
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 335

**Electricity Order 1992 (Amendment)
Regulations (Northern Ireland) 2005**

PART II

AMENDMENTS TO THE 1992 ORDER

Conditions of licences

5. For Article 11A there shall be substituted the following Articles—

“Compliance with Community obligations

11A.—(1) Without prejudice to the generality of Article 11(1), a licence shall include such conditions as appear to the grantor to be requisite or expedient to ensure any activity authorised by it is carried out in compliance with the relevant requirements and prohibitions laid down by the Directive.

(2) The conditions included in a licence in accordance with paragraph (1) shall, in particular—

- (a) require the licence holder to give to the Authority, in each year it is required by the Authority to do so, a report containing such information as the Authority may require in relation to—
 - (i) the present and likely future balance between supply of and demand for electricity;
 - (ii) additional generating capacity under construction or being planned;
 - (iii) the quality and level of maintenance of the generating plant and equipment and of the transmission and supply systems;
 - (iv) measures taken and planned to ensure that peak demand for electricity is met and to deal with shortfalls in electricity supply;and to give a copy of that report to the Department;
- (b) require the licence holder to keep accounts in accordance with the requirements of Article 19 of the Directive and to have them audited in accordance with those requirements and shall confer on the Department and the Authority a right of access to his accounts for the purpose of ensuring compliance with those requirements; and
- (c) ensure that any person who is an eligible customer for the purposes of Article 21 of the Directive can exercise his freedom to purchase electricity from the supplier of his choice within the meaning of that Article.

(3) The conditions referred to in paragraph (1) shall in particular in the case of a transmission licence ensure that the holder does not disclose information contrary to Article

12 or 16 of the Directive and require the holder, as appropriate having regard to the activities authorised by the licence—

- (a) to carry out the tasks laid down for him by Articles 9, 11(1) or 14(1) and (7) of the Directive;
- (b) where he carries out the tasks laid down by Article 11(1) of the Directive, to do so in accordance with such criteria as may be determined and published by the Authority for the purposes of paragraph (2) of that Article;
- (c) where he carries out the tasks laid down by Article 14(1) of the Directive, to act in accordance with paragraph (2) of that Article and to provide the information required by paragraph (3) of that Article;
- (d) in relation to any task referred to in Article 11(3) to (5) or 14(4) of the Directive, to follow such rules for priority as may be specified in the conditions for the purposes of those provisions;
- (e) to comply with the requirements of Article 11(6) or 14(5) of the Directive in procuring the energy used in the carrying out of his functions;
- (f) where he balances electricity inputs to and offtakes from any transmission system used under the licence, to adopt and follow rules which comply with the relevant requirements of Article 11(7) or 14(6) of the Directive;
- (g) to comply with the requirements for system access laid down by Article 20 of the Directive.

(4) Subject to paragraph (5), the conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a transmission licence granted to a person forming part of a vertically integrated undertaking (within the meaning of the Directive), as appropriate having regard to the activities authorised by the licence—

- (a) require that person to comply with the requirements for independence in terms of his legal form, organisation and decision making laid down by Article 10(1) or 15(1) of the Directive; and
- (b) require that person to comply with the requirements for independence in terms of his management and decision making rights laid down by Articles 10(2) or 15(2) of the Directive.

(5) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a transmission licence granted to a person forming part of a vertically integrated undertaking (within the meaning of the Directive) who carries on the combination of activities to which Article 17 of the Directive applies, as appropriate having regard to the activities authorised by the licence, require that person to—

- (a) comply with the requirements laid down by that provision for independence in terms of his legal form, organisation and decision-making in relation to those activities; and
- (b) meet the requirements of points (a) to (d) of that Article.

(6) The conditions referred to in paragraph (1) shall in particular in the case of a licence under Article 10(1)(b) or (c) or a licence under Article 10(2) require that any supply of electricity by the licence holder to a household customer, or (as the case may be) any transmission by a licence holder in connection with such a supply, meets specified quality standards.

(7) The conditions referred to in paragraph (1) shall in particular in the case of a licence under Article 10(1)(c) or a licence under Article 10(2) granted after 1st July 2007—

- (a) require that any supply of electricity by the licence holder to a household customer is given at reasonable, easily and clearly comparable and transparent prices;
 - (b) require the introduction and maintenance of safeguards to help any consumers referred to in Article 12(3) of the Energy (Northern Ireland) Order 2003 in particular to avoid disconnection from an electricity supply.
- (8) The conditions referred to in paragraph (1) shall in particular in the case of a licence under Article 10(1)(c) or a licence under Article 10(2)—
- (a) ensure that consumers of electricity have access to the information required by Article 3(6) of the Directive;
 - (b) ensure that household customers are not charged for changing supplier and are able to use procedures which comply with item (f) of Annex A to the Directive; and
 - (c) require that information provided to consumers of electricity (including information about the contractual terms and conditions offered to such consumers) by the holder of such a licence complies with the requirements of Article 3(5) of the Directive.

Provision of additional capacity or energy efficiency measures

11B.—(1) Where it appears to the Department, on the basis of a report given in pursuance of a condition included in a licence under Article 11A(2)(a) or otherwise, that there is insufficient capacity existing, under construction or planned to meet the projected demand for electricity at any time in the future, it may itself invite tenders for, or may direct the Authority to invite tenders for—

- (a) such further generating capacity; or
- (b) the provision of such energy efficiency or demand-side management measures (within the meaning of Article 7 of the Directive),

as, in its opinion, will meet any such projected shortfall in supply.

(2) Where the Department has invited tenders under paragraph (1) it may enter into such arrangements as it considers necessary or expedient to ensure that any capacity or measures tendered for are used to meet the projected shortfall in supply.

(3) Where the Authority has invited tenders in pursuance of a direction under paragraph (1) in relation to any generating capacity or energy efficiency or demand-side management measures, the Department may by further direction require it to enter into such arrangements as may be specified therein to ensure that the capacity or measures tendered for are provided and used to meet the projected shortfall in supply.

(4) A direction under paragraph (3) may include in particular provision for ensuring adequate finance for the provision and use of any capacity or measures to which it relates.

(5) Where the Department invites tenders under paragraph (1), or the Authority invited tenders in pursuance of a direction under that paragraph, each shall do so in accordance with such procedures as may be specified by the Department and which comply with the requirements of Article 7 of the Directive and shall select the successful tenderer on the basis of criteria determined and published by the Department in accordance with and for the purposes of that Article.”.