

# □ Consultation

## Consultation on licence amendments to facilitate the introduction of an Electricity System Restoration Standard

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We are consulting on amendments to the ESO's licence conditions that will facilitate the introduction of an Electricity System Restoration Standard and further align the regulatory framework for procurement of restoration services with that of balancing services. We are seeking responses to the questions posed in this consultation by 14 May 2021, and welcome responses from all industry stakeholders. Following consideration of responses, we will make our final proposals for the licence amendments in June 2021.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. In order to ensure transparency in our consultation, we will publish the non-confidential responses we receive alongside a decision on next steps on our website at [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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## 1. Introduction

### What are we consulting on?

- 1.1. The Department for Business, Energy and Industrial Strategy ("BEIS") released a Policy Statement<sup>1</sup> setting out the need to strengthen the current regulatory framework by introducing a legally binding target for the restoration of electricity supplies in the event of a National Electricity Transmission System ("NETS") failure. BEIS' new policy is called the Electricity System Restoration Standard ("ESRS").<sup>2</sup>
- 1.2. As a consequence of BEIS' policy statement, we are consulting on proposals that would require licence modifications. The most significant modifications would be to:
  - Special Condition ("SpC") 2.2 (formerly "SpC 4G") of National Grid Electricity System Operator's ("NGESO") Transmission Licence to introduce an ESRS to be set by the Secretary of State ("SoS") for BEIS; and
  - Standard Condition ("StC") C16 of the Electricity Transmission Licence to align the regulatory framework for procurement of restoration services with that of other balancing services.
- 1.3. Our proposals seek to align the ESO's licence with BEIS' terminology and, as a result, instances where our licence conditions refer to "black start" will be replaced with Electricity System Restoration.

### Overview of this document and consultation questions

- 1.4. Section 2 makes the case for why modifying the ESO's licences to allow the BEIS SoS to set an obligation on the ESO to comply with an ESRS is in the interests of GB consumers. It describes the current ESR framework, defines what an ESRS is, and sets out why we believe it is appropriate to amend the licence in this way. We would appreciate stakeholder feedback on the following question:

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<sup>1</sup> BEIS' Policy Statement is available at the following address:  
<https://www.gov.uk/government/publications/introducing-a-new-electricity-system-restoration-standard>

<sup>2</sup> The terms "ESRS" and "restoration standard" are referred to interchangeably within this document. For the avoidance of doubt they mean the same thing for the purposes of this consultation.

**Question 1:** Do you agree that we should modify the ESO's licences to allow the BEIS SoS to set an obligation on the ESO to comply with an ESRS?

- 1.5. Section 3 explains how we will incorporate an ESRS into the ESO's regulatory framework, including how the restoration standard would be monitored for compliance and the next steps that we expect to take following this consultation. We would appreciate stakeholder feedback on the following questions:

**Question 2:** Do you agree that SpC 2.2 should focus primarily on obligations to implement the ESRS and obligations to demonstrate the ESO's compliance with it?

**Question 3:** Do you agree with integrating the approach to regulating restoration services procurement into the StC C16 obligations?

**Question 4:** Do you agree that the proposed assurance framework (including the independent assessment) is proportionate and will provide sufficient confidence that the ESO will be able to meet the ESRS?

**Question 5:** Does replacing the term "black start" with "Electricity System Restoration" in the licence conditions have any implications for industry codes or other GB governance documentation? Please explain.

**Question 6:** Do you have any comments or suggestions on the proposed licence text modifications?

## Consultation stages

- 1.6. This is our initial informal consultation on our proposed licence changes. The consultation will close on 14/05/2021 and we will review and publish consultation responses in June. We will then launch a statutory consultation for our proposed licence changes in June, and aim to issue a direction to amend the licence conditions in August.

## How to respond

- 1.7. We want to hear from anyone interested in this consultation. Please send your response to Alastair Owen using the [ESOperformance@ofgem.gov.uk](mailto:ESOperformance@ofgem.gov.uk) mailbox.

We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.

- 1.8. We will publish non-confidential responses on our website at [www.ofgem.gov.uk/consultations](http://www.ofgem.gov.uk/consultations).

