



Making a positive difference
for energy consumers

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Dear Fintan,

Response to COVID-19 impact - updates letter

Thank you for your letter dated 25 March 2020 setting out the risks that you foresee the Electricity System Operator (ESO) potentially facing as a result of COVID-19.

As noted by Jonathan in his open letter to network owners,¹ our overarching objectives during this period of extra-ordinary measures to combat COVID-19 are to ensure that customer needs are met, particularly the most vulnerable; to maintain secure, reliable and safe supplies of energy to consumers in the short to medium term (ie through to the end of next winter); and to ensure the safety and protection of consumers and the workforce.

The ESO is at the heart of the electricity system and plays a fundamental role in ensuring the GB system is safe, secure, and able to meet the needs of the GB consumer. We understand that in the weeks and months ahead there will be a need for the ESO, including its Energy Market Reform Delivery Body, to review planned activities in order to address the challenges raised by COVID-19. The ESO may need to make a distinction between activities which are most essential to delivering the above overarching objectives ("High Priority Activities") and activities that are less so ("Lower Priority Activities"). The ESO may temporarily de-prioritise (ie suspend or postpone) certain Lower Priority Activities, in response to current Government advice (e.g. on social distancing), and/or to focus capacity

¹ Available at: <https://www.ofgem.gov.uk/publications-and-updates/impact-covid-19-energy-network-companies-enabling-framework-regulatory-flexibility>

on delivering High Priority Activities in the event of escalating impacts of COVID-19 on the capacity of your workforce. In such circumstances, we wish to enable the ESO to de-prioritise Lower Priority Activities without undue fear of regulatory enforcement or penalties.

Similarly, we agree with you that it is important to ensure that the ESO's Forward Plan is deliverable and focuses on the right areas for consumers. This flexibility is at the core of our incentive scheme.²

We have already started and must continue a dialogue with you on emerging system issues, your preparedness to meet the challenges posed by COVID-19, and the impact COVID-19 may have on your planned activities. It is essential that the ESO does not deprioritise any area of work, except in the situation highlighted in the next paragraph, before these discussions reach conclusions. This should enable us to ensure that we have a common understanding of what Lower Priority Activities have to be de-prioritised in response to current Government advice and/or to focus capacity on delivering High Priority Activities in the event of escalating impacts of COVID-19 on the capacity of your workforce, and therefore whether the de-prioritisation of any given activity would benefit from our pragmatic approach to regulatory compliance as outlined in this letter. To aid us in our discussions, I have set out comments on the particular areas that you have flagged and may have to be temporarily de-prioritised in the future as well as on the ESO work relating to Charging Futures and the Targeted Charging Review in the annexes to this letter. I hope this serves as a good foundation for our ongoing engagement as part of the process I am setting out in this letter. Our discussions should also reflect our own published re-prioritisation of work over the coming months,³ in particular those areas where the ESO is closely engaged in Ofgem projects.

At the same time, we would emphasise the paramount importance of ensuring the system is operated in a secure manner. Therefore, if there are choices that need to be made to maintain short-term system security and there is not an opportunity for discussion of these choices with us in advance, we expect that you will prioritise system security, record the rationale for these choices, and start a conversation with us at the earliest possible opportunity. It is also imperative that none of the issues that were identified following the system incident on Aug 9th 2019, including those related to embedded generation, lead to any risk to the security of consumers' electricity supply this summer.

² For further information, please refer to the Electricity System Operation Regulatory Incentive Guidance.

³ Available at <https://www.ofgem.gov.uk/publications-and-updates/ofgem-information-energy-licensees-coronavirus-covid-19-response>

Where the ESO can demonstrate through the process described in this letter that any issues related to compliance with its license obligations will arise as a result of prioritising High Priority Activities over Lower Priority Activities, and/or to protect consumers or staff from immediate harm, we will take full account of this in considering these issues. So long as you do this, openly, in line with the process outlined in this letter, and with the clear intention of protecting consumers or staff from immediate harm and/or maintaining the security of supply, Ofgem should be in a position to support these decisions and should not need to take any enforcement action against the ESO.

In a similar vein, where the ESO can demonstrate through the process described in this letter that delays in planned activities are necessary to enable your response to COVID-19, and that the ESO has understood the impact of these delays on system users (including the need to ensure procurement of services remains economic, efficient and non-discriminatory), we will take it into consideration under our incentive schemes for any shortfalls in performance against targets associated with such de-prioritised work during this period of COVID-19 measures, provided the same tests above are satisfied.

