



Disputes

05/08/2020

1.

Every interested party can appeal against the final decisions taken by Elia pursuant to section 6.1.1.1.1.4 (final Nominal Reference Power) and 7.1.1 (Prequalification results) of the Prequalification Chapter and 3.5 (Auction result) of the Auction Chapter and 4.5 (approval or rejection with respect to the Secondary Market Transaction) of the Secondary Market Chapter.

This right to dispute *does not prejudice the CREG's powers according to art. XXX of the law, the foreseen Royal Decree and any other future stipulation on the matter of the control of the CRM.*

The final decision by Elia pursuant to section 6.1.1.1.1.4 (final Nominal Reference Power) and 7.1.1 (Prequalification results) can only be disputed by the CRM Candidate concerned by the final decision. The final decision by Elia pursuant to section 3.5 (Auction result) can only be disputed by a Prequalified CRM candidate.

The final decision by Elia pursuant to section 4.5 (approval or rejection with respect to the Secondary Market transaction) can only be disputed by the Buyer of an obligation or the Seller of the obligation. To be valid, the appeal must be filed with the CREG by way of registered mail within 5 Working Days after notification of the decision.

The CREG shall rule within 10 Working Days after the filing of the appeal. In the absence of a decision of the CREG within this period, the appealed decision is deemed confirmed. This period may be extended by [x Working Days] if the CREG requests additional information.

In case the CREG invalidates the decision, Elia will take a new decision and will thereby be bound by the CREG's decision.

2.

In case the CRM Candidate does not sign or delays the signature of the Capacity Contract, ELIA/CONTRACTUAL COUNTERPARTY will notify the absence of (timely) signature to the CREG, as per the Pre delivery Chapter, Section 1.2. The CREG will judge whether the absence of the (timely) signature of the Capacity Contract is justified or not. If the CREG considers the absence of the (timely) signature not justified, and without prejudice to the applicable Financial Penalty mentioned in Section ... of the Chapter on the Pre-delivery Obligations and the CRM Candidate's liability for the damage suffered by Elia as a result thereof, CRM Candidate will make all efforts to sign without delay the Capacity Contract.

3.

If, for the pre-delivery period, the final pre-delivery control results, which lead to the application of the Financial Penalty in case of positive Missing Volume, as notified by Elia to the Capacity Provider are contested by the Capacity Provider, in accordance with section x of the Rules on the pre-delivery obligations, and if the application of the Financial Penalty is disputed, the dispute will be submitted by the most diligent party to the competent Court (of enterprises) of Brussels/(CREG). Such dispute must be filed at the latest 5 Working Days after the notification of the final pre-delivery control results.

If, for the delivery period, the parameters or calculation leading to the Unavailability Penalty determined by Elia and notified to the Capacity Provider by the Contractual Counterparty, is contested by the Capacity Provider, in accordance with section 5.3 of the Chapter on the availability obligations and penalties, and if the Capacity Provider and the Contractual Counterparty have not reached an agreement within the deadline foreseen in section ... of the

Chapter on the availability obligation and penalties (30 + 60 Working Days after the day of notification of the Unavailability Penalty), the dispute will be submitted by the most diligent party to the competent Court (of enterprises) of Brussels(/CREG). Such dispute must be filed at the latest on the last day of the aforementioned deadline to reach the agreement.

4.

The (Prequalified) CRM Candidate or the Capacity Provider shall, under the form of the reporting as provided in the relevant process in the Functioning Rules, ensure that the data included in his application form and his Prequalification File(s) remain complete and accurate over time, , i.e. the prequalification, the auction and both during the whole pre-delivery period and delivery period. In case Elia observes such incompleteness or inaccuracy affects the bid in the auction process (cf. section 2.3.1.3. Auction chapter), such incompleteness or inaccuracy can be sanctioned by Elia with a total or partial exclusion of the bid from the clearing in function of the degree of incompleteness or inaccuracy. In case Elia observes such incompleteness or inaccuracy, it will apply a financial penalty which corresponds to the Unavailability Penalty applicable for any Unannounced Missing Capacity on the CMU(s) concerned, as provided for under section 5.2 of the Functional Rules on the Availability Obligations and Penalties, taking into account the Missing Capacity of the CMU(s) concerned and the penalty factor equal to [figure between 0 and 1].

5.

In addition to the payment of the applicable Financial Penalty or Unavailability Penalty, the Capacity Contract can be suspended by the Contractual Counterparty in consultation with Elia when the Capacity Provider remains in default after the application of the Financial Penalty or Unavailability Penalty, until it has been established by Elia that the Capacity of the CMU(s) complies with the Prequalification Conditions.

In case Elia establishes that the data included in the Capacity Provider's application form and Prequalification File(s) are repeatedly incomplete or inaccurate, it can ask the Contractual Counterparty to terminate the Capacity Contract, provided a new Capacity Contract has been signed covering the same capacity as the Missing Capacity from defaulting Capacity Provider or to terminate the Contract at the end of the ongoing delivery year and Elia will take this into account for the next Y-1 auction volume.

The suspension and termination according to this section are under reservation of all rights of Elia for damages it incurred as a result of the (Prequalified) CRM Candidate or the Capacity Provider

Disputes with respect to the application of the Unavailability Penalty to the incompleteness or inaccuracy of the information and with respect to the suspension or termination of the Capacity Contract, will be submitted to the competent Court (of enterprises) of Brussels(/CREG).

6.

The (Prequalified) CRM Candidate or the Capacity Provider shall also ensure that the Derating Factor complies with the methodology referred to in article 7undecies §2 of the Electricity Act.

The Capacity Contract will be suspended until it has been established by Elia that the Derating Factor complies with the methodology referred to in article 7undecies §2 of the Electricity Act.

In case Elia establishes that the Derating Factor chosen by the (Prequalified) CRM Candidate or the Capacity Provider would repeatedly be non-compliant with said methodology, it , it can ask the Contractual Counterparty to terminate the Capacity Contract, under reservation of all rights

for damages incurred by Elia as a result of the (Prequalified) CRM Candidate or the Capacity Provider.

Disputes with respect to the suspension or termination of the Capacity Contract for reasons of non-compliance of the Derating Factor will be submitted to the competent Court (of enterprises) of Brussels(/CREG).