
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Electricity Capacity (No. 1) Regulations 2019

PART 5

Conditional agreement auction

Secretary of State’s discretion: modifications

35. Regulation 33 of the Principal Regulations applies as if—

(a) in paragraph (2)—

(i) in sub-paragraph (a), “or” were omitted;

(ii) at the end of sub-paragraph (b), for “.” there were inserted “; or”; and

(iii) after sub-paragraph (b), there were inserted—

“(c) if paragraph (3A) applies, direct the Delivery Body to—

(i) withdraw the termination notice given to the capacity provider (“P”); and

(ii) terminate the conditional capacity agreement on the ground specified in capacity market rules that it would involve undue financial hardship to require P to pay a termination fee in respect of the termination of the capacity agreement, owing to the exceptional circumstances of P’s particular case arising from the non-payment to P of capacity payments (which were prevented from being paid by the law relating to state aid) during the standstill period.”; and

(b) after paragraph (3), there were inserted—

“(3A) This paragraph applies if the termination notice is given by the Delivery Body to a capacity provider under the Rules during the period that begins on the day on which this regulation comes into force and ends on the day on which the T-1 capacity agreement trigger event or T-1 termination trigger event occurs.”.