

All Transmission System  
Operators and all interested  
parties and stakeholders.

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Dear Colleague,

**Our minded to decision on assigning TSO obligations under COMMISSION REGULATION (EU) 2017/2195 establishing a guideline on electricity balancing and COMMISSION REGULATION (EU) 2017/2196 establishing a network code on electricity emergency and restoration, as well as our minded to decision on amending our assignment of obligations under Article 70(1) of COMMISSION REGULATION (EU) 2017/1485 establishing a guideline on electricity transmission system operation.**

The general principles which we will apply in order to assist in the implementation of the EU “electricity network codes” (ENCs) in Great Britain (GB) were set out in our<sup>1</sup> open letter of 18 December 2014<sup>2</sup>. We take the view that ENC implementation in GB should be done on a proportionate basis, by only making changes to the existing framework that are necessary to ensure compliance with the ENCs.

This letter sets out our minded to decision on the assignment of the new obligations under the Electricity Balancing Guideline (EBGL)<sup>3</sup> and the Emergency and Restoration Network Code (E&R)<sup>4</sup> to the Transmission System Operators (TSOs) that currently operate in GB. It also sets out our minded to decision to alter the assignment of Art.70(1) of the System Operation Guideline (SOGL) to include Interconnectors and Transmission Owners.

The remainder of this letter describes:

- The purpose of the multiple TSO clause under the relevant codes and guideline and its application;
- Our principles and process in coming to our minded to decision;
- Our current view of how to address future changes to the assignment of obligations;
- Our minded to decision to change the assignment of Art.70(1) of SOGL.

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<sup>1</sup> The terms “the Authority”, “Ofgem”, “our” and “we” are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority (the Authority).

<sup>2</sup> <https://www.ofgem.gov.uk/ofgem-publications/92240/openletteronencimplementationandconsultationonnewdesignations-pdf>

<sup>3</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R2195>

<sup>4</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2017.312.01.0054.01.ENG&toc=OJ:L:2017:312:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.312.01.0054.01.ENG&toc=OJ:L:2017:312:TOC)

Annexed to this letter is our minded to decision for TSO allocation obligations for E&R (Annex 1) and EBGL (Annex 2), as well as the BEIS letter assigning the responsibility for the multiple TSO allocation to Ofgem (Annex 3). Our letter is complementary to the assignment by BEIS of the BSC Company and BSC Clear of obligations under EBGL.<sup>5</sup>

### **The purpose of the multiple TSO clause under the relevant codes and guidelines and its application**

The three Commission Regulations set out harmonised rules on system operation for transmission system operators ('TSOs') in all EU Member States. The default position is that all TSOs within a Member State are required to comply with all of the obligations placed on TSOs under the regulations. However, where there is more than one TSO in a Member State, the multiple TSO clause (Art.2(7) of E&R, Art.1(4) of EBGL, and Art.2(3) of SOGL) allows Member States to provide that the responsibility for complying with the obligations be assigned to one or more different, specific TSOs.

There are multiple TSOs currently operating in GB, all of whom are required to comply with EBGL and E&R obligations. BEIS considers that Ofgem, as the National Regulatory Authority, is best placed to assess which obligations under EBGL and E&R should be assigned to which TSOs. BEIS has requested Ofgem to determine, on its behalf, the most appropriate assignment of TSO obligations in GB.

It is our view that obligations should only be assigned to operational TSOs because these are the only TSOs who can currently comply with the requirements of the Regulation. We consider it appropriate to use the multiple TSO clause to assign the responsibility to comply with specific obligations to specific TSOs, as some of the obligations set out in E&R and EBGL are not relevant for all TSOs in GB.

We intend to publish a final decision in February 2018.

### **Our principles, process in coming to our minded to decision and reason for not carrying out an impact assessment**

We have applied similar principles on the assignment of EBGL and E&R as we applied for the assignment under SOGL.<sup>6</sup> This includes assessing whether an article confers an obligation on TSOs, how it interacts with the current obligations of TSOs, as well as our previous TSO allocation.

