

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, and following the transfer of the shares as set out in paragraph 3.2, will continue to comply 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)*".

3. The Applicant

- 3.1. The Applicant is a private limited company registered in England and Wales. It is the licensed transmission owner of a standalone 400kV shunt reactor on a compound at Frodsham near Chester, the purpose of which is to absorb reactive power in the Mersey area. The Authority granted the Applicant certification under the ownership unbundling requirements under s10D of the Electricity Act on 7 February 2022 (the Authority Certification).
- 3.2. Downing Transmission Pathfinder Hold Co Limited (**Downing**) has agreed in a conditional sale and purchase arrangement with the shareholders of the Applicant dated 16 June 2023 to purchase 100% of the entire equity interest in the Applicant. Downing is itself controlled by DORE Hold Co Limited (**DORE**) which is in turn controlled by Downing Renewables & Infrastructure Trust PLC (**Downing Renewables**).
- 3.3. The Applicant is making this application to ensure the continued application of the Authority Certification following completion of Downing's share purchase.
- 3.4. 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.

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).

- 3.5. This document provides a summary of the analysis of the information submitted by the Applicant to the Authority for the purpose of assessing whether the basis of certification continues to apply.

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. The Applicant therefore 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 prospective controllers, the process for appointing directors, and the associated generation interests in the UK. We are therefore satisfied that none of the Applicants' senior officers have been, or may be, appointed by a person who either controls, or, following the transfer of shares, will have a majority shareholding in a relevant producer or supplier. The Applicant therefore 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, or will also be 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. Downing will be purchasing the Applicant's shares. Downing is controlled by DORE which is in turn controlled by Downing Renewables, the ultimate controller. The Applicant has provided detail on the corporate structures of its controllers. DORE has small-scale generation interests in the UK (i.e. Chalkhill Life Holdings Limited) but these are not relevant producers or suppliers within the meaning of the Electricity Act because the generation interests do not require a generation licence. DORE also has small-scale generation interests in Sweden (i.e. Downing Wind Sweden HoldCo AB and Downing Hydro Sweden HoldCo AB). If these small scale generation interests were in the UK, they would fall within the Class A: Small generators exemption of The Electricity (Class

Exemptions from the Requirement for a Licence) Order 2001. Downing Renewables does not have any other small scale interests other than those already specified. We are satisfied that none of the controllers has a relationship with the Applicant which might lead the Applicant to discriminate in favour of any of the companies. Accordingly, none of the controlling companies is a relevant producers or supplier.

- 4.9. We are therefore satisfied that none of the controllers of the Applicant either controls, or has a majority shareholding in, a relevant producer or supplier. The Applicant therefore meets the requirements of the fourth and fifth tests.