

Company Secretary  
National Energy System Operator  
Faraday House, Gallows Hill  
Warwick  
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Email: NESORegulation@ofgem.gov.uk

Date: 05 March 2025

Dear colleagues,

**Direction to NESO to submit report on an ad hoc C9 consultation on 28 May 2025,  
amending the statutory requirement laid out in C9.23(c)**

On 20 February 2025, we<sup>1</sup> received a request from National Energy System Operator ("NESO") to change the timelines for submission of a report to the Authority as laid out in condition C9 of its Electricity System Operator Licence to align with an upcoming consultation on changes to balancing services under Article 18 of Commission Regulation (EU) 2017/2195<sup>2</sup> establishing a guideline on electricity balancing (the "EBGL"), enabling the Authority to publish decisions on both submissions alongside each other.

**Background**

NESO are required to establish statements and guidelines for the procurement of balancing services in accordance with Condition C9 of NESO's Electricity System Operator Licence (the "Licence").<sup>3</sup> The process by which NESO must maintain and update these statements is covered in Part H: Governance of Licence Condition C9.

Licence condition C9.23 sets out the processes that NESO must follow before revising the statements referred to in that condition (the "C9 Statements"), including a minimum 28

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<sup>1</sup> The Gas and Electricity Markets Authority. Ofgem is the Office of the Authority. The terms "Ofgem", "the Authority", "we" and "us" are used interchangeably in this letter.

<sup>2</sup> Incorporated into UK law and as amended by The Electricity and Gas (Markets and Trading) (Amendment) (EU Exit) Regulations 2019

<sup>3</sup> NESO's Electricity System Operator Licence can be found at: [https://www.ofgem.gov.uk/sites/default/files/2024-09/Complete\\_ESO\\_Licensing\\_Direction\\_and\\_Licence\\_Terms\\_and\\_Conditions\\_decision\\_e-signed\\_and\\_dated\\_FINAL.pdf](https://www.ofgem.gov.uk/sites/default/files/2024-09/Complete_ESO_Licensing_Direction_and_Licence_Terms_and_Conditions_decision_e-signed_and_dated_FINAL.pdf)

day consultation process with BSC parties.<sup>4</sup> As required by condition C9.23(c), NESO must submit a report setting out the revisions originally proposed in the consultation, the representations (if any) made to the licensee, and any changes to the revisions. This report must be sent to the Authority within 7 working days of the close of the consultation period, except where the Authority directs otherwise. The Authority then has 28 days from submission of this report in which to either veto proposed changes or direct the licensee to make changes sooner.

Article 6 of the EBGL requires any amendments to the terms and conditions relating to balancing (the "T&C"), as established under Article 18 to be submitted to the Authority within two months of the closure of the consultation. The Authority then has two months to publish a decision on these amendments. The timelines for an amendment to the T&C are covered under Article 6 and Article 10 of the EBGL.

NESO is proposing related changes to both the T&C and to the C9 Statements, therefore they have decided to run the consultations at the same time and in the same place.

### **NESO's request**

NESO have requested that we provide a Direction to extend the period between the closure of the consultation carried out under Licence condition C9.23(b) and the submission of the report to the Authority under Licence condition C9.23(c).

NESO have stated that they will be launching a consultation on proposed amendments to the T&C and C9 Statements on 7 March 2025. The timelines for these two separate processes are different, but we understand that the content of NESO's proposed consultations for both the T&Cs and C9 Statements are related and NESO therefore contends that it makes sense to align them in this instance.

Based on the timeline shared with us, both consultations are due to close on 7 April 2025. As covered in the Background section above, under normal circumstances the Authority would be publishing two responses at different times covering overlapping decisions based on the statutory deadlines covered in Article 6 and Condition C9. NESO's request to change the date on which the report required under Licence condition C9.23(c) is sent to us would enable Ofgem to decide on both proposals at the same time, reducing risk and aligning outcomes.

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<sup>4</sup> As required by Licence Condition C9.23(b)

## **Our decision**

Under Licence condition C9.23(d), we are directing NESO to submit their report to the Authority on 28 May 2025. This allows Ofgem to publish decisions on the proposed amendments to both the C9 Statements and the T&C at the same time.

This Direction covers the upcoming ad hoc Condition C9 consultation only, not the annual Condition C9 updates which closed 21 February 2025<sup>5</sup> or any other ad hoc change proposals that may arise.

We have made this decision for two reasons:

- 1) to allow respondents the chance to answer NESO's consultations for proposed amendments to the T&C and condition C9 Statements at the same time through one consultation proforma, which we consider will be a more efficient use of industry time and reduces the chance of industry parties missing related changes; and
- 2) to allow Ofgem to publish our positions on NESO's reports at the same time, which we consider reduces risk in the decision making process and provides the greatest clarity to NESO and to market participants around any rule changes.

We support NESO's commitment to running only one consultation for industry, reducing consultation fatigue and minimising confusion, and believe that the approach brings clarity to stakeholders and industry.

## **Next steps**

NESO have proposed the following timeline. We confirm this timeline as a requirement going forward.

- 7 March 2025 – Consultations for amendments to the T&C and Condition C9 Statements launches
- 7 April 2025 – Consultations for amendments to the T&C and Condition C9 Statements closes
- 25 April 2025 – NESO submit their report on proposed amendments to the T&C to Ofgem
- 28 May 2025 – NESO submit report on proposed Condition C9 Statement amendments to Ofgem
- no later than 25 June 2025 – Ofgem publish our position on proposed amendments to the T&C and Condition C9 Statements

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<sup>5</sup> All of NESO's C9 consultations can be found at: <https://www.neso.energy/industry-information/codes/balancing-settlement-code-bsc/c9-statements-and-consultations#C9-Consultations>

If you have any questions or feedback on the contents of this letter, please contact Matthew Fovargue (matthew.fovargue@ofgem.gov.uk) in the first instance.

Yours sincerely,

James Hill

**Principal Policy Expert – Electricity System Operation**

**For and on behalf of the Gas and Electricity Markets Authority**

## **Annex – Direction on Condition C9 in relation to NESO’s C9 statements**

For and on behalf of the Gas and Electricity Markets Authority

DIRECTION PURSUANT TO PARAGRAPH 9.23(d) OF LICENCE CONDITION C9 OF NATIONAL ENERGY SYSTEM OPERATOR’S ELECTRICITY SYSTEM OPERATOR LICENCE IN RELATION TO THE PROCUREMENT AND USE OF BALANCING SERVICES

Whereas:

1. National Energy System Operator (“NESO”) is the holder of an Electricity System Operator licence (the “Licence”) treated as granted under section 6(1ZA) of the Electricity Act 1989 (the “Act”). Condition C9 of the Licence covers the Procurement and use of Balancing Services.
2. Condition C9.23(d) of the Licence allows the Authority to direct that NESO does not need to comply with the requirement set out at condition C9.23(c) and to direct for other requirements to be followed instead.
3. For the reasons set out in the letter to which this Direction is attached, the Authority has decided to direct NESO to submit the report outlined in Licence condition C9.23(c) on 28 May 2025, amending the timeframe outlined in subparagraph C9.23(c).

Therefore:

In accordance with condition C9.23(d) of the Licence, the Authority hereby directs NESO to submit their report on their upcoming ad hoc consultation on 28 May 2025. This Direction and the letter to which it is attached constitutes notice of the reasons for the decision pursuant to section 49A of the Act.

**James Hill**

**Principal Policy Expert – Electricity System Operation**

**For and on behalf of the Gas and Electricity Markets Authority**

**5 March 2025**