



LOW CARBON
CONTRACTS COMPANY

POWERING NET ZERO



Electricity
Settlements
Company

Contracts for Difference (CfD) – Allocation Round 5 Minor & Necessary Process

02/03/2023

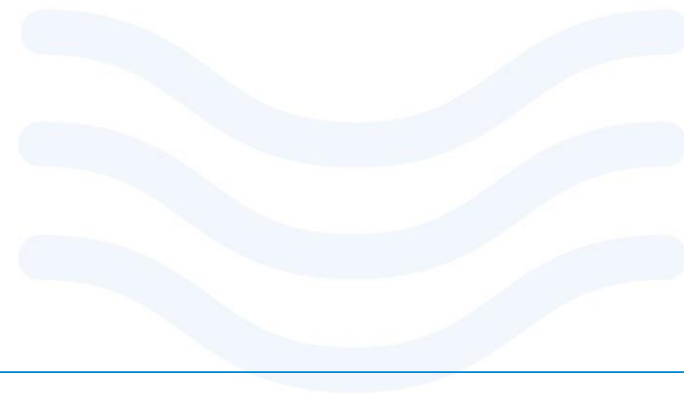
LCCC

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lowcarboncontracts.uk

Before we get started

- How to support us:
 - Stay on mute
 - Avoid using your video
- Questions
 - Will be hosted at the end of the session
 - Please use the Q&A function for questions/comments
- Post event
 - This event is being recorded
 - We will send a copy of the slides



Agenda

1. Introduction & Agenda
2. About LCCC
3. Minor & Necessary process
4. Questions



Independent, non-profit, private limited company owned by the Secretary of State for Energy Security and Net Zero

Our Vision...
“...to accelerate the delivery of Net Zero”

Our Mission...
to shape and implement schemes which enable low-carbon investment at least cost to the consumer

LCCC's Guiding Principle...
Is to **maintain investor confidence** in the CfD scheme and **minimise costs to consumers**

Our current roles:

- **‘CfD Counterparty’ to Contracts for Difference (CfD) for low carbon electricity generation (LCCC)**
- Offer Standard Form CfD to successful Allocation Round Applicants as notified to LCCC by NGESO
- Manage the CfD and support generators through the contractual milestones to deliver low carbon electricity to consumers.

Minor & Necessary Process

What considerations need to be made before submitting a Minor & Necessary Application?



Minor and Necessary Modifications

Key Minor & Necessary Modification dates:

- M&N application window opens on 16th March 2023
- M&N application window closes on 23rd March 2023
- Latest date for M&N determinations to be made by 17th April 2023

The process for M&N modifications include:

- Engage in preliminary discussions with LCCC by using the AR5 Microsite
- We will be offering 1-2-1 calls to discuss any concerns
- Apply for modifications during the **M&N Modification Request Window**
- Opens after publication of Allocation Round Notice
- Application must be made promptly and no later than 20 WDs before the CfD application closing date specified in the Allocation Round Notice as per the M&N guidance document which can be found on the AR5 Microsite and LCCC's website

Information to be provided must include:

- Short description of change to CfD standard terms
- Proposed amendment to the CfD wording in tracked changes
- Explanation of why change is both minor AND necessary

Draft AR5 Contracts:

- Draft CfD terms & conditions are available on the DESNZ website and to be used as point of reference until official documents published

Determination before application closing date ensures applicants can submit, amend or withdraw their applications based on this determination

Policy rationale for Minor & Necessary process

“The modification process will provide necessary flexibility in the early stages of the CfD regime, however we expect that the process itself will evolve as the CfD regime matures and the CfD Counterparty builds on its expertise. For example what may start out as common modifications (such as for private wire projects) may in due course no longer be needed because the Secretary of State is able to issue a new category of Standard Terms to provide for that particular type of eligible generator.”

*Department of Energy & Climate Change - Electricity Market Reform: Consultation on Regulations for Contracts for Difference (Standard Terms and Modifications)
December 2013*

Minor and Necessary Modifications

Energy Act 2013 – section 15(3):

A CFD counterparty may enter into a modification agreement providing for the modification of any particular standard term only if—

(a) the CFD counterparty is satisfied that—

(i) the effect of the modification is minor, and

(ii) the modification is necessary; and

(b) the standard term has not been designated under section 11 as a term that may not be modified under this section.