## Your response, data and confidentiality

- 1.9. You can ask us to keep your response, or parts of your response, confidential. We will respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.
- 1.10. If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we will get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.
- 1.11. If the information you give in your response contains personal data under the Data Protection Act 2018 ("DPA 2018" or "UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of UK GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations (see: Appendix 4).
- 1.12. If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

## General feedback

1.13. We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

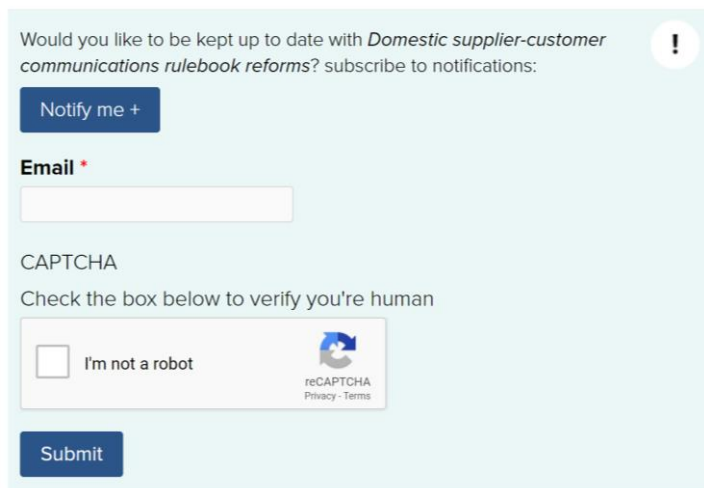
Please send any general feedback comments to [stakeholders@ofgem.gov.uk](mailto:stakeholders@ofgem.gov.uk)

### How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website.

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## 2. Introduction of an Electricity System Restoration Standard

### Section summary

This section makes the case for why modifying the ESO's licences to allow the BEIS SoS to set an obligation on the ESO to comply with an ESRS is in the interests of GB consumers. It describes the current ESR framework, defines what an ESRS is, and sets out why we believe it is appropriate to amend the licence in this way.

**Question 1:** Do you agree that we should modify the ESO's licences to allow the BEIS SoS to set an obligation on the ESO to comply with an ESRS?

### The current electricity system restoration framework

- 2.1. A total NETS failure has never occurred in GB, but if one were to occur, it would cause a nationwide loss of power, resulting in cascade failures across critical utilities networks (including telecoms, water, gas and sewage), and cause significant disruption the majority of businesses and households. Given the significance of these impacts, we believe the ESO needs a clear obligation to ensure that power is restored in a timeframe that balances the socio-economic impact of a ESR event and the estimated service costs.
- 2.2. At present, the ESO determines the appropriate level of ESR capability needed in GB. The ESO is obligated to provide an expectation of the time required to restore the NETS following an ESR event and to describe the ESO's approach to meeting that restoration time. The ESO also has a legal obligation to ensure that GB has sufficient ESR capability to meet a minimum service level.<sup>3</sup> However, the minimum service level is an ESO-defined target which is based upon the results of the ESO's probabilistic modelling and not based on a holistic assessment of all possible consumer impacts of an outage. The current approach gives the ESO responsibility for determining the

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<sup>3</sup> Defined as the minimum service level required to provide an appropriate ESR capability for Great Britain.



appropriate restoration time – a responsibility that is arguably better placed with the government.

- 2.3. As a result, the current approach allows for a potential mismatch between the ESO’s current ESR capabilities and the consumer benefits of a restoration. This disconnect is likely to become more pronounced as the electricity system continues to decarbonise and decentralise, and as society’s and industry’s dependence on electricity continues to grow.

