
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Electricity Capacity Regulations 2014

PART 4

Capacity auctions

CHAPTER 4

Determining eligibility and holding capacity auctions

General duty of Delivery Body

20.—(1) This Chapter applies where the Secretary of State has determined that a capacity auction is to be held.

(2) The Delivery Body must exercise the functions conferred on it by—

- (a) this Chapter; and
- (b) capacity market rules.

(3) The Delivery Body must exercise those functions in accordance with these Regulations and capacity market rules.

Auction guidelines

21.—(1) The Delivery Body must, before the start of the prequalification window, publish guidelines for the capacity auction (“auction guidelines”).

(2) The auction guidelines must contain—

- (a) the provisional date on which the capacity auction is to start;
- (b) details of how to apply to prequalify to bid in the capacity auction;
- (c) the timetable for submission and determination of applications, which must in particular include the closing date for submission of applications;
- (d) the auction parameters;
- (e) the de-rating factor for each generating technology class, as determined by the Delivery Body under capacity market rules; and
- (f) such other information as may be—
 - (i) required by capacity market rules; or
 - (ii) directed by the Secretary of State or the Authority.

(3) The Delivery Body must, not less than 3 weeks before the date specified under paragraph (2)

(a), publish a final version of the auction guidelines which contains—

- (a) the date on which the capacity auction is to start; and
- (b) any changes made to the auction parameters under regulation 13.

Determination of eligibility

22. The Delivery Body must—

- (a) determine each application for prequalification that is made to it in accordance with capacity market rules;
- (b) notify each applicant of its determination; and
- (c) reconsider a determination, if an applicant requests it to do so under regulation 69.

Notifying prequalification results to the Secretary of State

23.—(1) The Delivery Body must, as soon as reasonably practicable after it has determined all the applications made to it, notify the Secretary of State of the aggregate de-rated capacity of—

- (a) CMUs which have prequalified to bid in the capacity auction;
- (b) CMUs in respect of which applications were rejected; and
- (c) generating CMUs in respect of which the Delivery Body received—
 - (i) an opt-out notification stating that the CMU will be closed down, decommissioned or otherwise non-operational by the commencement of the delivery year;
 - (ii) an opt-out notification stating that the CMU will be temporarily non-operational for all the winter of the delivery year but will be operational thereafter; or
 - (iii) an opt-out notification stating that the CMU will remain operational during the delivery year.

(2) The Delivery Body must, at the same time—

- (a) advise the Secretary of State whether, in light of the data referred to in paragraph (1), the demand curve for the capacity auction should be adjusted; and
- (b) provide a recommendation to the Secretary of State as to the adjustment, if any, that should be made to the demand curve.

(3) The Delivery Body must give the advice and recommendation in accordance with any directions given by the Secretary of State.

(4) In paragraph (1), “opt-out notification” has the meaning given in the Rules.

Holding the capacity auction

24.—(1) The Delivery Body must, subject to regulation 26, hold a capacity auction starting on the date specified in the final auction guidelines published under regulation 21(3).

(2) The Delivery Body may arrange for another person to conduct the capacity auction on its behalf, and in these Regulations “the auctioneer” means—

- (a) the Delivery Body, if it conducts the capacity auction itself; or
- (b) the person appointed by the Delivery Body to conduct the capacity auction.

(3) The auctioneer must conduct the capacity auction in accordance with—

- (a) capacity market rules;
- (b) the auction guidelines; and
- (c) any instructions given by the Secretary of State on how price decrements are to be set.

(4) The Delivery Body is responsible for the performance of functions conferred on the auctioneer by these Regulations or capacity market rules, whether or not the Delivery Body performs those functions itself.

(5) In paragraph (3)(c), “price decrement” means the amount by which the bidding price is to be decreased from one bidding round of a capacity auction to the next.

Notification of results

25.—(1) The Delivery Body must, after a capacity auction is completed—

- (a) as soon as reasonably practicable notify the auction results to the Secretary of State;
- (b) within one working day, give notice to each bidder of whether or not its bid was a successful bid; and
- (c) within 8 working days, publish the auction results.

(2) In paragraph (1) “the auction results” means—

- (a) the auction clearing price;
- (b) the total amount of capacity in respect of which successful bids were made;
- (c) the CMUs in respect of which successful bids were made;
- (d) in respect of each such CMU—
 - (i) the de-rated capacity of the CMU, and, in the case of a demand side response CMU, its DSR bid capacity if different; and
 - (ii) the duration of capacity obligation for which, and the price at which, the successful bid was made.

