
STATUTORY INSTRUMENTS

2009 No. 1340

**The Electricity (Competitive Tenders for Offshore
Transmission Licences) Regulations 2009**

PART 11

**CANCELLATION AND TREATMENT OF
PAYMENTS AND SECURITY ON CANCELLATION**

Cancellation

18.—(1) Where the Authority is satisfied that one or more of the events in Schedule 6 are occurring or have occurred in respect of a qualifying project, it may, in the circumstances specified in paragraph (2), publish a notice cancelling that qualifying project from the tender exercise.

(2) The circumstances in which the Authority may publish a notice in accordance with paragraph (1) are that the Authority has—

- (a) given seven days notice of its intention to cancel the qualifying project from the tender exercise; and
- (b) considered any representations which have been duly made in relation to the notice published in accordance with sub-paragraph (a).

(3) Where the Authority has published a notice in accordance with paragraph (1), the Authority may—

- (a) re-run that tender exercise in respect of that qualifying project, from the beginning or a particular stage of that tender exercise in accordance with these Regulations; or
- (b) determine that the tender exercise in respect of that qualifying project has failed.

(4) In the event that no preferred bidder, reserve bidder or successful bidder is determined pursuant to a tender exercise run as a consequence of a decision taken in accordance with paragraph (3), the Authority may—

- (a) re-run a further tender exercise in respect of that qualifying project, from the beginning or a particular stage of that tender exercise in accordance with these Regulations; or
- (b) determine that the tender exercise in respect of that qualifying project has failed.

(5) Where the Authority determines that the tender exercise has failed in accordance with paragraph (3)(b) or (4)(b), that tender exercise is finished in respect of that qualifying project.

Treatment of payments and security on cancellation

19.—(1) This regulation applies where the Authority cancels a qualifying project from a tender exercise in accordance with regulation 18(1) (whether or not that tender exercise in respect of that qualifying project is re-run or is determined as failed).

(2) Where one or more of the events in paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j) and (q) of Schedule 6 are occurring or have occurred in respect of a qualifying project, the Authority shall, in accordance with its cost recovery methodology–

- (a) not repay wholly or in part any payment that has been made by an applicant, qualifying bidder or preferred bidder in accordance with these Regulations, including any interest which may have been accrued on the whole or part of that payment;
- (b) repay to the developer wholly or in part the payment that has been made in accordance with regulation 6(1)(a), including any interest which may have been accrued on the whole or part of that payment; and
- (c) release to the developer or person approved by the Authority with whom the developer has made arrangements, wholly or in part the security that has been provided in accordance with regulation 6(1)(b), including any interest which may have been accrued where that security provided is a monetary deposit.

(3) Where one or more of the events in paragraphs (a), (k), (l), (m), (n), (o) and (p) of Schedule 6 are occurring or have occurred in respect of a qualifying project, the Authority shall, in accordance with its cost recovery methodology–

- (a) repay to an applicant, qualifying bidder, preferred bidder or successful bidder wholly or in part any payment that has been made by that applicant, qualifying bidder, preferred bidder or successful bidder in accordance with these Regulations, including any interest which may have been accrued on the whole or part of that payment;
- (b) not repay wholly or in part the payment that has been made in accordance with regulation 6(1)(a), including any interest which may have been accrued on the whole or part of that payment; and
- (c) determine that the security provided in accordance with regulation 6(1)(b) shall be forfeited wholly or in part, including any interest which may have been accrued where that security provided is a monetary deposit.