## **A new electricity system restoration standard**

- 2.4. The new ESRS would replace the existing ESR framework with a clearly defined restoration target that balances the costs of procuring restoration services with the value that restoration provides to consumers. The ESRS would set out the timeframe by which restoration must be achieved following a NETS failure, and impose a legally binding obligation on the ESO to ensure that it has the capability to restore electricity supplies within the specified timeframe.
- 2.5. The BEIS SoS would direct what they deem to be the appropriate target restoration timeframe for GB, and the date from which it applies, on behalf of GB consumers. We have worked closely with BEIS and agree that it is appropriate for this decision to sit with the BEIS SoS. We propose to modify the ESO’s licences to allow the BEIS SoS to set an obligation on the ESO to comply with an ESRS and to introduce robust arrangements to monitor and manage compliance with the ESRS.
- 2.6. Once the ESRS has been set by the BEIS SoS,<sup>4</sup> the ESO will need to ensure there is sufficient capability and appropriate arrangements in place across the electricity sector, and across all regions, to restore electricity supplies to consumers within the target restoration timeframe. The intention is that this will drive an appropriate level of investment across the electricity sector to increase industry preparedness and confidence that GB can recover from this event within tolerable timeframes.
- 2.7. We believe that accountability should follow responsibility, and as the party responsible for coordinating and directing the flow of electricity onto and over the NETS, we believe

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<sup>4</sup> More information about the expected decision by the BEIS SoS can be found at the following address: <https://www.gov.uk/government/publications/introducing-a-new-electricity-system-restoration-standard>

that the ESO should be accountable for ensuring compliance with an ESRS. However, we also understand that to meet the ESRS, the ESO will need relevant industry parties to support it. Therefore, we expect the ESO to design appropriate restoration services and amend the GB codes framework in such a way as to ensure it has the tools and processes in place to comply with the designated ESRS.<sup>5</sup> We also expect the ESO to ensure that it strikes an appropriate balance between contracted restoration services and code obligations, and in doing so ensure a level playing field for the provision of restoration services to the ESO.

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<sup>5</sup> These arrangements would need to ensure that all relevant parties are obliged or incentivised to comply with the ESO's instructions. The arrangements would also need to include mitigation measures to account for an event that an industry party is unable to fulfil its obligations.

## 3. Regulation of the Electricity System Restoration Standard

### Section summary

This section explains how we will incorporate an ESRS into the ESO's regulatory framework, including how the restoration standard would be monitored for compliance and the next steps that we expect to take following this consultation.

**Question 2:** Do you agree that SpC 2.2 should focus primarily on obligations to implement the ESRS and obligations to demonstrate the ESO's compliance with it?

**Question 3:** Do you agree with integrating the approach to regulating restoration services procurement into the StC C16 obligations?

**Question 4:** Do you agree that the proposed assurance framework (including the independent assessment) is proportionate and will provide sufficient confidence that the ESO will be able to meet the ESRS?

**Question 5:** Does replacing the term "black start" with "Electricity System Restoration" in the licence conditions have any implications for industry codes or other GB governance documentation? Please explain.

**Question 6:** Do you have any comments or suggestions on the proposed licence text modifications?

## The regulatory framework for restoration services

### The regulatory framework for the ESO

- 3.1. Our main regulatory oversight of ESR procurement is established in SpC 2.2 of NGENSO's licence. The current approach is bespoke to black start and involves an efficiency check on any spending by the ESO on ESR services, and assesses the compliance of the ESO's black start expenditure with the ESO's 'Black Start Strategy' and 'Procurement Methodology' (described further in Table 1 below).

ESO Current Requirement	Description
Black start strategy	Requirement for the ESO to develop and publish an ESR strategy approved by the Authority.
Black start procurement methodology	Requirement for the ESO to set out how it will select and contract with ESR service providers and foster a market that minimises the cost to consumers. This methodology is submitted to the Authority for approval.
Annual audited report	Requirement to submit to the Authority (and to publish) an annual report on how the ESO has complied with its strategy and procurement methodologies and the costs incurred in doing so. This report is supported by an independent auditor's report.

**Table 1: key aspects of our current regulatory framework for restoration services.**

3.2. The ESO's internal and external ESR costs are recovered through Balancing Service Use of System ("BSUoS") charges<sup>6</sup> and these costs can be broken down into the following elements:

- i. *Internal costs* - those related to preparedness of its staff and systems to operate under the ESRS.
- ii. *External costs* - those related to the contracting of ESR generators to provide restoration services.

### **The regulatory framework for other licenced parties**

3.3. ESR obligations are imposed on Transmission Owners ("TO"), Distribution Network Owners ("DNO") and generators via the GB codes and standards<sup>7</sup> and the Emergency and Restoration Regulation.<sup>8</sup>

3.4. This arrangement allows the ESO, TOs, DNOs and generators to use their expertise to collectively define the technical requirements necessary for facilitating restoration of

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<sup>6</sup> BSUoS charges are currently paid by generators, directly connected demand, and Suppliers.

