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All Transmission System
Operators and all interested
parties and stakeholders.

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Date: 21st October 2016

Dear Colleague,

Our¹ decision to assign TSO obligations under Requirements for Generators (RfG), Demand Connection (DCC), High-voltage Direct Current (HVDC), European Network Codes (ENCs), and the Forward Capacity Allocation Guideline within GB.

This letter sets out our decision on assigning the responsibility to comply with new obligations under HVDC, RfG, DCC, and FCA to the GB TSOs that are currently operational in GB. We consider that Art. 8 of RfG, Art. 7 of DCC, Art.6 of HVDC, and Art. 1(3) of FCA allows us to assign TSO obligations to one or more different, specific TSOs as there is more than one TSO in our Member State. We will be assigning the responsibility to comply with these obligations because it is our view that not all GB TSOs currently have the relevant functions required to comply with all obligations. We consider that this assignment represents a proportionate response based upon TSO existing functions.

Where possible, we have based our approach to assigning TSO responsibilities for RfG, DCC, HVDC, and FCA on the process taken with the capacity allocation and congestion management² (CACM) regulation³.

Consultation responses

We received twelve responses to our Consultation, none of which were marked confidential. The key issues raised are summarised in Annex 1, along with our response.

Our approach to assigning TSO obligations

The final decision as set out in Annex 2 is based upon our application of the respective multiple TSO clauses, the additional information provided by TSOs in their responses and GB TSOs' current functions as set out in their licences.

¹ The terms "the Authority", "Ofgem", "we", "our" and "us" are used interchangeably in this letter. The Authority is the Gas and Electricity Markets Authority. Ofgem is the office of the Authority.

² Commission Regulation (EU) 2015/1222 - establishing a guideline on capacity allocation and congestion management

³ See decision letter here: <https://www.ofgem.gov.uk/publications-and-updates/decision-our-consultations-assignment-transmission-system-operator-obligations-under-capacity-allocation-and-congestion-management-regulation-within-gb>

In reaching this decision, we have informed our neighbouring regulators and have ensured that they are aware of our TSO allocation, especially in the case of the Interconnector TSOs on our borders.

Our decision

Our decision for each sub group of TSOs is set out in Annex 2 which breaks down the decision to a Sub-article level. Annex 1 sets out the key points raised in the consultation responses, and the decisions we have made in those relevant areas.

Statement of reason for not carrying out an impact assessment

We have considered whether we need to undertake an Impact Assessment as part of our decision on the assignment of the responsibilities on TSOs to fulfil various obligations under RfG, DCC, HVDC, and FCA. Our reasons as to why we do not consider it necessary to run an Impact Assessment are:

- The default position for GB TSOs under RfG, DCC, HVDC, and FCA is that all TSOs have a responsibility to comply with all TSO obligations set out in the codes. This would mean a greater regulatory burden as well as much higher administration costs which would ultimately be passed on to the consumer. By exercising the discretion afforded through the use of the multiple TSO clause and our use of consultations, we consider that providing a proportionate assignment of obligations to GB TSOs is the most appropriate way of minimising these higher administration costs and reducing the regulatory burden where appropriate.
- TSOs may have new obligations under RfG, DCC, HVDC, and FCA. However, it is likely these obligations will reflect the roles and functions TSOs currently have to perform in line with their existing obligations under their TSO licences⁴. Therefore, we think it's unlikely that the specific assignment of obligations to particular TSOs under RfG, DCC, HVDC, and FCA will significantly impact the responsibilities of market participants.
- This is consistent with the approach we took for assigning obligations under the CACM guideline.

Accordingly, we consider that an impact assessment is unnecessary.

Formalising the decision

To allow us to assign TSO obligations for RfG, DCC, HVDC, and FCA to ensure that the enforcement route is clear and transparent, the obligations must be formalised within the GB framework. We plan to achieve this through a licence modification to the respective TSO licences in Spring 2017, along with an ancillary document which breaks down the TSO responsibilities, in line with the process we followed for CACM.

⁴ Where we have "future-proofed" requirements we would not expect parties to comply with obligations that are currently not relevant to it.

