

Mr Chris Wood
European Affairs Adviser
Elexon Ltd
350 Euston Road
London NW1 3AW

Mr Colm Murphy
Electricity Market Change Delivery Manager
National Grid ESO
Faraday House
Gallows Hill
Warwick CV34 6DA

Our Ref:

Direct Dial: 020 7901 7262
E-mail: Tom.Corcut@ofgem.gov.uk

Date: 4 January 2021

Sent by e-mail only

Dear Chris and Colm,

Request for approval of the Balancing Mechanism Reporting Service (BMRS) as a 'reporting service' as set out in the draft Statutory Instruments as published based on the European Union (Withdrawal) Act 2018

Thank you for your letter dated 16 December 2020. In your letter you request the Authority's approval, following the end of the EU Exit transition period, of the Balancing Mechanism Reporting Service (BMRS) as a 'reporting service' pursuant to Article 4 of Regulation (EU) No 543/2013 (the "Transparency Regulation")¹ as amended by The Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019 SI 2019/534 ("the Amending Regulation"), schedule 3².

Now, in accordance with the Transparency Regulation, the changes to which have come into force following the end of the transition period, this letter consents to your request and confirms our approval of the BMRS as a 'reporting service'. We set out the reasons for our decision in the sections which follow.

The Transparency Regulation after exit day

As you noted in your letter, following the end of the EU Exit transition period, the Transparency Regulation as amended requires that the Transmission System Operators (TSOs) receive and publish transparency data. This publication must take place in accordance with the requirements set in Article 4(1A), namely:

- (a) to publish the data so that it is available to the public free of charge through the internet in English;
- (b) to ensure that the data is up to date, easily accessible, downloadable and available for at least five years; and
- (c) to ensure that data updates are time stamped, archived and made available to the public.

¹ Regulation (EU) No 543/2013 as it had effect in EU law on exit day is retained under national legislation by effect of the European Union (Withdrawal) Act 2018 and amended by the Electricity and Gas (Market Integrity and Transparency) (Amendment)(EU Exit) Regulations 2019.

² <https://www.legislation.gov.uk/ukxi/2019/534/schedule/3/made>

Article 4(1) of the Transparency Regulation, as amended, nevertheless opens the possibility for primary owners of data to submit their data to a reporting service and Article 4(2) provides that, at any time while a reporting service is in operation, TSOs may fulfil their obligations to publish data by submitting the data to the reporting service. Similarly, the primary owners of data other than TSOs may fulfil their obligation to submit their data by submitting it to the reporting service, subject to the prior agreement of their TSO.

Finally, the amended Articles 4(7) and 4(8) of the Transparency Regulation respectively clarify that a "reporting service" is a service for the reporting and publication of data which is approved by the national regulatory authority, and that the national regulatory authority must not approve a reporting service unless it is satisfied that the data which it receives will be published in accordance with the requirements in paragraph 1A as inserted by the Amending Regulation.

Reasons for the Authority's approval

We have considered your request for the Authority's approval of the BMRS as a 'reporting service'. We note that, before exit day, the BMRS already fulfilled the data publication requirements set out in the Transparency Regulation with respect to the publication of the electricity industry's data in Great Britain. The only exception pertains to the data of the electricity interconnectors connecting into Great-Britain who were ensuring the submission of their data directly to ENTSO-E.

As the Transparency Regulation has been amended on IP completion day³ to ensure the operability of existing legislation and to preserve as much continuity as possible, we are therefore favourably disposed to the BMRS continuing to fulfil this role.

In reaching this decision, we have also taken account of our obligation not to approve a 'reporting service' unless we are satisfied that the service will publish data which it receives in accordance with the requirements in Article 4(1A). Having considered the information that you provide in your letter, and having reviewed the data provision of the BMRS, we are satisfied that the BMRS satisfies the requirements.

For these reasons and in accordance with Article 4(8) of the Transparency Regulation as amended, the Authority's approves the BMRS as a 'reporting service' as defined by Article 4(7) of this Regulation.

Yours sincerely,



Tom Corcut,
Deputy Director, Wholesale Markets and Commercial,
Ofgem

³ IP completion day is defined in [s39\(1\)](#) of European Union (Withdrawal Agreement) Act 2020 as "IP completion day" means 31 December 2020 at 11.00 p.m, see