Given the potential risks of de-prioritising Lower Priority Activities to deliver High Priority Activities, we will need to receive evidence on the system need and urgency, if you intend to start a new area of work that is unrelated to the response to COVID-19. To the extent that any re-prioritisation of work leads to the deferral of expenditure, we will seek to make appropriate adjustments to the ESO revenues if necessary for this in the close-out of the price controls, to ensure consumers are suitably protected.

Nothing in this letter obliges the ESO to stop or suspend Lower Priority Activities, so long as these can be carried out in accordance with Government guidance (including any additional guidance from the Scottish Parliament and the Welsh Assembly where applicable).

This framework of regulatory flexibility will remain in place for an initial period until 30 June 2020. As we approach that time, we will review the case for extending it, based on circumstances at the time.

From our discussions, we know the importance you are attaching to following Government guidance, public health advice and safety legislation more generally, which we fully support. As a general rule, compliance with Government advice and guidance will take precedence over any provisions in this letter, should there emerge at any time any conflict between the two.

If your team would like to further discuss the details of this letter or any response to COVID-19, please contact Eleanor Warburton and Leonardo Costa in first instance.

Yours sincerely,

Cathryn Scott
Interim Executive Director – Systems and Networks

ANNEX A

IT developments

In your letter, you mention the potential risk that the industry go-live of TERRE planned for 30 June 2020 and your latest release of the EBS system in July 2020 are postponed as a result of the response to COVID-19. We thank you for informing us of this potential risk.

We would like to better understand how such a delay would support your COVID-19 response, as well as how the delay of this additional balancing tool and improvements of existing tools could put in danger the safe and secure operation of the GB system. We would also welcome your analysis on the impact that these delays would have on your ability to balance the system effectively, as well as the impact on our ability to trade cross-border and the broader impact this will have on the balancing market.

Connections

We note that you are yet to experience any delays in this area and we would expect you to take steps to overcome these difficulties where possible. If the difficulties listed do become a barrier to delivery, then it is important that, in line with our letter to network owners, you differentiate between essential connections work as part of the response to the COVID-19 outbreak and other connections work. It is important that your resilience plans ensure that those essential connections can occur at the earliest opportunity and in line with your regulatory obligations. If any delay is necessary, we would expect you to communicate with those parties affected and their representatives at the earliest possible opportunity in order to minimise the impact of these delays and to keep them updated on your progress to meet those obligations.

Regulatory Reporting Pack (RRP) preparation and submission, and information requests

As noted in our published work prioritisation, we are discussing with you ways to reduce the regulatory burden from operating a range of RIIO-1 network price control processes this year, including the annual reporting requirements. We are also happy to have a conversation if you feel this would be helpful to understand how our guidance affects your regulatory obligations on these areas. Nevertheless, we are mindful of the number of activities that parties are having to fulfil at this time, and will act in order to support the effectively delivery of our overarching objective at this time while ensuring that consumers are protected at all times.

Network Innovation Competition (NIC) and Network Innovation Allowance (NIA)

In your letter, you noted that it is likely that some of the NIC and NIA projects will be delayed due to restricted access to academic staff and/or potential suspension of trials. I would like to reassure you that suspension or postponement of activity and associated spend on NIC or NIA projects, due to prioritising staff safety and critical core business demands during this period of disruption in line with this letter, should not be subject to regulatory enforcement by Ofgem although we would expect to be provided with evidence for any such postponement as soon as possible. In addition, I would like to note that we are working on a formal licence and guidance change that specifically enables extended payment and deliverable timescales for NIA projects to allow them to continue past the March 2021 deadline.

ANNEX B

Charging Futures and the Targeted Charging Review (TCR)

You are currently leading the Connections and Use of System Code (CUSC) modifications processes to implement the TCR. We understand that you are working with the broad set of stakeholders involved in the implementation project, to enable some adjustments to the modification timelines and to give more time for industry consultations. Our expectation is that these adjustments will not compromise the overall TCR implementation timelines, as set out in our Directions.

We have also agreed to a three month pause to the work of the second BSUOS Task Force, from April to June. Our hope is that the pressures related to COVID-19 will be more manageable by July, so that a three month deferral of the initial timeline is possible. We will revisit this with the Future Markets team in July.