Additionally, we have considered whether we need to undertake an impact assessment regarding the TSO allocation under EBGL and E&R. We do not consider it necessary to perform an Impact Assessment for three reasons:

- This decision is not 'important' as defined under s5A of the Utilities Act<sup>7</sup>. In particular, it does not change TSO obligations, which are defined under E&R and EBGL, but rather reflects GB TSOs' roles and functions under their licences.

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<sup>5</sup> <https://www.ellexon.co.uk/wp-content/uploads/2017/12/BEIS-Notice-of-assignment-for-Implementation-of-the-Electricity-Balancing-Guideline-18Dec2017-.pdf>

<sup>6</sup> <https://www.ofgem.gov.uk/publications-and-updates/consultation-ofgem-s-minded-position-assign-transmission-system-operator-obligations-under-tso-guideline-within-gb>

<sup>7</sup> <https://www.ofgem.gov.uk/ofgem-publications/78530/8904b-statement-under-section-5a-3b-utilities-act-2000-26-04pdf>

- The impact of the E&R<sup>8</sup> and EBGL<sup>9</sup> have already been assessed as part of the code development process. As such, there is limited additional value of conducting an additional Impact Assessment.

### **Future changes to GB TSO obligations under the requirement to establish a network code on electricity emergency and restoration**

It is possible that a review of this assignment of responsibilities in the future is needed to ensure that they continue to remain relevant to the overall GB regulatory framework. The non-exhaustive list below sets out our expectation on some key scenarios that may prompt such a review:

- **The development of the terms and conditions and methodologies.** EBGL and E&R require TSOs to develop a number of terms and conditions and methodologies. We expect these terms and conditions and methodologies to reflect the relevant function as set out in this assignment. We consider that a further review of obligations will only occur if one or more TSOs provide clear evidence that the original assessment does not reflect an enduring relevant function. The TSO will also need to prove that the obligation will cause an additional burden upon the TSO as well as unnecessary costs to the consumer.
- **When a new TSO becomes operational / there is a change in TSO activity.** If a TSO believes it does not have a relevant function to one or more of the obligations as set out in the attached ancillary document for its subgroup, then we consider that it is the responsibility of that TSO to notify us and provide evidence for this view.
- **Amendments to the regulations.** It is our view that where amendments are made to EBGL and/or E&R, the TSOs shall provide justifications for a review based upon the effect that those changes had in their relevant function and as a consequence on the assignment of obligations.

In all the above cases it will be our decision, based upon the evidence provided, whether to instigate a review, which may lead to a change in the assignment of obligations for GB TSOs.

### **Our minded to decision to change the assignment of Art.70(1) of SOGL**

Following our decision on the assignment of TSO obligations under SOGL<sup>10</sup>, a stakeholder has brought to our attention a potential inconsistency between our assignment of Art.67(1) on the year-ahead of common grid models of SOGL and Art.70(1) on the Methodology for building day-ahead and intraday common grid models for SOGL. Both articles require TSOs to propose methodologies for building common grid models at the year ahead, and day-ahead and intraday stages.

Upon further review, we believe that the rationale for assigning the obligations to Interconnectors and Transmission Owners under Art.67(1) also applies under Art.70(1). As such, our minded to decision is to amend our decision of TSO allocation for Art.70(1) of SOGL to also allocate the obligation on Interconnectors and Transmission Owners.

<sup>8</sup> <http://eur-lex.europa.eu/legal-content/FI/TXT/?uri=celex%3A52016SC0410>

<sup>9</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016SC0410>

<sup>10</sup> <https://www.ofgem.gov.uk/publications-and-updates/decision-assignment-transmission-system-operator-obligations-under-guideline-electricity-transmission-system-operation-regulation-within-gb>

## Next steps

In order to talk through our minded to decision and hear more from stakeholders we will be hosting a workshop at Ofgem's London premises on 19 January 2018. If you would like to attend this event, please contact Zara Elliott at [Zara.Elliott@ofgem.gov.uk](mailto:Zara.Elliott@ofgem.gov.uk).

If you have any queries regarding the information contained within this letter or the annexes please contact Leonardo Costa at [Leonardo.Costa@ofgem.gov.uk](mailto:Leonardo.Costa@ofgem.gov.uk).

Yours faithfully

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