
STATUTORY INSTRUMENTS

2009 No. 1340

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

PART 15

MISCELLANEOUS

Failure to make payments or provide security

24.—(1) Where the developer fails to make the payment or provide the security in accordance with regulation 6, 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 7.

(2) Where the developer fails to make the payment or provide the security in accordance with regulation 6 within the further period specified in accordance with paragraph (1), the Authority may cancel that qualifying project from that tender exercise in accordance with regulation 18.

(3) Where either an applicant or a qualifying bidder fails to make any payment in accordance with these Regulations, the Authority may disqualify that applicant or qualifying bidder from that tender exercise in accordance with regulation 20 if that failure is not remedied within a period not exceeding ten days specified by the Authority by notice to that applicant or qualifying bidder.

Application for a decision by the Authority

25.—(1) An applicant, qualifying applicant 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 an applicant, qualifying applicant or qualifying bidder makes an application in accordance with paragraph (1), the Authority may charge that applicant, qualifying applicant or qualifying bidder a fee in accordance with the Authority's cost recovery methodology for any decision given in response to it.

Changes to bidder groups

26.—(1) Where a bidder group, which is an applicant or qualifying applicant, seeks to change the membership of that bidder group between the pre-qualification and qualification to tender stages of a tender exercise, the Authority shall permit that change provided that the new membership of that bidder group meets the pre-qualification selection criteria set out in the qualification documentation issued in accordance with regulation 9(2).

(2) Any change to the membership of a bidder group after a qualification to tender questionnaire has been submitted to the Authority shall be considered by the Authority on a case by case basis and will be subject to the Authority's discretion to determine whether or not to allow that change would be fair and equitable to all other qualifying bidders participating in the tender exercise in respect of that particular qualifying project.

(3) Where the Authority has permitted any change to the membership of bidder group in accordance with paragraph (1) or (2), it shall give notice to an applicant, qualifying applicant or qualifying bidder of the amount of any payment payable to the Authority as calculated in accordance with its cost recovery methodology in relation to its bidder group determination.

Changes to delivery of documents or actions

27.—(1) 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,

then paragraph (2) applies.

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

- (a) delivery or publication shall be made by a different time or date or in a different manner; or
- (b) the action shall be completed by a different time or date or in a different manner.

Disapplication of certain provisions

28.—(1) No application for an offshore transmission licence shall 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 shall be dispensed with insofar as they relate to an application for an offshore transmission licence.