

The Authority's decision and analysis on the application for certification as unbundled by Mersey Reactive Power Limited

This document explains the Authority's¹ final decision on compliance by Mersey Reactive Power Limited (the **Applicant**) with the requirements of the Electricity Act 1989 (the **Electricity Act**) for transmission system operators (**TSOs**) to unbundle from generation, production and supply undertakings.

1. Certification Decision

- 1.1. The Authority concludes that the Applicant complies with the requirements of the full ownership unbundling model as set out in the Electricity Act and should therefore be certified as ownership unbundled.

2. Legislation

- 2.1. The ownership unbundling requirements are set out in sections 10A to 10O of the Electricity Act.² Section 10F of the Act states that "*the ownership unbundling requirement is met by an applicant for certification if in relation to each of the five tests ... – (a) the Authority thinks that it is passed, or (b) it is treated as passed by virtue of subsection (7), (9) or (9A)*". In accordance with subsection 10F(9A), where one or more of the tests is not passed, we may decide to treat such tests as passed if the Authority is satisfied that there is no risk of discrimination and it would be appropriate and in line with our principal objective and general duties to do so.³

3. The Applicant

- 3.1. Mersey Reactive Power Limited is a private limited company registered in England and Wales.
- 3.2. The Applicant is expected to become the licensed transmission owner (TO) for a shunt reactor transmission project in early 2022.
- 3.3. The Applicant was selected by National Grid Electricity System Operator (the **NGESO**) as the preferred bidder from the Mersey Reactive Pathfinder tender round to own and operate a shunt reactor on the national electricity transmission system. The Applicant is the special purpose vehicle established by the preferred bidder Peak Gen Top Co Limited to own and operate the shunt reactor transmission project.
- 3.4. The Applicant's shunt reactor transmission project will be located on a one hectare compound near Chester, England. The connection point for the Applicant's shunt reactor

¹ The Gas and Electricity Markets Authority (the **Authority**). In this document, the terms "**Authority**", "**Ofgem**", "**we**", "**our**" and "**us**" are used interchangeably.

² The amending regulations, the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019, as amended by The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2020, came into force on the IP completion day (as provided by Schedule 5, paragraph 1 of the European Union (Withdrawal Agreement) Act 2020).

³ https://www.ofgem.gov.uk/sites/default/files/docs/2021/03/certification_open_letter_-_updated_guidance_-_2021_0.pdf

project to National Grid Electricity Transmission's ('NGET') transmission network is at the Frodsham substation, Chester, England.

- 3.5. Upon licence grant, the Applicant will have the sole business focus of operating a standalone 400kV shunt reactor at Frodsham to absorb reactive power on the transmission system in the Mersey area.⁴ The Applicant's participation in the transmission of electricity will be limited to the narrow, specific and time-limited purpose of delivering the reactive power service to the NGESO under a commercial agreement. It will operate the shunt reactor on the instruction of the NGESO. The Applicant will not have any other user or generation connected to its site, nor will it have any user or generation connecting to the shunt reactor transmission project site in future. In addition, the Applicant will not participate in planning and investment in network assets beyond that needed to maintain and operate the standalone shunt reactor located at the Frodsham site.
- 3.6. The Applicant does not have any subsidiaries or shares in any other undertaking or own any other transmission system in GB or in a country outside of the UK.
- 3.7. One of the ultimate controllers of the Applicant have small-scale generation interests at 12 sites in the UK with a total capacity of 192.5MW. Each of these generation interests are under 50 MW and do not require a generation licence in GB.

4. Summary of Ofgem analysis

- 4.1. *First test: The applicant (a) does not control a relevant producer or supplier; (b) does not have a majority shareholding in a relevant producer or supplier; and (c) will not, on or after the relevant date, exercise shareholder rights in relation to a relevant producer or supplier.*
- 4.2. The Applicant has confirmed that it does not hold shares in, nor control, any other company. Furthermore, the Applicant has provided a signed undertaking that, during the term of its electricity transmission licence, it will not exercise, or cause to be exercised on its behalf, any shareholder rights in relation to a relevant producer or supplier that it might acquire during the currency of the undertaking. Therefore, the Applicant meets the requirements of the first test.
- 4.3. *Second Test: Where the applicant is a company, partnership or other business, none of its senior officers has been, or may be, appointed by a person who (a) controls an electricity undertaking which is a relevant producer or supplier; or (b) has a majority shareholding in an electricity undertaking which is a relevant producer or supplier.*
- 4.4. The Applicant has provided details of the corporate structures of its controllers, the process for appointing directors, and the associated generation interests in the UK. We consider that the small-scale generation interests in the UK, that are wholly-owned by the controllers of the Applicant, are not relevant producers or suppliers within the meaning of the Electricity Act because they do not require a generation licence. We also consider that there are no risks that the Applicant discriminates in favour of the small-scale generation interests of its controllers. This is because the Applicant has no

⁴ Details can be found online at <https://www.ofgem.gov.uk/publications/decision-proceed-licence-grant-process-electricity-transmission-licence-mersey-reactive-power-limited-operation-shunt-reactor>

opportunity to do so given that the Applicant's narrow and specific transmission role is limited to the operation of the shunt reactor at the Frodsham site on the instruction the NGENSO. We are therefore satisfied that none of the Applicants' senior officers has been, or may be, appointed by a person who either controls, nor has a majority shareholding in, a relevant producer or supplier. Therefore, the Applicant meets the requirements of the second test.

- 4.5. *Third Test: Where the applicant is a company, partnership or other business, none of its senior officers is also a senior officer of an electricity undertaking which is a relevant producer or supplier.*
- 4.6. The information provided by the Applicant confirms that none of its directors is also a senior officer of an electricity undertaking which is a relevant producer or supplier within the meaning of the Electricity Act. The Applicant therefore meets the requirement of the third test.
- 4.7. *Fourth and Fifth Tests: The applicant is not controlled by a person who (a) controls a relevant producer or supplier; or (b) has a majority shareholding in a relevant producer or supplier.*
- 4.8. The Applicant is controlled by Dione Holdings Limited (**DHL**) and Corrado Nominees Limited (**CNL**). The Applicant has provided detail on the corporate structures of its controllers. We note that CNL does not have generation interests in the UK or in countries outside of the UK. DHL has small-scale generation interests in the UK but does not have any generation interests in countries outside of the UK. We consider that DHL's small-scale generation interests in the UK are not relevant producers or suppliers within the meaning of the Electricity Act because they do not require a generation licence. We are therefore satisfied that neither of the controllers of the Applicant either controls, nor has a majority shareholding in, a relevant producer or supplier. Therefore, the Applicant meets the requirements of the fourth and fifth tests.

5. Controller from a country outside the United Kingdom

- 5.1. DHL is registered in the British Virgin Islands and CNL is registered in the UK. As the British Virgin Islands are outside the United Kingdom for the purposes of this certification assessment and section 100 of the Electricity Act, we notified the Secretary of State on 17 December 2021 in accordance with section 10B(3) of the Electricity Act. On 27 January 2022, the Secretary of State concluded that certifying the Applicant would not put the security of electricity supplies in the United Kingdom at risk.