

DETERMINATION PURSUANT TO REGULATION 71(3)(b) OF THE ELECTRICITY CAPACITY REGULATIONS 2014 (AS AMENDED) FOLLOWING AN APPEAL MADE TO THE AUTHORITY PURSUANT TO REGULATION 70(1)(a)

Introduction

1. This determination relates to the appeal made by Vattenfall Wind Power Ltd (Vattenfall) against the reconsidered decision made by the EMR Delivery Body (National Grid Electricity Transmission plc (“NGET”)) in respect of the following Capacity Market Unit (CMU) for the 2018 T-1 auction:
 - a) UPB-01
2. Pursuant to Regulation 71(3) of the Electricity Capacity Regulations 2014 (as amended) (the “Regulations”), where the Authority¹ receives an appeal notice that complies with Regulation 70, the Authority must review a reconsidered decision made by NGET.

Appeal Background

3. The appellant submitted an Application for Prequalification for the CMU in Paragraph 1 in respect of the 2018 T-1 Auction.
4. NGET then issued a Notification of Prequalification Decision dated 10 November 2017 (the “Prequalification Decision”). NGET Rejected the CMU on the following grounds:

Capacity Market Rule 3.12.4 states, each Application must be accompanied by a Certificate of Conduct. The Certificate of Conduct is defined in 1.2 as Exhibit C and must be signed by two directors. However, the Certificate of Conduct submitted for this Application was incorrectly titled "2017 Prequalification Certificate" rather than "2017 Certificate of Conduct".

¹ References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work.

Capacity Market Rule 3.4.3 states, each Applicant must: (a) specify in the Application: (i) the CMU to which the Application relates, a description of, the full postal address with postcode and the two letter prefix and six-figure Ordnance Survey grid reference numbers of, the Generating Unit(s). The location specified by the postcode provided in your Application does not correspond with the location specified by the OS Grid Reference.

5. The appellant submitted a request for reconsideration for the Prequalification Decision before the deadline of 20 November 2017.
6. NGET then issued a Notice of Reconsidered Decision on 1 December which rejected the dispute on the following grounds:

The Rejection reason is maintained. The location specified by the postcode provided in your Application does not correspond with the location specified by the OS Grid Reference.

As in the Capacity Market Rule 3.4.3 states, each Applicant must: (a) specify in the Application: (i) the CMU to which the Application relates, a description of, the full postal address with postcode and the two letter prefix and six-figure Ordnance Survey grid reference numbers of, the Generating Unit(s). The location specified by the postcode provided in your Application does not correspond with the location specified by the OS Grid Reference.

NB Exhibit C: Form of Certificate of Conduct, will be accepted.

7. The appellant then submitted an appeal notice to the Authority on 7 December 2017 under regulation 70 of the Regulations.

Vattenfall's Grounds for appeal

8. Vattenfall disputes the decision on the basis that NGET were incorrect to say that the location specified by the postcode did not correspond with the location specified by the OS Grid Reference.

The Legislative Framework

9. The Electricity Capacity Regulations 2014 were made by the Secretary of State under the provisions of section 27 of the Energy Act 2013. The Capacity Market Rules were made by the Secretary of State pursuant to powers set out in section 34 of the Energy Act 2013.
10. The Regulations set out the duties upon NGET when it determines eligibility. Regulation 22(a) specifies that each application for prequalification must be determined in accordance with the Capacity Market Rules.
11. Regulations 68 to 72 set out the process and powers in relation to dispute resolution and appeals.

Capacity Market Rules

12. *Rule 3.4.3(a) provides that: "Each Applicant must specify in the Application:*
 - (i) the CMU to which the Application relates (including a description of, the full postal address with postcode and the two letter prefix and six-figure Ordnance Survey grid reference numbers of, the Generating Unit(s) and for Proven DSR CMUs, their CMU Component(s), or of the Electricity Interconnector);"*

Our Findings

13. Vattenfall explained in the Tier 1 dispute that the site was in a remote location and the postcode covered a large area. They also noted that the postcode was new and that the databases NGET used to check the site may not have been updated.
14. Vattenfall provided a utility bill to confirm the postcode provided in the Application was correct, and using freely available tools it is possible to confirm that these details match the OS Grid Reference, which was also provided in their Application.
15. We have concluded that Vattenfall provided a sufficient explanation at the Tier 1 dispute

stage to explain that the postcode and OS Grid Reference provided in their Application were correct.

16. Therefore, NGET was incorrect to assert that the OS Grid Reference and postcode for this site do not match.

Conclusion

17. NGET did not reach the correct reconsidered decision to reject Vattenfall for the 2018 T-1 Auction on the basis that Vattenfall has sufficiently demonstrated that it met the requirements of Rule 3.4.3(a)

Determination

18. For the reasons set out in this determination the Authority hereby determines pursuant to Regulation 71(3) that NGET's reconsidered decision to reject the appellant for Prequalification be overturned in respect UPB-01. We direct the Delivery Body to register the CMU UPB-01 on the capacity market register as a Conditionally Prequalified CMU for the 2018 T-1 Auction.



Julian Roberts

For and on behalf of the Gas and Electricity Markets Authority

12 January 2018