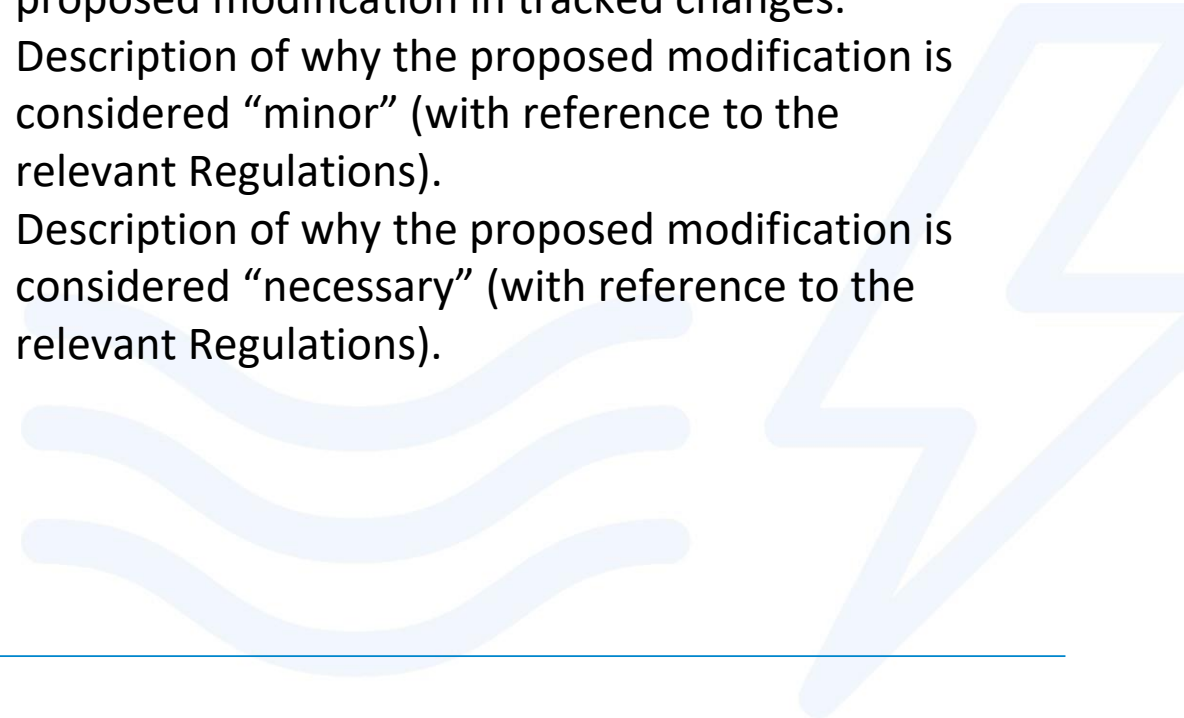
The Contract for Difference (Standard Terms) Regulations 2014 allow a generator who is or who is considering making an application for a CfD to also apply to LCCC for a “Minor and Necessary Modification” to the standard terms of the CfD, comprising of both the relevant CfD Agreement and the CfD Standard Terms and Conditions (STCs).

Making a M&N Application

- The Regulations require all applications to set out a description of the proposed modification to the STCs and an explanation as to how the effect of the modification is minor and why it is necessary – see Regulation 5(3).
- Please refer to LCCC’s AR5 M&N Guidance available on our website which includes a pro forma form for making an application.
- Applicants should submit one form for each unconnected modification to the STCs that they wish to request. Therefore, applicants who wish to request a number of unconnected modifications to the STCs should submit separate forms for each such requested modification.

The following information will be required:

- Project and Applicant details.
- Description of modification identifying which clause(s) of STCs require amending.
- Proposed new drafting giving effect to the proposed modification in tracked changes.
- Description of why the proposed modification is considered “minor” (with reference to the relevant Regulations).
- Description of why the proposed modification is considered “necessary” (with reference to the relevant Regulations).



Minor and Necessary Modifications

What constitutes a Minor & Necessary Modification:

- Minor & Necessary is explained in Regulation 7 and 8 of *The Contracts for Difference (Standard Terms) Regulations 2014*
- The modification must be both minor AND necessary
- Applicants should refer to the Regulations but in summary, Reg 7 stipulates that a modification cannot be minor if:
 - decreases liabilities of generator or increases commercial benefit of CfD for generator
 - changes period in which generator may start to receive payments or in which parties must make payments
 - changes the date generator must notify it has incurred a sum specified in the CfD or provide certain documentation
 - changes any methodology which directly or indirectly affects the calculation of sums payable under the CfD
 - alters the time limit for invoicing or making a payment
 - changes the circumstances LCCC can use collateral provided by a generator
 - alters any requirement to provide information where needed to make payments to a generator
 - would cause LCCC to incur costs above amount specified by SoS (£18K for AR4)
 - would impact existing contracts LCCC has with third parties (e.g. EMRS)
- Applicants should refer to the Regulations but in summary, Reg 8 stipulates that a modification may be necessary where an applicant acting reasonably could not accept the offer of a CfD without the modification but cannot be necessary where applicant could not accept due to its ownership or control.

Examples of M&N Applications

Accepted Modifications

- Minor amendments needed to signature blocks to allow non-corporate entity to sign the CfD.
- Minor drafting amendments to allow entity with no directors to issue equivalent of director certificates.

Rejected Modifications

- Request to amend Force Majeure definition to include specific events relating to remote island projects.
- Changes to specific definitions to reflect project-specific issues.
- Modification to eligibility criteria for Private Wire Generator.



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Questions?

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