational readiness;

"consumed on site" means consumed on the same premises where the cogeneration unit is installed;

VERŻJONI ELETTRONIKA

"distribution" means the transport of electricity on high voltage, medium voltage and low voltage distribution systems with a view to its delivery to consumers, but not including supply;

"distribution system" means all the interconnected technical facilities used for conveying electricity to final customers;

"distribution system operator" means a person responsible for operating, ensuring the maintenance of and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity;

"domestic premises" means premises which include private dwellings with no persons registered with the distribution system operator as residing in them such as second homes, or private garages and common areas including roofs, stairs, terraces, gardens to buildings which are used solely for private dwellings;

"electricity from cogeneration" means electricity generated in a process linked to the production of useful heat and calculated in accordance with the methodology laid down in the First Schedule of the Energy Efficiency and Cogeneration Regulations;

S.L. 423.27

"installation operator" means the holder of the licence to generate electricity from the cogeneration unit;

"institutional households" shall include the following premises:

(a) healthcare institutions such as premises used as a hospital, nursing home or as any institution providing medical or nursing care;

(b) institutions for retired, elderly or disabled persons, including premises used as a home for the retired or elderly persons or persons with any disability;

(c) educational institutions including premises used as a boarding school or for similar purposes;

(d) care institutions including premises used as orphanages, shelter homes, open centres for refugees or for similar purposes;

(e) religious institutions including premises used as convents, retreat houses, or for similar purposes;

VERŻJONI ELETTRONIKA

(f) military institutions such as military barracks;

(g) other institutions including premises used as boarding houses, penal or correctional facilities or for similar purposes;

"kVAh" means kilo Volt Ampere hour;

"kW" means kilo Watt;

"kWh" means kilo Watt hours;

"marginal cost per KWh" means the additional cost of producing one more unit as prescribed in the Second Schedule;

"metering equipment" means the electricity meters provided by the distribution system operator including smart meters, any voltage and current transformers and any other associated equipment and wiring required to measure the quantity of electricity supplied or exported;

"the Minister" means the Minister responsible for resources;

"MWe" means the electricity capacity rating of a cogeneration unit;

"nominal installed capacity" means the nominal electricity rating MWe as defined on the rating plate of the cogeneration unit;

"non-residential premises" means a building or plot of land which is used wholly or mainly for the purpose of conducting an economic activity, but does not include any building such as private garages or common areas to buildings which are used solely as private dwellings;

"operational readiness" means the capability to function in accordance with design and specifications;

"premises code" means a unique number assigned by the distribution system operator identifying a particular premises with its individual service address and served with electricity and, or water;

"renewable energy sources" means renewable non-fossil energy sources, that is, wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment unit gas and biogases;

"residential premises" means any premises used solely and regularly as a private dwelling where at least one person resides but

VERŻJONI ELETTRONIKA

does not include institutional households;

"scheduled" means in accordance with the scheduled programme of ARMS Limited for the taking of periodic electricity meter readings;

S.L. 423.01

"smart meters" shall have the same meaning as in the Electricity Supply Regulations.

Applicability.

3. These regulations shall apply to electricity exported to the distribution system from any cogeneration unit equipped for the recuperation and utilization of the thermal energy produced and producing electricity from fossil fuel or renewable energy, installed either in a residential or domestic premises or non-residential or institutional household and connected to the distribution system either directly or indirectly with the appropriate protection and metering equipment provided by the distribution system operator.

Rate to be paid for electricity sold to the distribution system operator.

4. (1) In the case of any cogeneration unit commissioned and connected to the distribution system in terms of regulation 3, the installation operator may:

(a) either sell all the electricity generated by the cogeneration unit to the distribution system operator and be paid by the distribution system operator the marginal cost per kWh under the Second Schedule; or

(b) generate electricity primarily for own consumption and be paid by the distribution system operator the marginal cost per kWh under the Second Schedule for any excess electricity generated and exported to the distribution system:

Provided that the consumption of the electricity generated, in accordance with this paragraph, may only be done by the installation operator who is a registered consumer with the distribution system operator with respect to the same premises code where the cogeneration unit is installed.

