

To: All interested stakeholders

Email: NESORegulation@ofgem.gov.uk

Date: 31 Mar 2026

Dear colleagues,

Decision to update the 6 January 2025 derogation from requirements of Article 6(9) of the Electricity Regulation and exemption from requirements of Article 32(3) of the Electricity Balancing Guideline, regarding Mandatory Frequency Response

1. On 27 February 2026, we¹ received a request from National Energy System Operator (“NESO”)² seeking an increase in the derogated volumes of Mandatory Frequency Response (“MFR”) from 120MW to 300MW. This volume was, and will continue to be, considered as an average spot value over a quarter.
2. NESO’s request related to [the decision we made on 6 January 2025](#) (our “2025 Decision”) which granted NESO a derogation from the requirements of Article 6(9) of Regulation (EU) 2019/943,³ as amended by The Electricity and Gas (Internal Markets and Network Codes) (Amendment etc.) (EU Exit) Regulations 2020 (the “ER”),⁴ and an exemption from the requirements of Article 32(3) of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing,⁵ as amended by The Electricity Network Codes and Guidelines (Markets and Trading)

¹ 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.

² National Energy System Operator (NESO) is Great Britain’s independent system operator and planner, holding an Electricity System Operator (ESO) licence and a Gas System Planner (GSP) licence. It is a government-owned public corporation and regulated by Ofgem.

³ Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity, available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0943>

⁴ The UK SI amendment of the Electricity Regulation is accessible at: <https://www.legislation.gov.uk/ukxi/2020/1006/contents/made>

⁵ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing. The EBGL came into force on 18 December 2017. Accessible at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017R2195>

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(Amendment) (EU Exit) Regulations 2019 (the “EBGL”).⁶ Based on our 2025 Decision, NESO has been allowed to procure up to 120 MW of MFR monthly for month-long contracts, with upward and downward balancing capacity bundled, until 31 December 2029.

3. This letter sets out our decision to approve NESO’s request for increasing the derogated volumes of MFR to 300MW. We treat this decision as an amendment to our 2025 Decision and the amendment is limited solely to the derogated volume of MFR. We leave the remainder of our 2025 Decision in force and refer the reader to its analysis for a complete understanding of the background and wider rationale for this decision.

Background

4. In our 2025 Decision, we granted NESO a derogation and an exemption from the retained legislative requirements after review of NESO’s submission.
5. In our 2025 Decision, we explained the background of MFR and the requirements of Article 6(9) of the ER and Article 32(3) of the EBGL and these remain unchanged. A summarised version of the retained legislative requirements is as follows:
 - Contracts for balancing capacity should be concluded no earlier than day-ahead;
 - Contracting periods shall be no longer than one day; and
 - Procurement of upward and downward capacity shall be carried out separately.
6. In February 2026, NESO requested to amend terms of the 2025 derogation, seeking an increase in the derogated volumes of MFR from 120MW to 300MW. NESO also updated us on its plan and progress to retire MFR by the end of 2029.
7. Having carefully considered the information and analysis provided by NESO, we have decided to agree with its request for increasing the derogated volumes of MFR to 300MW. Our rationale for this decision is set out in the following paragraphs.

⁶ The UK SI amendment of the EBGL Regulation is accessible at: [The Electricity Network Codes and Guidelines \(Markets and Trading\) \(Amendment\) \(EU Exit\) Regulations 2019](#)

Article 32(3) of the EBGL

8. As required by Article 32(3) of the EBGL, the proposal for exemption shall include:
 - specification of the time period during which the exemption would apply;
 - specification of the volume of balancing capacity for which the exemption would apply;
 - analysis of the impact of such an exemption on the participation of demand facility owners, third parties and owners of power generating facilities from renewable energy sources as well as owners of energy storage units;
 - justification for the exemption demonstrating that such an exemption would lead to higher economic efficiency.
9. NESO's proposal covered the required information and the only change from its previous proposal is the proposed volume of MFR, i.e. to increase from 120MW to 300MW of MFR (calculated as an average spot value over a quarter).
10. NESO explained that its previous request for derogation was based on a forecast conducted in 2024. After a derogation was granted through our 2025 Decision, there were unanticipated changes in supply and demand behaviour. As a result, NESO attempted to address the imbalance by increasing day-ahead procurement of its Dynamic Response services, including Dynamic Regulation ("DR") and Dynamic Moderation ("DM"), and by increasing procurement of MFR.
11. NESO stated that it could continue to increase procurement volumes of DR and DM, however, the costs of doing so would start to represent significant negative consumer value in comparison to increasing MFR volumes above the threshold set by the 2025 Decision.
12. Further, NESO has expressed that it would need to better understand the stability impacts of increased DR by refining regional frequency modelling and to better understand the daily changes of DM demand by improving short-term forecasting ability before volumes of MFR can be reduced.
13. Considering the possible additional cost to consumers and that the new measures would require more time to implement, NESO requested an increase in the derogated volumes of MFR. Based on requirements met by the current

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procurement volumes of Dynamic Response services, NESO estimated that up to 300MW of MFR could be required, covering cases of large imbalances.

