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for energy consumers

To: All interested stakeholders

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Date: 1 July 2026

Dear colleagues,

## **Decision to reject proposed Dynamic Response Services amendments to the Terms and Conditions related to Balancing**

On 1 May 2026, we<sup>1</sup> received a proposal from National Energy System Operator ("NESO") 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, as amended by the Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019 ("the EBGL").

The proposal sought to update the Response Services Service Terms and Response Service Procurement Rules (together forming the "Response Services Service Documentation" for NESO's Dynamic Response Services – Dynamic Containment ("DC"), Dynamic Moderation ("DM") and Dynamic Regulation ("DR")). In NESO's consultation, it proposed ten amendments in total, of which two were withdrawn for its final submission to us. In this letter we address two of the amendments proposed in the final submission: Introduction of a Tiered Performance Regime, and Unit Suspension.

This letter sets out our decision to reject these proposed amendments.

### **Background**

In accordance with Article 18 of the EBGL, the Transmission System Operator<sup>2</sup> was required to develop a proposal regarding the T&C for balancing service providers ("BSPs") and

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<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> Following its transition from National Grid Electricity System Operator to NESO on 1 October 2024, NESO is the body responsible for maintaining the T&C.

balance responsible parties ("BRPs").<sup>3</sup> 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"). NESO has submitted a proposal to amend the T&C.

The Dynamic Response Services are opt-in services for BSPs to receive payment from NESO for the provision of balancing capacity, and to deliver balancing energy, acting quickly to help maintain system frequency around the target value of 50.0Hz.

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  $\pm 0.5$ Hz of the target value in the event of a sudden demand or generation loss. The DC low frequency service went live in October 2020, followed by the launch of the DC high frequency service 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  $\pm 0.2$ Hz frequency deviation. DM responds between  $\pm 0.1$ Hz and  $\pm 0.2$ Hz, providing additional power to stabilise frequency as it moves closer to operational limits. DM and DR were launched in March 2022.

NESO have proposed to update the Service Documentation (which maps onto the T&C) for these Dynamic Response Services following a period of consultation that ran from 20 November 2025 to 19 December 2025.<sup>5</sup>

For clarity, this letter only considered the proposed amendments which the Authority has decided to reject. Using the numbering from NESO's submission, this is:

6. Introduction of a Tiered Performance Regime.
8. Unit Suspension

We have published separate decision letters alongside this decision to address the remaining proposed amendments.

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<sup>3</sup> See footnote 2 and our decision of 14 September 2018 <https://www.ofgem.gov.uk/decision/decision-assignment-transmission-system-operator-obligations-under-guideline-electricity-balancing-regulation-within-gb>

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

<sup>5</sup> Further information on NESO's consultation can be found at: [Dynamic Response Consultation Document.pdf](#)

## Rationale for our decision

We have reviewed NESO's submission against the requirements of the EBGL, the wider objectives of the Electricity Regulation<sup>6</sup> and our statutory duties and obligations. We have also engaged with NESO to better understand the rationale for the proposal.

In making our decision, we have considered responses to the consultation from industry stakeholders. We have further engaged with NESO and have set out below the main views which contributed to our decision.

### Proposal 6. – Introduction of a Tiered Performance Regime

NESO proposed an amendment to introduce a four tiered performance regime in its consultation, as set out below:

- Tier 0 – Units will be deemed unavailable for settlement periods where breaches occur.
- Tier 1 – Units will be deemed unavailable for the entire EFA block where the breaches occur.
- Tier 2 – Units will be temporarily suspended from the market for a duration of 28 days.
- Tier 3 – Units will be de-registered from the market.

Stakeholders broadly supported the principle of a Tiered Performance Regime, although there were significant concerns around the proposed mechanistic application of the Tiered Performance Regime, especially Tiers 2 and 3. Following stakeholder feedback and engagement, NESO amended its original proposal by removing the mechanistic application of Tiers 2 and 3. For clarity, we understand that Tiers 0 and 1 would still be applied mechanistically under the final proposal, but that suitable dispute resolution is possible in these cases. Further for clarity, we understand that Tiers 2 and 3 would still be available to NESO, but that they would follow a different approach which avoided negative consequences where parties successfully dispute the penalty applied.

There were further stakeholder queries around the practical application of the Tiered Performance Regime, including how NESO would handle data and disputes in a timely manner. In response to such concerns, NESO referred to the production of a Tiered Performance Regime Guidance Document, though this was not available as part of the consultation documentation.

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<sup>6</sup> 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> and is amended by UK SI 2020 No. 1006 which can be accessed at: <https://www.legislation.gov.uk/ukSI/2020/1006/introduction/made>

In principle we agree with what NESO is trying to achieve through the introduction of this performance regime. We agree that it could improve system security, encourage compliance to the Service Documentation and incentivise better market behaviour. However, we consider that stakeholders were not sufficiently sighted on the Tiered Performance Guidance Document at the time of consultation. In our review of NESO's proposals, we noted the concerns stakeholders raised. While NESO evidently listened to (and positively responded to) stakeholder feedback by proposing an alternative approach (i.e. removal of the mechanistic application of Tiers 2 and 3), we could not determine stakeholder views on the newly proposed approach. Particularly, it was not possible for us to consider whether stakeholder concerns were addressed on the wider topic of the performance regime<sup>7</sup> due to the reliance of NESO responses on the Tiered Performance Guidance Document.

