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Date: 30 May 2022

Dear colleague,

Request to disapply Schedules A & C of Special Condition AA of the Electricity Generation Licence held by West Burton B Limited

On 15 February 2022, West Burton B Limited (WBB) formally requested that Ofgem¹ disapply Schedules A & C of Special Condition AA: Liquidity in the Wholesale Electricity Market (“the Secure and Promote licence condition” or “licence condition”) from the Electricity Generation Licence held by WBB.

The 1300 MW West Burton B CCGT and 49 MW of on-site battery storage was part of the EDF group before the plant was sold by EDF in August 2021 to EIG. It is now owned and operated by WBB as a standalone business. As a result of the sale, WBB’s view is that it should no longer be subject to the licence condition.

This letter sets out our assessment of WBB’s request against our assessment criteria for applying the licence condition as outlined in our 2014 Guidance on the condition² (“the Guidance”). To give effect to the changes, pursuant to Paragraph AA.1 of the Special Condition, today we have published a Direction addressing the Electricity Generation Licensee in WBB.

¹ References to the “Authority”, “Ofgem”, “we”, and “our” are used interchangeable 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. This decision is made by or on behalf of GEMA.

² [Liquidity in the Wholesale Electricity Market \(Special Condition AA of the electricity generation licence\): Guidance](#)

Background

The Secure and Promote licence condition first came into effect on 31 March 2014. On 14 November 2019, we published our decision to suspend Schedule B of the licence condition ('the Market Making Obligation'), which took effect on 18 November 2019.³ This decision followed a series of market changes that impacted the effectiveness of the Market Making Obligation in meeting the objectives of the Secure and Promote policy and risked the remaining parties (two as of 30 October 2019)⁴ experiencing disproportionate and potentially unfair costs. As part of our 14 November 2019 decision, we did not suspend Schedule A ('Supplier Market Access Rules') or Schedule C ('Reporting Requirements').

Assessment criteria

Paragraphs 1.10 and 1.11 of the Guidance contains the non-exhaustive factors that we will use in combination as the basis of any decision on whether to remove or add Schedules A, B or C of the licence condition to the generation licences of any corporate group. These factors are:

- i. **Changes to generation market share:** any significant and sustained changes in the generation market share or generation output of a corporate group, considering its relative market share and overall size.
- ii. **Disproportionate risks or costs:** an indication that an existing Secure and Promote licensee will face disproportionate costs and risks in continuing to meet the licence condition, or that a potential new Secure and Promote licensee could meet the costs and risks proportionately.
- iii. **Success of the licence condition:** the sustained successful achievement of the objectives of this licence condition.

Supporting evidence and our assessment

WBB's argument is that its share of electricity generation capacity installed in Great Britain being significantly less than the EDF group's was⁵, when the licence condition was initially imposed on EDF Energy (West Burton B) Limited.

³ [Decision to suspend the Secure and Promote Market Making Obligation with effect on 18 November 2019](#)

⁴ SSE and EDF were the remaining parties

⁵ EDF's market share in 2021 was 21.94%, see [Wholesale market indicators \(ofgem.gov.uk\)](#)

WBB's significant and sustained reduction in generation market share as a standalone asset places them at approximately 2% share of the generation market⁶. Therefore we consider it would no longer be appropriate for WBB to face the Schedules A and C of the licence condition.

Our decision

For the reasons outlined in this letter and pursuant to Paragraph AA.1 of the Special Condition, we consent to WBB's request to disapply Special Condition AA from its Electricity Generation Licence. To give effect to this decision, we have today published a Direction pursuant to Special Condition AA alongside this letter.

Yours sincerely

Robin Dunne
Senior Policy Manager
Domestic Market Arrangements

⁶ The capacity of West Burton B was compared to [Energy Trends March 2022 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)