
STATUTORY INSTRUMENTS

202X No. XXXX

ELECTRICITY

**The Electricity (Criteria for Relevant Electricity Projects)
(Transmission) Regulations 202X**

Made - - - - *******
Laid before Parliament *******
Coming into force *******

The Secretary of State makes the following regulations in exercise of the powers conferred by sections 6BA(1)(b) to (5) and 106(1) and (2) of the Electricity Act 1989(a).

In accordance with section 6BA(6) of that Act, the Secretary of State has consulted the Authority and such licence holders and other persons as the Secretary of State considers appropriate.

Citation and Commencement

1. —(1) These Regulations may be cited as the Electricity (Criteria for Relevant Electricity Projects) (Transmission) Regulations 202X and comes into force on [insert date].
(2) These Regulations extend to England and Wales and Scotland.

Interpretation

2. In these Regulations-

“the Act” means the Electricity Act 1989;

“early-model tender exercise” means a tender exercise, which is (or is proposed to be) undertaken prior to detailed design of the electricity project to which a tender exercise relates and where applicable prior to any material consents and property rights for assets to be constructed and maintained having been secured;

“electricity project” means the arrangement, construction, commissioning, and/or procuring of an electricity solution;

“electricity solution” means an asset, activity, or undertaking [relating to a transmission system];

“late-model tender exercise” means a tender exercise, which is (or is proposed to be) undertaken after the detailed design of the electricity project to which a tender exercise

(a) 1989 c. 29.

relates and where applicable after material consents and property rights for assets to be constructed and maintained have been secured;

Criteria for relevant electricity projects

3.—(1) Subject to paragraphs (2) and (3), a relevant electricity project (other than an electricity project which is a “qualifying project” as defined in regulation 3 of the Electricity Competitive Tenders for Offshore Transmission Licences) Regulations 2015^(a)) must meet each of the criteria in Regulations 4 to 8.

(2) The criteria in regulations 6(3) and 7 apply only to late-model tender exercises.

(3) The criteria in regulations 6(2) and 8 apply only to early-model tender exercises.

Network need criterion

4.—(1) An electricity solution must, with reasonable certainty, be capable of addressing a network need.

(2) for the purposes of this regulation, “network need” means a constraint or requirement of the transmission system.

Novelty criterion

5. An electricity solution which is (or is proposed to be) delivered pursuant to an electricity project must be new.

Separability criterion

6.—(1) An electricity solution which is (or is proposed to be) delivered pursuant to an electricity project as a result of a tender exercise must be capable of being clearly identifiable and distinguishable from any other electricity solution which is part of a transmission system.

(2) In relation to an early-model tender exercise, the ownership and control of an electricity solution (including relevant consents and property rights) which is (or is proposed to be) delivered pursuant to an electricity project as a result of a tender exercise must be capable of being identifiable and distinguishable from ownership of any other electricity solution which will or may form part of a transmission system and which is not delivered as a result of a tender exercise.

(3) In relation to a late-model tender exercise, the ownership and control of an electricity solution (including relevant consents and property rights) which is (or is proposed to be) delivered pursuant to an electricity project as a result of a tender exercise must be capable of being identifiable and distinguishable from ownership of any other electricity solution which is part of a transmission system.

(4) In this regulation, “ownership and control” means [insert description by reference to percentage of shares held]

High value criterion

7.—(1) In relation to a late-model tender exercise, an electricity solution must have an estimated capital expenditure of equal to or greater than £100,000,000.

(2) In this regulation, “estimated capital expenditure” means the estimated sum of:

- (a) [purchasing its component parts;
- (b) its construction;
- (c) the land on which it is situated;
- (d) compliance with the conditions attached to consents and property rights for its construction and maintenance;

(a) 1989 c. 29.

- (e) the third-party works upon which its operation depends;
- (f) project management;
- (g) itemised risk and contingency allowances; and
- (h) the procurement of itemised goods, services and works.
- (i) other cost elements which are reasonably integral or relevant to the arrangement, construction, commissioning, procurement or operation of the solution.]

Consumer benefit criterion

8. In relation to an early-model tender exercise, the anticipated benefit to consumers of a network need being addressed by an electricity solution being delivered pursuant to an electricity project as a result of a tender exercise must be greater than the anticipated benefit to consumers of a network need being addressed by an electricity project that is not delivered as a result of a tender exercise.

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Order)

Section 6C of the Electricity Act 1989 gives the Gas and Electricity Markets Authority (“the Authority”) the power to make regulations enabling competitive tenders for “relevant electricity projects”.

An electricity project must meet specified criteria to be determined to be a relevant electricity project. These Regulations set out the criteria which the Authority must apply to electricity projects to determine whether they are relevant electricity projects.

Different criteria apply to different types of projects. In the case of competitive tenders where the design, construction and delivery of a project is (or is to be) to be tendered for, the applicable criteria are network need (regulation 4), novelty (regulation 5), separability (regulation 6) and consumer benefit (regulation 8). In the case of competitive tenders which take place after the detailed design, surveying and consenting phases of a project’s development, where the construction and delivery of a project is tendered for, the applicable criteria are network need (regulation 4), novelty (regulation 5), separability (regulation 6) and high value (regulation 7).

An impact assessment completed for the Energy Bill, introduced to Parliament on 6th July 2022, contains an assessment of the impacts that the onshore competition regime will have on society, including costs and benefits to businesses and consumers. The impact assessment is available at the following website <https://bills.parliament.uk/bills/3311/publications>.