We have therefore decided to **reject** this proposal at this time. However, given our support for the intent of this proposal, we remain open to a future submission by NESO (should it decide to continue with the proposals) once further engagement with stakeholders, including on the Tiered Performance Guidance Document, has taken place. We note that the Tiered Performance Guidance Document may or may not itself form part of the T&C, but we consider that its interpretation is crucial to enable stakeholders to provide informed views on sections of the Service Documentation which is mapped (as envisioned by conditions C9.2 and C9.3 of the NESO Electricity System Operator Licence).<sup>8</sup>

We consider that, should NESO wish to, that this could theoretically still be done such that the originally intended implementation date (1 January 2027) for Proposal 6 could still be achieved.<sup>9</sup>

#### Proposal 8. – Unit Suspension

NESO has proposed amendments to introduce the ability to suspend units from the Dynamic Response market, where the unit “persistently or materially fails to meet any of the obligations contained in the Service Terms and/or Procurement Rules”. NESO explained that this should incentivise providers to adhere to obligations, ensuring efficient and reliable delivery of the service. We agree with the intent to encourage positive market behaviour and that it is supportive of a well-functioning market that providers are proportionately held to account for compliance with service rules – this is especially true of services such as Dynamic Response Services which contribute significantly to system security.

<sup>7</sup> For example, we considered we could only appropriately decide on the appropriateness of the proposed timelines with further industry input.

<sup>8</sup> This licence can be accessed at [Licences and licence conditions | Ofgem](#)

<sup>9</sup> For clarity, this should not set an expectation for delivery of this work. We expect NESO to reassess the proposal in light of this decision and stakeholder feedback, and to determine whether or not to proceed with the proposed amendment and if so, what timeframe would be appropriate.

Additionally, we note that this proposal has broadened the potential scope of suspension and deregistration by expanding from being a consequence only for data performance to now being global to all requirements under Service Documentation. It is reasonable for NESO to monitor and enforce compliance with all service rules. However, we note that the newly proposed wording still sits under clauses related to "Monitoring and Metering Data". We encourage NESO to consider whether this remains the right location to provide clarity of rules to market participants, given the broader application. We also encourage NESO to consider whether the further clarification of the Unit Suspension rules and conditions in the Tiered Performance Regime Guidance Document is the right location due to the broadened application.

Although stakeholders broadly supported this amendment, concerns were raised about the clarity of rules and conditions for unit suspension. We note that stakeholders particularly cited a need for further specificity and objectivity in the criteria for "persistent" and "material". Stakeholders additionally mentioned a need for further clarity for aspects such as dispute processes. In response to such concerns, NESO again referred to the production of a Tiered Performance Regime Guidance Document though this was not available as part of the consultation documentation. Again, it was not possible for us to consider whether stakeholder concerns were addressed in these cases. We recognise that the terms already exist within the Service Documentation,<sup>10</sup> and do not consider that they represent terms insufficiently clear in interpretation. However, given NESO's intent to provide additional clarity to the scenarios for suspension and deregistration anyway, we consider there is an opportunity to support wider market understanding of the cases where NESO would enact these penalties.

We have therefore decided to **reject** this proposal at this time. However, given our support for the intent of this proposal, we remain open to a future submission by NESO (should it decide to continue with the proposals) once further engagement with stakeholders, including on the Tiered Performance Guidance Document, has taken place. We note that the Tiered Performance Guidance Document may or may not itself form part of the T&C, but we consider that its interpretation is crucial to enable stakeholders to provide informed views on sections of the Service Documentation which is mapped (as envisioned by conditions C9.2 and C9.3 of the NESO Electricity System Operator Licence).<sup>11</sup>

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<sup>10</sup> As applied to deregistration under Clause 15.

<sup>11</sup> This licence can be accessed at [Licences and licence conditions | Ofgem](#)

## **Decision**

Based on the above rationale, the Authority hereby:

- rejects the proposed amendment to the Dynamic Response Service Documentation as mapped to the T&C.

For clarity, this rejection only applies to proposals 6 and 8.

## **Next steps**

We encourage NESO to reconsider these proposals and the associated guidance, and we remain open to further consideration of these or similar proposed amendments once consultation with the inclusion of the Tiered Performance Guidance Document has taken place. Should NESO proceed with further market engagement, we expect NESO to look to co-create the guidance document with industry.

Additionally, we expect a high level of industry engagement in any future development work on further guidance, particularly given the apparent importance of this matter highlighted by consultation responses.

For clarity, while we have rejected the Tiered Performance Regime and Unit Suspension proposals at this time, we expect providers to adhere to market rules and operate in line with industry best practice and consumer interest.

If you have any queries regarding the information contained in the letter, please contact Zong Yan ([Zong.Yan@ofgem.gov.uk](mailto:Zong.Yan@ofgem.gov.uk)) in the first instance.

Yours sincerely,

James Hill

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