
STATUTORY INSTRUMENTS

2014 No. 2043

The Electricity Capacity Regulations 2014

PART 10

Dispute resolution and appeals

CHAPTER 1

Delivery Body decisions

Determination of appeal by the Authority

71.—(1) The Authority—

- (a) must notify the Delivery Body when it receives an appeal notice under regulation 70; and
- (b) may request the Delivery Body to provide it with any information relating to the disputed decision which the Authority considers necessary to enable it to determine the appeal.

(2) The Delivery Body must provide to the Authority such of the information requested under paragraph (1)(b) as it holds within 5 working days of receiving the Authority's request.

(3) Upon receiving an appeal notice which complies with regulation 70, and any information requested from the Delivery Body, the Authority must—

- (a) subject to paragraph (4), review the reconsidered decision;
- (b) determine whether the reconsidered decision was correct on the basis of the information which the Delivery Body had when it made the decision.

(4) In a determination under paragraph (3)(b)—

- (a) the Authority must uphold the reconsidered decision if the Authority determines that it was correct on the basis described in paragraph (3)(b);
- (b) if the Authority determines that the Delivery Body incorrectly decided not to prequalify the applicant for a capacity auction in respect of a CMU, it must direct the Delivery Body to register the CMU on the capacity market register as a prequalified CMU (in which case regulation 73 applies);
- (c) in any other case, if the Authority determines that the Delivery Body's decision was incorrect it must substitute the decision that it considers the Delivery Body should have made.

(5) The Authority must give notice of its determination to the affected person, the Delivery Body and the Settlement Body.

(6) The Authority may, to assist it in determining an appeal, appoint a person independent of the Delivery Body and the affected person to consider the appeal or any matter relating to it and provide a report to the Authority; but the Authority remains responsible for determining the appeal.

(7) If the Authority determines that the Delivery Body incorrectly rejected a request for reconsideration of a decision as mentioned in regulation 70(5)—

- (a) the Authority must remit the request to the Delivery Body and direct the Delivery Body to reconsider the decision in accordance with regulation 69; and
- (b) the Delivery Body must comply with the direction.