

To: All interested stakeholders

Email: [ESOperformance@ofgem.gov.uk](mailto:ESOperformance@ofgem.gov.uk)

Date: 22 November 2023

Dear colleagues,

**Decision to reject the Electricity System Operator's proposed amendment to the Terms and Conditions related to Balancing in relation to frequency response services**

On 22 September 2023, we<sup>1</sup> received a proposal from the Electricity System Operator ("ESO") to make amendments to the terms and conditions related to balancing ("T&C") required by Article 18 of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing ("EBGL")<sup>2</sup>, as amended by the Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019.<sup>3</sup>

The proposal relates to an update to the 'New Response Services Service Terms' ("Service Terms") which forms part of the T&C for each of the dynamic Frequency Containment Reserve ("FCR") products: Dynamic Containment ("DC"); Dynamic Moderation ("DM"); and Dynamic Regulation ("DR").

This letter sets out our decision to reject that the update to the Service Terms forms part of the T&C required by Article 18 of EBGL and the next steps that should be taken.

**Background**

In accordance with Article 18 of the EBGL, the ESO was required to develop a proposal regarding the T&C for balancing service providers ("BSPs") and balance responsible parties

---

<sup>1</sup> The terms "we", "us", "our", "Ofgem" and "the Authority" are used interchangeably in this document and refer to the Gas and Electricity Markets Authority. Ofgem is the office of the Authority.

<sup>2</sup> Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (EBGL). EBGL came into force on 18 December 2018. Accessible at: <https://eur-lex.europa.eu/eli/req/2017/2195/oj>

<sup>3</sup> The UK Statutory Instrument amendment of the EBGL: [https://assets.publishing.service.gov.uk/media/5c17d6b440f0b60c8d601a2c/ENC\\_Markets\\_and\\_Trading\\_SI.pdf](https://assets.publishing.service.gov.uk/media/5c17d6b440f0b60c8d601a2c/ENC_Markets_and_Trading_SI.pdf)

("BRPs"). On 8 October 2019,<sup>4</sup> we published our decision to confirm, upon satisfaction of certain conditions, that the T&C proposed by the ESO are the T&C required by Article 18 of the EBGL Regulation. On 25 June 2020, all the necessary conditions were met, and the proposed T&C came into force in Great Britain ("GB").

The ESO has proposed changes to the T&C to reflect proposed service design changes to its dynamic FCR products. These products are opt-in services for BSPs to receive payment from the ESO for the provision of balancing capacity, and to deliver balancing energy, acting quickly to help maintain system frequency around the target value of 50Hz.

DC is a fast-acting, post-fault service designed to arrest frequency in large-loss, low-inertia scenarios, delivering energy proportional to the change in frequency within  $\pm 0.5\text{Hz}$  of the target value in the event of a sudden demand or generation loss. The DC low frequency ("DCL") product went live in October 2020, followed by the launch of the DC high frequency service ("DCH") in October 2021.

DM and DR are pre-fault services wherein providers make automatic adjustments in generation (or demand). DR provides a constant power response across the operational frequency range, reaching full delivery at a  $\pm 0.2\text{Hz}$  frequency deviation. DM responds between  $\pm 0.1\text{Hz}$  and  $\pm 0.2\text{Hz}$ , providing additional power to stabilise frequency as it moves closer to operational limits.<sup>5</sup>

The ESO first submitted its proposal to update the T&C for the three dynamic services on 22 September 2023, following a period of consultation on these changes which concluded on 31 July 2023.<sup>6</sup> The ESO's consultation highlighted the change to the proposed Service Terms, which describe the requirements for the provision of each of the services. To aid with the visibility of the T&C the ESO also provided an updated mapping document.

Below are key changes that the ESO proposed to update to various sections of the Service Terms:

- Amending text on baseline ramp rate control
- Reducing barriers for data derived metering
- Improving clarity on state of energy and availability
- Introducing connection indicators
- Updates to grace periods

---

<sup>4</sup> Our 8 October 2019 decision is accessible at: <https://www.ofgem.gov.uk/publications-and-updates/decision-transmission-system-operators-proposal-terms-and-conditions-related-balancing>

<sup>5</sup> More information on DC, DM and DR is accessible at: <https://www.nationalgrideso.com/industry-information/balancing-services/frequency-response-services/new-dynamic-services-dcdmdr>

<sup>6</sup> The ESOs consultation can be found at: <https://www.nationalgrideso.com/calendar/ebr-article-18-consultation-response-release-2#:~:text=The%20consultation%20is%20open%20from,14%20June%20to%2014%20July.>

- Updates to the re-arming/disarming process
- Introducing a de-registration clause

Since the original submission we have received multiple revisions due to various errors with references in the mapping document and minor changes to the Service Terms.

### **Review of the proposed amendments**

We have reviewed the Service Terms proposed by the ESO to be part of the T&C and submitted to us in line with the requirements of the EBGL Regulation, the wider objectives of the Electricity Regulation and our statutory duties and obligations. We have also engaged with the ESO to better understand its proposals in some areas, as well as the progress it has made towards the development of these services.

In making our decision, we have considered the responses to the consultation from industry stakeholders. The responses from industry were generally favourable of the changes that the ESO proposed. The ESO responded to questions raised by respondents appropriately and held additional bilateral engagement where this added further benefit. Where the industry made suggestions or disagreed with proposals, the ESO took these on board, making amendments or removing sections. However, even though we support the intent of the changes made to the Service Terms, these were not consistently reflected in the revisions we received. There were several errors in the mapping document throughout the various versions the ESO provided to us.

For clarity, we are generally supportive of the proposed changes to the design for the dynamic FCR products as a step forward in their development.

### **Decision rationale**

We have decided to reject the ESO's submission due to a lack of clarity over the T&C. Following the ESO's first submission, we questioned the referencing in the mapping document and received multiple amended submissions. We do not believe that any of these submissions provided a fully correct set of references to give an accurate view of the T&C and hence BSPs and BRPs would not be clear on their obligations under them.

It is in consumer interest that the T&Cs contain clear and accurate rules and requirements for BSPs and BRPs. We are unable to determine that the documents submitted to us provided this. Furthermore, it is necessary that the Authority is clear on what we are assessing and has sufficient time to conduct a review of documentation submitted.

## **Our decision**

Considering our rationale above, we hereby conclude that the ESO's proposal does not meet the requirements of Article 18 of the EBGL. We therefore reject the proposed amendments to the provisions that form part of the T&C.

## **Next steps**

For clarity, this means that the version of the Services Terms currently in place remains the existing version forming part of the T&C.

Given the industry support for the proposed changes, and the ESO's view that these changes bring clarity for participants and thus benefit for consumers, we expect that the ESO will resubmit at the earliest opportunity. This must be done following a thorough review of the documents making up their submission which includes the Service Terms and the Article 18 mapping document. On resubmission, we expect that these documents contain the changes the ESO have made following the industry consultation in July 2023, are referenced and formatted correctly, and mapped accurately to Article 18 of the EBGL.

If this resubmission is based on the same service design changes as the proposal submitted on 22 September 2023, then we do not foresee it being necessary for the ESO to re-consult.

If you have any queries regarding the information contained in this letter, please contact Luke McCartney ([luke.mccartney@ofgem.gov.uk](mailto:luke.mccartney@ofgem.gov.uk)) or Matthew Fovargue ([matthew.fovargue@ofgem.gov.uk](mailto:matthew.fovargue@ofgem.gov.uk)).

Yours faithfully,

## **James Hill**

Principal Policy Expert – Electricity System Operation

For and on behalf of the Gas and Electricity Markets Authority