14. In view of NESO's information above, we consider that the proposed increase in the derogated volumes of MFR is appropriate. In line with the evidence provided to us, we expect that volumes will typically be lower than 300MW in more typical operating circumstances, supporting our comfort with this increased limit.
15. As there were no significant changes to other parts of our 2025 Decision in NESO's proposal, please refer to that document for our rationale for other requirements under Article 32(3) of the EBGL.

Article 6(9) of the ER

16. According to Article 6(9) of the ER, the requirements for a derogation are as follows:
 - At least 40% of the standard balancing products and a minimum of 30% of all products used for balancing capacity should be compliant;
 - The bundled procurement of MFR upward and downward capacities would result in higher economic efficiency; and
 - Earlier than day-ahead procurement and contract periods longer than 24 hours are to ensure the security of supply or to improve economic efficiency.
17. For the first requirement, as mentioned in our 2025 Decision, NESO does not currently have access to any standard products, and so it need only ensure that at least 30% of its products are compliant. We expect that NESO achieves far beyond this minimum level (and reported evidence from NESO indicates that this has been the case since our 2025 Decision). We expect NESO to continue to further increase compliant procurement volumes.
18. As NESO did not suggest other changes, please refer to our 2025 Decision for our rationale for other requirements under Article 6(9) of the ER.

Current status of plan to retire MFR

19. In its latest submission, NESO stated a view that implementation of Real-time Dynamic Response (RTDR)⁷ is the fastest and most economic route to compliance with assimilated EU law whilst maintaining security of supply. NESO plans to launch RTDR in 2027 and expected that it would significantly reduce the need for MFR which eventually will only be used under exceptional circumstances. Between 2027 and 2029, NESO plans to proceed with the necessary code modifications to introduce compliant services for Balancing Mechanism Units as an additional option to meet the remaining need for MFR. NESO expects that the code changes would happen in 2029 and MFR would be fully retired by end of 2029.
20. We consider that the latest timeline provided further confidence that MFR volumes will be fully replaced by the end of 2029 (i.e. the expiry of derogation and exemption period). We expect NESO to effectively communicate and collaborate with industry stakeholders on progress and plan along the whole reform process.

Decision and next steps

21. Having assessed NESO's updated analysis, we agree with NESO's justifications for increasing the derogated volume of MFR. **Our decision therefore is to amend the derogated procurement of MFR from 120MW to 300MW**, with no change to the expiry of the derogation and exemption (i.e. 31 December 2029).
22. For avoidance of doubt, we consider that the increase in the derogated volume of MFR continue to meet other necessary requirements under Article 6(9) of the ER and Article 32(3) of the EBGL, including:
 - At least 40% of the standard balancing products and a minimum of 30% of all products used for balancing capacity should be compliant;
 - That a derogation and an exemption would lead to higher economic efficiency and ensure the security of supply; and

⁷ RTDR provides real-time instruction capability for Dynamic Response services (DC/DM/DR), similar to MFR which can be instructed within 2 minutes. More details can be found here: <https://www.neso.energy/industry-information/balancing-services/frequency-response-services/future-frequency-response>

- the impact of a derogation and an exemption would not have significant impact to renewable generators, demand side response assets and aggregators.
23. In its submission, NESO reiterated that MFR is its last resort tool for securing frequency response volumes, required for secure system operation, and noted that the full requested volume (300MW) would only be required in the event of large imbalances. Generally, we expect that NESO should see 300MW as a limit, not a target, and should aim to minimise non-compliant procurement subject to economic efficiency and system security.
24. Additionally, the introduction of RTDR is expected to significantly reduce reliance on MFR. We therefore consider the derogated volume to provide a sufficient buffer for NESO to manage exceptional circumstances, and we expect NESO to minimise both the frequency and volume of MFR utilisation as far as possible as RTDR becomes available to NESO.
25. We do not expect an extension of a derogation and an exemption is needed beyond 31 December 2029. However, in the case NESO does consider this necessary, we expect a full Cost Benefit Analysis for making MFR compliant to be conducted. This should specifically explore whether MFR should have separate procurement of balancing capacity, at no earlier than the day-ahead stage, for maximum single day contracted periods. Furthermore, we expect NESO to share evidence of progress on the reforms to bring frequency response procurement into full compliance.
26. If you have any questions about the contents of this letter, please contact Anthony Ser (NESORegulation@ofgem.gov.uk).

Yours sincerely,

James Hill

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