(2) The electricity generated -

(a) from cogeneration units separately installed shall be separately metered; and

(b) from solar photovoltaic installations or other renewable energy sources connected with the same premises code as cogeneration units installed in terms of sub-regulation (1) shall also be separately metered.

VERŻJONI ELETTRONIKA

(3) In the case where the installation operator takes the option available in terms of sub-regulation (1)(b), the distribution system operator shall install metering equipment to measure all the electricity generated by the cogeneration unit in addition to the import/export metering equipment.

Without prejudice to the generality of the foregoing, subject to the obtainment of the consent of the distribution system operator, the installation operator may install metering equipment to measure all the electricity generated by the cogeneration unit as an alternative to the installation of metering equipment by the distribution system operator for the purpose of measuring all the electricity generated by the cogeneration unit.

(4) An installation operator who generates electricity from a cogeneration unit connected with the same premises code as solar photovoltaic installations installed primarily for own consumption and exporting any excess electricity to the distribution system and, or other installations generating electricity from renewable energy other than solar photovoltaic installations, being all installed with the option to generate primarily for own consumption, shall for any excess electricity generated and exported to the distribution system be paid by the distribution system operator at the marginal cost per kWh.

Commencement and duration of payment.

5. (1) The payment for the electricity produced from the cogeneration unit and sold to the distribution system operator shall be due from the date when the cogeneration unit is first connected to the distribution system as provided in regulation 3.

(2) The payment of the marginal cost per kWh shall be subject to the approval of the cogeneration capacity as required in these regulations.

(3) The payment effected by the distribution system operator to installation operators for electricity generated by cogeneration units in accordance with regulation 3 shall be deemed to be inclusive of any compensation for loss of revenue arising from any planned and unplanned interruption which impedes the export of electricity from the cogeneration unit to the distribution system.

Eligibility for payment for electricity sold to the distribution system operator.

6. (1) The eligibility for the payment for any electricity generated by the co-generation unit and sold to the distribution system operator is subject to:

(a) the cogeneration unit obtaining all the necessary authorisations, licences or permits from the relevant competent authorities and the distribution system operator;

VERŻJONI ELETTRONIKA

(b) the cogeneration unit is equipped with metering equipment that measures all the electricity generated by the cogeneration unit in addition to the import/export metering equipment;

(c) the installation operator's compliance at all times with the obligations established in these regulations, the Network Code and all other applicable legislation.

(2) The payment of the marginal cost per kWh shall only be applicable up to the total amount of electricity sold to the distribution system as measured by the metering equipment provided by the distribution system operator and to the extent of the cogeneration unit MWe capacity approved by the Authority:

Provided that the approval of cogeneration MWe capacity by the Authority shall be subject to the overall cap for the MWe capacity that may be approved in any year as established by the Second Schedule.

Maximum capacity.

7. The total maximum cogeneration electricity capacity MWe that shall be eligible for the sale of electricity to the distribution system operator and the payment of the marginal cost per kWh by the distribution system operator for exported electricity from such cogeneration unit after the entry into force of these regulations shall be that established in the First Schedule.

Settlement of payments.

8. (1) The distribution system operator may set off amounts due by an installation operator for the supply of electricity against amounts due to the installation operator for the exporting of electricity under these regulations:

Provided that such setting off shall only be permissible where the claims are undisputed or are certain, liquidated and due.

(2) Where a set-off arrangement between the installation operator and the distribution system operator is in place and the amounts due to the installation operator for the exporting of electricity referred to in sub-regulation (1) are in excess of the amounts due by an installation operator for the supply of electricity by the distribution system operator, the distribution system operator shall credit the installation operator the balance due by means of a credit note:

Provided that the installation operator may request to be paid the balance due by means of such credit note, after four consecutive scheduled billing periods for the supply of electricity by the distribution system operator to the installation operator, have

VERŻJONI ELETTRONIKA

elapsed.