Future changes to GB TSO obligations under RfG, DCC, HVDC, and FCA

We will periodically review the assignment of responsibilities to ensure that they continue to remain relevant to the regulatory framework and in accordance with the principles set out below:

- **The development of the terms and conditions and methodologies.** RfG, DCC, HVDC, and FCA require TSOs to develop a number of terms and conditions and methodologies. Once these methodologies are developed and approved, we may have to review TSO obligations to reconsider whether the allocation of responsibilities remains appropriate.
- **A new GB TSO becomes operational.** We expect new TSOs to begin operating in GB in the future. We will consider the appropriate assignment of ENC-related obligations on a case-by-case basis, and we would expect any new TSO to comply with all relevant ENC obligations by the appropriate deadlines. We would expect to see consistency between the ENC obligations of existing and new TSOs where appropriate (e.g. depending what type of licence the new TSO holds).
- **Change in operational TSO's roles, responsibilities or activities.** We would expect the TSO in question to notify us of the material changes to its operational activity that could warrant a review of its regulatory obligations, including but not limited to assigned obligations under the RfG, DCC, HVDC, and or FCA regulations. If there are significant changes in an operational TSO's role or responsibilities, we may also have to review TSO obligations to reconsider whether the allocation remains appropriate.
- **Amendments to the regulations.** It is our view that where amendments are made, the TSOs shall provide justifications for a review based upon why certain Articles do (if didn't before) / do not apply. We will proceed with a consultation if the justifications provided by TSOs prove to be proportionate and in line with existing TSO functions as set out in their Licence.

This list is not exhaustive and there may be other scenarios in the future that might necessitate a review the assignment of responsibilities.

If you have any queries regarding the information contained within this letter or the annexes please contact jonathan.whiting@ofgem.gov.uk and thomas.jones@ofgem.gov.uk.

Yours faithfully

Mark Copley
Associate Partner Wholesale

Annex 1: Consultation responses

1) What are your views on the RfG, DCC, HVDC, and FCA articles which we have identified as placing an obligation on TSOs?

Most respondents support the approach that we have taken in assigning the responsibility to comply with obligations and welcome the efficient and pragmatic approach to the exercise. Two respondents highlighted their support for undertaking an approach that is consistent to that used for CACM.

One respondent commented that they would reserve judgement on the allocation until a detailed internal review has been carried out.

2) What are your views on our interpretation of the multiple TSO clause in assigning obligations to GB TSOs?

Most respondents considered that our interpretation of the multiple TSO clause is sensible and practical. They agreed that the responsibility to comply with obligations should only be assigned to TSOs that are operational, and where the obligation is relevant to that TSO.

3) What are your views on the assignment of obligations under RfG, DCC, HVDC, and FCA to GB TSOs as set out in Annex 1?

Responses were generally supportive of the minded-to positions set out. Stakeholders also agreed that it was appropriate to follow the same process for allocation as taken for the guideline on CACM.

Some stakeholders commented that it would be helpful to have further guidance as to which TSO should be taking the lead for articles where multiple TSOs are assigned an obligation. We do not consider this part of our role in assigning obligations to TSOs as per the relevant articles, and expect TSOs to cooperate to identify the most appropriate party to lead in these instances.

In relation to the Grid Connection Code allocation, two respondents requested that we remove the column assigning responsibilities to DNOs. We included the DNO column to provide further insight into our thinking; however stakeholder feedback stated that including the DNO column added confusion. Given that this exercise is to assign responsibilities under the multiple TSO clause, and for simplicity, we have decided to remove the DNO column in our final decision.

A number of respondents questioned why we had assigned responsibilities to parties to comply with certain requirements when they are not currently applicable to those parties. For example, assigning certain RfG requirements to interconnector TSOs. Where possible, we have aimed to future-proof the allocation of responsibilities. We foresee that in the future offshore windfarms could connect into interconnectors as part of a wider meshed offshore network. It is important to note that until that time, we would not expect a party to comply with obligations that are not relevant to it.

Similarly, one respondent noted that it is unclear how the obligations that we have placed on interconnector TSOs under the HVDC code interact with the requirements that apply to existing HVDC systems, specifically those outlined in Article 4(1). We would not expect a party to comply with obligations that are not relevant to it. Therefore, if an interconnector

TSO is an existing HVDC system, only those requirements relevant to it shall apply, i.e. those articles set out in Article 4(1).

