
STATUTORY INSTRUMENTS

2015 No. 1555

**The Electricity (Competitive Tenders for Offshore
Transmission Licences) Regulations 2015**

PART 18

MISCELLANEOUS

Failure to make payments or provide security

31.—(1) Where a developer fails to make the payment or provide the security in accordance with regulation 10(1), the Authority may permit that payment or security to be made or provided within a further period specified by the Authority by notice to the developer, such period to be no later than the date on which a notice is published in accordance with regulation 12(1).

(2) Where either a bidder or a qualifying bidder fails to make any payment before the date specified in a notice given under these Regulations, the Authority may disqualify that bidder or qualifying bidder from that tender exercise in accordance with regulation 27 if that failure is not remedied within a period not exceeding ten days specified by the Authority by notice to that bidder or qualifying bidder.

Application for a decision by the Authority

32.—(1) A bidder or qualifying bidder may apply to the Authority for a decision as to the effect of any—

- (a) restriction applied as a result of these Regulations on the making of an application for the grant of an offshore transmission licence; or
- (b) requirement applied by virtue of these Regulations that operates so as to prevent an application for the grant of an offshore transmission licence from being considered or further considered.

(2) Where a bidder or qualifying bidder makes an application in accordance with paragraph (1), the Authority may charge that bidder or qualifying bidder a fee of an amount equal to the Authority's costs in assessing the application.

Changes to bidder groups

33.—(1) No change may be made to the membership of a bidder group unless the Authority has permitted the change in accordance with paragraph (3), (4), or (5).

(2) Where a bidder group seeks to change its membership it must notify the Authority in writing of the proposed change as soon as reasonably practicable.

(3) Where a bidder group seeks to change its membership between the pre-qualification stage of a tender exercise and before submitting a qualification to tender questionnaire to the Authority, the Authority must permit that change provided that the new membership of that bidder group

meets the pre-qualification evaluation criteria set out in the pre-qualification documentation issued in accordance with regulation 14(1)(a).

(4) Any proposed change to the membership of a bidder group notified to the Authority after a qualification to tender questionnaire has been submitted to the Authority or, where the Authority determines not to hold a qualification to tender stage in accordance with regulation 13(2), after a pre-qualification questionnaire has been submitted to the Authority, and before the Authority has published a notice in accordance with regulation 21(1), may be permitted by the Authority provided that—

- (a) the Authority determines that change would be fair and equitable to all other bidders or qualifying bidders participating in that tender exercise; and
- (b) the new membership of that bidder group meets the evaluation criteria set out in the later of—
 - (i) the qualification to tender documentation issued in accordance with regulation 16(2) or, where the Authority determines not to hold a qualification to tender stage in accordance with regulation 13(2), the pre-qualification documentation issued in accordance with regulation 14(2)(a);
 - (ii) the invitation to tender documentation issued in accordance with regulation 18(2); or
 - (iii) the best and final offer documentation issued in accordance with regulation 20(3).

(5) Any proposed change to the membership of a bidder group notified to the Authority after the Authority has published a notice in accordance with regulation 21(1) may be permitted by the Authority provided that—

- (a) the Authority determines that change would be fair and equitable to all other qualifying bidders who were invited to participate in the latest stage of the tender exercise, being either the invitation to tender stage or the best and final offer stage; and
- (b) the new membership of that bidder group—
 - (i) meets the evaluation criteria set out in the later of the invitation to tender documentation issued in accordance with regulation 18(2) or the best and final offer documentation issued in accordance with regulation 20(3); and
 - (ii) where applicable, confirms in writing to the Authority that where the matters specified in the notice given in accordance with regulation 21(6) have previously been resolved by the preferred bidder to the Authority's satisfaction, such matters remain resolved by the new membership of that bidder group.

(6) Where a bidder group gives notice in accordance with paragraph (2), the Authority may give notice to the bidder group to make a payment to the Authority of an amount equal to the Authority's costs in determining whether to permit the proposed change.

Changes to delivery of documents or actions

34.—(1) Paragraph (2) applies where the Authority determines that it is impracticable—

- (a) for any document or notice which is to be delivered to or published by the Authority in accordance with these Regulations to be delivered or published by the time, date or in the manner specified in accordance with these Regulations; or
- (b) for any action which is required to be undertaken in accordance with these Regulations, to be completed by the time, date or in the manner specified.

(2) Where this paragraph applies, the Authority must take reasonable steps to give notice to a developer, bidder, qualifying bidder, preferred bidder, reserve bidder or successful bidder, as the case may be, that—

- (a) delivery or publication will be made by a different time or date or in a different manner; or

(b) the action will be completed by a different time or date or in a different manner.

Disapplication of certain provisions

35.—(1) No application for an offshore transmission licence may be considered or granted by the Authority other than in accordance with these Regulations.

(2) Sections 6A and 6B of the 1989 Act and any regulations made under them are dispensed with insofar as they relate to an application for an offshore transmission licence.