(3) Where no set-off agreement exists between the installation operator and the distribution system operator and the amounts due to the installation operator for the exporting of electricity are in excess of the amounts due by an installation operator for the supply of electricity by the distribution system operator, the distribution system operator shall credit the installation operator the balance due, which shall be paid to the installation operator within sixty days from the scheduled reading of the metering equipment:

Provided that the distribution system operator shall carry out the reading of the metering equipment within intervals of at least two months, to be reckoned as from the date of the first reading of the metering equipment.

Obligations of the installation operator.

9. Installation operators shall:

(a) submit such information as the Authority may reasonably require;

(b) inform the Authority and the distribution system operator, in the form and manner they may reasonable require, if the cogeneration units have been disconnected or transferred, sold or in any form modified in such a way as to change their performance;

(c) comply at all times with the provisions of the applicable legislation, notification, authorisation, licence conditions and Network Code as approved by the Authority;

(d) make available to the distribution system operator and to the Authority data required to be recorded for the purposes of these regulations.

Succession of obligations and benefits.

10. Where an installation operator is deceased, or by reason of any other act or event, permanently ceases to be the installation operator, payment for electricity generated by the cogeneration unit and exported to the distribution system under these regulations may be transferred to the new installation owner:

Provided that:

(a) the new installation operator informs the distribution system operator and the Authority of such change in ownership in such form and manner as they may establish, together with any documentary proof and information that they may establish for such purposes;

VERŻJONI ELETTRONIKA

(b) the new installation operator takes over all obligations held by the previous installation operator;

(c) such person shall not be considered by the distribution system operator and, or the Authority as a new installation operator if such installation operator is not in compliance with any other law, permit or any requirement in relation to the cogeneration unit.

Change of use of premises.

11. (1) Modifications relevant to the cogeneration unit installation arising from -

(a) change of use of the premises where the cogeneration unit is located;

(b) change of account holder;

(c) transfer of the cogeneration unit to another different premises with same use;

(d) transfer of cogeneration unit to another different premises with different use;

(e) change of the option from "sell all the electricity generated" to "generate electricity primarily for own consumption" or vice versa,

shall only be made after obtaining the necessary permits and clearance from the Authority and the distribution system operator.

(2) In the case where an installation operator increases the generation capacity of a cogeneration unit which is connected to the distribution system, the payment of the marginal cost shall apply for the whole unit as extended, provided that the installation operator obtains all the necessary authorisations, licences and permits.

(3) The changes listed in sub-regulations (1) and (2) shall become applicable for the payment of the marginal cost from the date of the first meter reading taken after the date of submission of an application to the distribution system operator to approve and take the necessary action.

Guarantees of origin.
S.L. 423.01

12. Installation operators shall not be entitled to any tradable certificates including tradable guarantees of origin for electricity generated from the cogeneration unit.

VERŻJONI ELETTRONIKA

13. The provisions dealing with access, inspection, modification or tampering of meters found in the Electricity Supply Regulations shall *mutatis mutandis* apply to installation operators under these regulations in the same manner as provided for in those regulations.

Access, inspection, etc. of metering equipment. S.L. 423.01

FIRST SCHEDULE

(Regulation 7)

Total maximum cogeneration unit electricity capacity MWe that may be approved for the payment of the marginal cost *per annum* for any electricity generated and sold to the distribution system operator from such cogeneration unit capacity shall be 3MWe each year.

SECOND SCHEDULE

(Regulations 4, 5, 6 and 7)

Marginal cost per kWh applicable for electricity generated by the cogeneration units and exported to the distribution system

The marginal cost per kWh referred to in regulations 4, 5, 6 and 7 shall amount to the marginal cost per kWh as approved by the Authority from time to time.

The Authority may define which cost items may be considered in the determination of the marginal cost per kWh of electricity incurred by the distribution system operator.

The marginal cost per kWh for the year 2015 shall be of ten cents and five mils (€0.10,5) per kWh.

VERŻJONI ELETTRONIKA

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata — ***Printed at the Government Printing Press on recycled paper***

Prezz/*Price*
€0.90