There were three responses that suggested changes to the specific TSO obligation areas for the Grid Connection Codes and six responses for FCA; these are set out in the summary table below.

4) What are your views on the assessment of future changes to the assignment of TSO obligations under the RfG, DCC, HVDC, and FCA regulations?

Most respondents agreed with the scenarios we identified as appropriate to result in a review of the obligations that have been allocated. They requested that a similar process is undertaken with a proper and full consultation process, if the obligations need to be changed in the future. If the assignment of obligations needs to be changed in the future, we will undertake a full and proper consultation process like that taken for the initial assignment.

One stakeholder commented that the four scenarios we have identified that could lead to a review of the obligations should not be an exhaustive list. We understand that there may be other scenarios in the future that we have not considered that might necessitate a review. In that event, we would assess the circumstance at the time to determine whether a review of the assignment was needed.

Another stakeholder asked for our view on what approach we would take if there were future changes to the assignment of TSO obligations. At this stage, we have not finalised the process we would take if future changes were needed. However, we would look to carry out a similar process undertaking a full consultation if we considered that the allocation needed reviewing.

Table of Responses received on Article Assignment and Decision.

Code	Consultation response	What the Article(s) state	Minded to Decision	Decision
FCA	Five stakeholders raised that the allocation for Article 16 should be changed to not include a role for the SO, and should be a role for the interconnectors alone. Stakeholders did also note that the SO should be a main consulted party, as their role of residual system balancer.	This Article requires TSOs to develop a methodology for splitting long-term cross-zonal capacity.	IC and SO obligation	After further consideration, we agree that the SO is more appropriate as a consulted party, instead of having a role in how the ICs split their capacity offerings. The methodology is relevant for the IC's business models, and not as relevant for real time system operation. We have adjusted the justification for the requirement allocation accordingly.
FCA	One stakeholder pointed out a mistype in the allocation of Article 26. The "31 (5) was not required"	N/A	Sub-article set out as: "26 (1) - (3) 31 (5)"	Change Article numbering (Cell F33) to: "26(1) – (3)"
FCA	Two stakeholders raised the view that it would be appropriate for the SO to have a role in Article 31, specifically the forward capacity allocation timeframes.	Sub-article (1) requires long term cross zonal capacity to be allocated in the form of Physical Transmission Rights (PTR) subject to UIOSI or in the form of Financial Transmission Rights (FTR) (options or obligations). Sub-articles (2) - (6) outline the process that TSOs offering LTTR shall undertake in creating the regional design of these rights at a bidding zone border. Sub- article (7) states how regulatory authorities may launch a review of LTTRs offered at a bidding zone border. Sub --articles (8) - (10) set out how TSOs in a CCR shall conduct a review or consultation pursuant to Sub-articles (4) and (9).	IC obligation	Our minded to position remains appropriate. Our comment in the annex in the minded to position " <i>We consider this Article to be applicable to the ICs in their capacity as managers of cross border electricity flows.</i> " Implicit in this is the view that the design of long-term transmission rights should not impact on the SO's role; we have not received any evidence against this view.
FCA	One stakeholder commented that only ICs have the ability to deal with market participants on the interconnectors as per Article 56 (1), (2), (3), (4) and the SO has no contractual basis to curtail these market participants; and therefore the article shouldn't be applied to the SO.	These Sub-articles describe how TSOs should act in a case of force majeure. They must coordinate, issue a notification and provide compensation where appropriate.	IC and SO obligation	Our minded to position remains appropriate, as the SO still has the ability identify and publish a notification for force majeure, and curtail capacity on interconnectors. This process would require coordination between SO and IC, the IC would be required to deal with the market participants itself, and so it is applicable to both SO and IC. This approach is also consistent with the allocation for firmness in the event of force majeure under the CACM guideline.
FCA	One stakeholder raised the concern that all costs under Article 60 would be passed onto ICs, as they consider only point (1) appropriate for the cost to be shared with ICs. And so points (2) and (3) should not apply to ICs.	This Article states that each TSO shall individually bear the costs related to the provision of inputs to the capacity calculation process, and that all TSOs shall jointly bear the costs related to merging individual grid models, and that all TSOs in a CCR shall	IC and SO obligation	Our minded to position remains appropriate. Our comment in the annex in the minded to position is " <i>Applicable to all TSOs, as it is possible that all TSOs may incur some costs associate with this network code.</i> " This is still appropriate, as it doesn't specify that all TSOs will incur costs associated with every aspect of the