<sup>7</sup> The GB codes and standards include, but are not limited to: Connection and use of system code (CUSC); grid code (GC); system operator – transmission owner code (STC), balancing and settlement code (BSC); distribution connection and use of system agreement (DCUSA); distribution code (DC).

<sup>8</sup> The Emergency and Restoration Regulation, as it has been translated into domestic legislation, is available at the following address: <https://www.legislation.gov.uk/ukxi/2019/533/made>

the NETS. So far, we have not seen any merit in intervening with a more onerous regulatory framework, and we remain of the view that the ESO, TOs, DNOs and generators are best placed to assess their restoration capabilities.

- 3.5. For generators providing a restoration service, the cost of their availability, capital investments, feasibility studies, testing and warming requirements are paid for or reimbursed by the ESO to generators. These costs are the ESO's external costs noted above. Generators that do not hold a contract to provide restoration services to the ESO will bear the costs of maintaining the level of resilience and restoration capability required by the GB codes and standards. Finally, TOs and DNOs are able to recoup their efficient costs associated with ESR readiness through their respective price controls.

## **Licence modifications to allow a new restoration standard to be introduced**

- 3.6. The introduction of an ESRS requires new obligations and the removal of several of the ESO's existing ERS obligations. It also provides an appropriate opportunity to remove the bespoke regulatory framework for restoration services procurement and to further align these arrangements with the overall framework for regulating the ESO's procurement of balancing services.
- 3.7. We propose to amend SpC 2.2 such that it primarily contains obligations for implementing an ESRS and obligations for demonstrating compliance with an ESRS. In addition, we propose to amend StC C16 to incorporate the ESO's relevant current obligations related to the Black Start Procurement Methodology and the annual reporting of restoration costs into the suite of procurement and use of balancing services publications.
- 3.8. Our proposed changes are summarised as follows:
- 1) Introduce the concept of an ESRS, linking to a direction from the SoS who will set the ESRS and aligning the licence terminology with BEIS' policy;
  - 2) Replace the concept of a 'Black Start Strategy' with an obligation to produce an ESR Assurance Framework that is approved by Ofgem and incorporates the obligations associated with the previous strategy into the requirements for producing an ESR Assurance Framework;

- 3) Introduce an obligation for the ESO to submit a report by an independent auditor, assessing the Restoration Model's<sup>9</sup> input data, technical assumptions, and calculations;
- 4) Consolidate the reporting requirements in StC C16 to report on both balancing and restoration services procurement and costs within one annual process; and
- 5) Introduce the definition of "restoration services" and amend the definition of balancing services to include "restoration services".<sup>10</sup>

### **Introducing the concept of an Electricity System Restoration Standard**

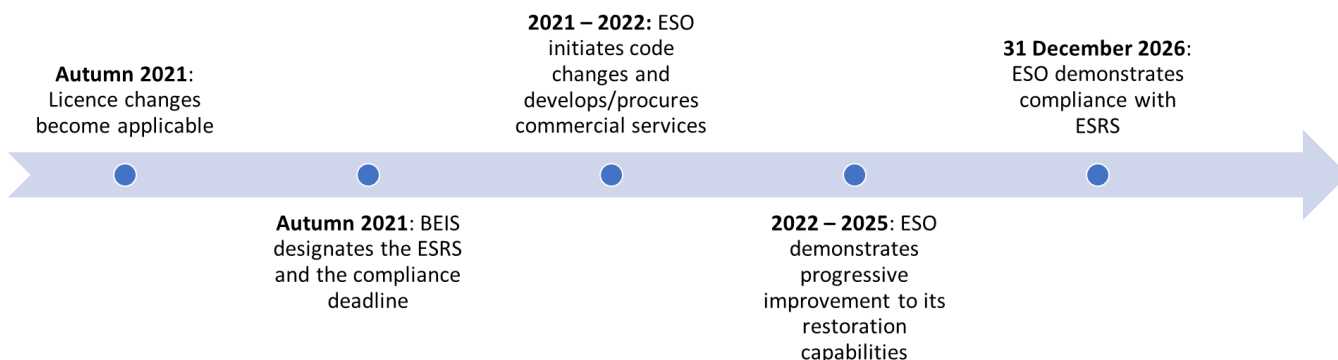
- 3.9. The proposed licence modifications have been designed to allow the BEIS SoS to direct what they deem to be the appropriate target restoration timeframe on behalf of consumers and the date by which the ESO should have the capability to comply with it. The licence will require the ESO to comply with the direction from the SoS.
- 3.10. It is anticipated that the BEIS SoS will set an ESRS that allows for an appropriate implementation period. During this period, the licence will require the ESO to initiate the necessary changes to the relevant industry codes, as well as decide what can be delivered through commercial services. We believe that this implementation period will allow the ESO time to engage with key stakeholders, develop technical and commercial frameworks, and make progressive improvements to its restoration capabilities during the implementation period.

