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All interested parties,
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To whom it may concern,

Consultation on the Market Coupling Operator Plan proposed by all Nominated Electricity Market Operators

The Commission Regulation (EU) 2015/1222 establishing a guideline on Capacity Allocation and Congestion Management (CACM) is a central component of the internal electricity market, as set in the EU Third Energy Package¹. CACM, which came into force on 14 August 2015, aims to maximise the efficient use of interconnection and facilitate greater cross-border electricity trade, through market coupling in the day-ahead and intraday timeframes. Market coupling should make sure power is produced where it is most efficient and transported to areas of consumption where it is most valued. This should lower prices for consumers and support secure and sustainable supply.

To achieve this, CACM establishes new entities, Nominated Electricity Market Operators (NEMOs), to operate single day-ahead and intraday market coupling². CACM requires NEMOs and Transmission System Operators (TSOs) respectively to work together to develop terms, conditions and methodologies for approval by all National Regulatory Authorities (NRAs) within fixed legal deadlines.

On 14th April 2016 we received the first proposal developed by all NEMOs outlining how they will jointly set up and perform the Market Coupling Operator Functions (the MCO Plan) as required by Article 7.3 of CACM.

¹ Directive 2009/72/EC and Regulation (EC) 714/2009

² On the 10 December 2015, APX Commodities Limited and Nord Pool Spot were designated as NEMOs to perform day-ahead and intraday coupling in Great Britain.

The MCO Functions comprise of³:

- i. Developing and maintaining the algorithms, systems and procedures for single day-ahead and intraday coupling;
- ii. Processing input data on cross-zonal capacity and allocation constraints provided by coordinated capacity calculators;
- iii. Operating the price coupling and continuous trading algorithms, and
- iv. Validating and sending single day-ahead and intraday coupling results to NEMOs.

In fulfilling this role, CACM Regulation requires cooperation between NEMOs to be strictly limited to what is necessary for the efficient and secure design, implementation and operation of market coupling⁴. Furthermore, CACM acknowledges the importance of the experience gained through early implementation projects and requires NEMOs -where possible- to use already agreed solutions to efficiently implement the objectives of the Regulation⁵.

In addition to defining how they will jointly set up and perform the MCO function, NEMOs must include in the proposal:

- i. Necessary draft agreements between NEMOs and with third parties⁶,
- ii. A detailed description and the proposed timescale for implementation, which shall be no later than 12 months following the approval of the plan by all NRAs⁷,
- iii. A description of the expected impact of the terms and conditions or methodologies on the establishment and performance of the MCO functions⁸
- iv. A description of the expected impact on the objectives of CACM⁹.

All NRAs must decide whether or not to accept the proposal within six months¹⁰. Once approved by the NRAs the MCO plan will bind all Member States. If agreement is not reached within this time, or upon the joint request of NRAs, the Agency for the Cooperation of Energy Regulators (ACER) shall adopt a decision in accordance with Article 8(1) of Regulation (EC) No 713/2009.

Statement of reason for not carrying out an Impact Assessment

Amongst other factors we have considered whether or not to carry out an Impact Assessment against our statutory duties as contained in Section 5A of the Utilities Act 2000. These require that where a decision meets the technical definition of 'important' an assessment is carried out and published on the likely impact of implementing the proposal. We have considered the proposal against the technical definition of 'important' as defined in Section 5A of the Utilities Act 2000 and do not consider that it meets this definition. In addition, we consider the following factors are relevant in our decision to not undertake an Impact Assessment as part of our decision on the NEMO proposal for the MCO Plan.

³ Article 7.2 of CACM

⁴ Article 7.4 of CACM

⁵ Article 36.4 of CACM

⁶ As below these are not included as part of this consultation, as they are commercially sensitive.

⁷ Article 7.3 of CACM

⁸ Article 7.3 of CACM

⁹ Article 9.9 of CACM

¹⁰ Article 9.10 of CACM

To inform the drafting of CACM prior to its adoption by Member States in December 2014 and to assist Member States compliance with legal deadlines established under the Regulation, 'early implementation projects' were set up to develop market coupling solutions for day-ahead and intraday on a regional basis. In line with the CACM requirement to build on existing solutions where possible, NEMOs collectively proposed to adapt and expand the existing solution in the day-ahead timeframe and the one currently being developed for the intraday timeframe¹¹ in order to deliver pan-European day-ahead and intraday market coupling respectively.

We have not seen any evidence to suggest that expanding the existing solution for day-ahead market coupling and the one being developed for intra-day coupling would not be appropriate or that there is a credible alternative to delivering the MCO functions. In the absence of a credible alternative, we do not believe performing an Impact Assessment would better inform our decision.

Summary of consultation issues

We would welcome the views of stakeholders on the proposal submitted by all NEMOs for the MCO Plan. To inform our decision, we seek stakeholders' feedback on whether the arrangements proposed in the MCO plan are compliant with the specific requirements related to the MCO Functions and the wider objectives of CACM and (EC) 714/2009.

The NEMOs designated in GB, APX Commodities Limited and Nord Pool Spot, have indicated and justified in line with Article 13 of CACM that the draft agreements between NEMOs and third party service providers contain commercially sensitive information. Therefore, the draft agreements have been redacted from the version of the NEMO proposal for the MCO Plan that is published for consultation.

Responses should be received by Friday 24 June 2016 and should be sent to marcelo.torres@ofgem.gov.uk

Unless marked confidential, all responses will be published on our library and on our website, www.ofgem.gov.uk. You may request that your response be kept confidential. We will respect this request, unless the law requires us to disclose anything, for example under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. If you'd like your response to remain confidential, clearly mark the document to that effect and include the reasons for confidentiality. Put any confidential material in the appendices to your response.

If you have any queries more generally on the matters referred to in this letter please feel free to contact marcelo.torres@ofgem.gov.uk

Yours sincerely,
Ryan McLaughlin
Head of European Wholesale Markets

¹¹ The XBID Project's final project plan foresees the XBID project target go-live in the 3rd quarter of 2017.