(3) In paragraphs (1) and (2), a “successful bid” means a bid that, subject to regulation 27, results in the award of a capacity obligation to the bidder.

Cancellation, postponement or stopping of capacity auction

26.—(1) A capacity auction may not be cancelled, postponed or stopped except as provided in this regulation.

(2) The Delivery Body—

- (a) must cancel or postpone a capacity auction if directed to do so by the Secretary of State under paragraph (3); and
- (b) may postpone or stop a capacity auction if, in the Delivery Body’s opinion, the capacity auction cannot be conducted fairly and in accordance with regulation 24(3), because of a failure of the auction IT system or any other exceptional circumstances.

(3) The Secretary of State—

- (a) must, before the date on which the capacity auction is to start, direct the Delivery Body to cancel or postpone the capacity auction if, in the Secretary of State’s opinion, were the capacity auction to proceed the awarding of capacity agreements or making of capacity payments to successful bidders could breach the law relating to state aid;
- (b) may, at any time before the date on which the capacity auction is to start, direct the Delivery Body for any other reason—
 - (i) to postpone a capacity auction for an indefinite period; or
 - (ii) to start the capacity auction on a later date than the date specified in auction guidelines.

(4) If the Delivery Body postpones or stops a capacity auction under paragraph (2)(b), the Delivery Body must hold or restart the capacity auction at a later date, and must comply with regulation 28(3)(b) and (c) in relation to the rearranged capacity auction.

(5) If the Secretary of State gives a direction under paragraph (3)(a) to postpone a capacity auction, the Secretary of State—

- (a) may subsequently direct the Delivery Body to rearrange the capacity auction if the Secretary of State is, at the date of the later direction, satisfied that the awarding of capacity agreements and making of capacity payments to successful bidders would not breach the law relating to state aid; and
- (b) must otherwise direct the Delivery Body to cancel the capacity auction.

(6) If the Secretary of State gives a direction under paragraph (3)(b) to postpone a capacity auction, the Secretary of State must as soon as reasonably practicable give a further direction to the Delivery Body to rearrange or cancel the capacity auction.

(7) Paragraphs (5)(a) and (6) are subject to regulation 28(4).

(8) If the Secretary of State directs the Delivery Body to cancel or postpone a capacity auction, the Secretary of State must, not later than 4 weeks after giving that direction, publish the reasons for it.

Power to annul capacity auction

27.—(1) The Secretary of State may, within 7 working days after a capacity auction is completed, annul the capacity auction if it appears to the Secretary of State that there are reasonable grounds to suspect that—

- (a) there was an irregularity in relation to the capacity auction; and
- (b) the irregularity affected—
 - (i) the auction clearing price; or
 - (ii) the CMUs which were successful in the capacity auction.

(2) For the purposes of paragraph (1) there is an irregularity if, but only if, the capacity auction was not conducted in accordance with regulation 24(3).

(3) If the Secretary of State decides to annul a capacity auction, the Secretary of State must—

- (a) immediately publish that decision; and
- (b) not later than 4 weeks after making that decision, publish the reasons for it.

Rearranged capacity auctions

28.—(1) If the Secretary of State gives a direction under regulation 26(5) or (6) to rearrange a capacity auction, the Secretary of State may, subject to paragraph (4)—

- (a) give directions to the Delivery Body about the holding of that capacity auction; and
- (b) decide to adjust any of the auction parameters for that capacity auction.

(2) Directions under paragraph (1)(a) may include a direction to re-open prequalification for the capacity auction, and must include such a direction if any of the auction parameters are adjusted.

(3) The Delivery Body must—

- (a) comply with any directions under paragraph (1);
- (b) publish a revised version of the auction guidelines for the rearranged auction; and
- (c) ensure that a rearranged capacity auction is completed by the earlier of—
 - (i) the end of the auction window; or
 - (ii) 6 months after the date of any direction by the Secretary of State to hold a rearranged capacity auction.

(4) The Secretary of State must not give directions under regulation 26(5)(a) or (6), or paragraph (1) of this regulation, if the effect of those directions is that it would not be reasonably practicable for the Delivery Body to comply with paragraph (3)(c).