		bear the costs of the coordinated capacity calculators.		article.
RfG	Two stakeholders commented on a number of provisions where we had assigned responsibilities to all sub-sets of TSOs. They suggested that these were requirements that the SO alone should be responsible for, and not within the remit of the other groups of TSOs (ICs, OFTOs, TOs). The provisions referred to here are; 13(6) 14(2).b 14(3) 14(3).a.v 14(3).a.vii 14(3).b 14(5).d 15(6).b 15(6).c 16(3).b 16(3).c 16(4) 17(2).a 17(3) 18(2).a 20(2).a 21(3).a	N/A	All TSOs	We agree that the obligations should fall on just the SO and are not relevant to the other groups of TSOs, and have changed them accordingly. While other TSOs might be impacted by the obligations, we consider that the legal responsibility to comply with the obligations should lie with the SO.
RfG	Two stakeholders commented on a number of provisions where we had assigned responsibilities to all sub-sets of TSOs. They suggested that these were requirements that the SO alone should be responsible for, and not within the remit of the other groups of TSOs (ICs, OFTOs, TOs). The provisions referred to here are; 14(5).b 14(5).b.iv	N/A	All TSOs	After reviewing the relevant provisions, we consider that the responsibility to comply with these obligations is relevant to all TSOs and, as such, our minded to position remains appropriate.
RfG	Two stakeholders commented on a number of provisions where we had assigned responsibilities to all sub-sets of TSOs. They suggested that these were requirements that the SO alone should be responsible for, and not within the remit of the other groups of TSOs (ICs, OFTOs, TOs). The provisions referred to here are; 13(1).a.ii 13(7).c	N/A	All TSOs	After further consideration we have decided that no obligations originate from these articles and, as such, the obligation to comply with them does not need assigning. We have removed the allocation accordingly.
RfG	Two stakeholders commented that RfG article 15(6).f should be allocated solely to the SO because TO compliance will be achieved via the SO.	N/A	TO, IC, OFTO	Our minded to position remains appropriate. We consider that the TSOs assigned in our minded-to position have a responsibility to comply with the obligation.
RfG, DCC, HVDC	One stakeholder commented that the obligation to carry out consultations and to include the views of stakeholders in response to consultations should be with the SO. RfG 10(1) and 10(2), DCC 9(1) and 9(2), HVDC 8(1) and 8(2).	Public consultation process	Not allocated to any TSOs	After further consideration, we agree that the SO is the relevant TSO for complying with the obligation and have updated the allocation accordingly.
RfG, DCC, HVDC	One stakeholder commented that provisions within the Regulatory Aspects articles in the grid connection codes should be allocated to the SO. The provisions referred to here are; RfG - 7(5), 7(7), and 7(9)	Regulatory aspects	Not allocated to any TSOs	Our minded to position remains appropriate. We do not consider that any obligations originate from these articles and, as such, the obligation to comply with them does not need assigning.

	DCC - 6(7), 6(8), and 6(9) HVDC- 5(5), 5(7), and 5(9)			
RfG, DCC, HVDC	One stakeholder commented that we had assigned obligations inconsistently across the grid connection code modernisation clause (Article 4). They commented that the SO should be assigned any obligations involved in applying the codes on any existing plant undertaking modernisation.	Modernisation clause	N/A	Our minded to position remains appropriate. We agree with the stakeholder that the SO should be assigned any obligations involved in applying the codes on any existing plant undertaking modernisation, however we do not believe that our assignment is contrary to that view.
HVDC	One stakeholder commented that HVDC articles 3(1).d, 3(3).b, and 3(3).c should be assigned to the SO.	N/A	Not allocated to any TSOs	Our minded to position remains appropriate. We do not consider that any obligations originate from these articles and, as such, the obligation to comply with them does not need assigning.