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<sup>9</sup> The model used by the licensee to assess the capabilities of the electricity system and provide a range of credible restoration timeframes.

<sup>10</sup> Consequently, the relevant content of the "black start procurement methodology" would be then incorporated into the C16 statements.

**Figure 1: Flowchart outlining Ofgem and BEIS' plan for implementation and compliance with an ESRS**



3.11. Our proposals also intend to align the ESO's licence conditions with BEIS' terminology and, as a result, instances where the licence conditions refer to "black start" will be replaced with Electricity System Restoration. Like "black start", Electricity System Restoration will be defined as the procedure used to restore power in the event of a total or partial shutdown of the NETS. We would welcome stakeholder views on whether this change will require any further amendments to industry codes or other GB governance documentation.

#### **Assessment of the ESO's restoration capabilities**

3.12. Once the ESRS has been set by the BEIS SoS, it is vital that the ESO's progression towards meeting an ESRS during the implementation period, and its compliance thereafter, can be monitored effectively.

3.13. It would not be appropriate to wait for a restoration event to measure compliance with an ESRS. Therefore, we need sufficient assurance that the ESO's projected restoration times can be relied upon to demonstrate compliance. In the unlikely event of a NETS failure, we need confidence that that the ESO will be able to meet the ESRS if a restoration is required.

3.14. The ESO has developed a Restoration Model, with industry input, that assesses the capabilities of the electricity system and provides a range of scenarios indicating how long a restoration would take following a NETS failure. We believe that this model will provide the most informed view of the ESO's restoration capabilities. Therefore, we are proposing that the ESO should use its Restoration Model as the central tool for demonstrating compliance with an ESRS.

- 3.15. However, we note that the complexity of the model, and the ESO ownership of it, raises challenges when relying on it to demonstrate compliance. It is also essential that both Ofgem and relevant industry parties have confidence that the Restoration Model's outputs are an accurate representation of restoration times in GB and that they are not compromised by any inherent bias.
- 3.16. To provide that confidence and ensure that we mitigate any conflicts of interest, we propose to introduce an obligation for the ESO to produce and consult on an ESR Assurance Framework that will be submitted to Ofgem for approval, and then published on the ESO's website on an annual basis. This ESR Assurance Framework would need to demonstrate that:
- 1) The ESO has a credible plan for monitoring its compliance with the ESRS at all times. This should include *ex-ante* modelling of restoration times for the subsequent year, as well as *ex-post* modelling of restoration times using real world electricity system data for the previous year;
  - 2) The description of the methodology, assumptions and data used by the ESO to reflect the capabilities of the electricity system is detailed enough to allow other electricity licensees to assess and provide comment on how well the ESO has represented the capabilities of the electricity system; and
  - 3) The ESO has a robust strategy for the provision of ESR in the short, medium and long-term that will enable it to meet an ESRS. This should include an appropriate restoration approach<sup>11</sup> and identification of new technologies and approaches for the provision of ESR services.
- 3.17. In addition, we are proposing to introduce a requirement for the Restoration Model and ESR Assurance Framework to be assessed by a suitably independent party with relevant expertise. This assessment would be submitted to Ofgem alongside the ESR Assurance Framework and consultation responses.
- 3.18. Unfortunately, due to the sensitive nature of the data used by the ESO, it will not be possible to consult publicly on all aspects of the ESR Assurance Framework. Therefore, we believe where those instances arise, it would be appropriate for the ESO to present

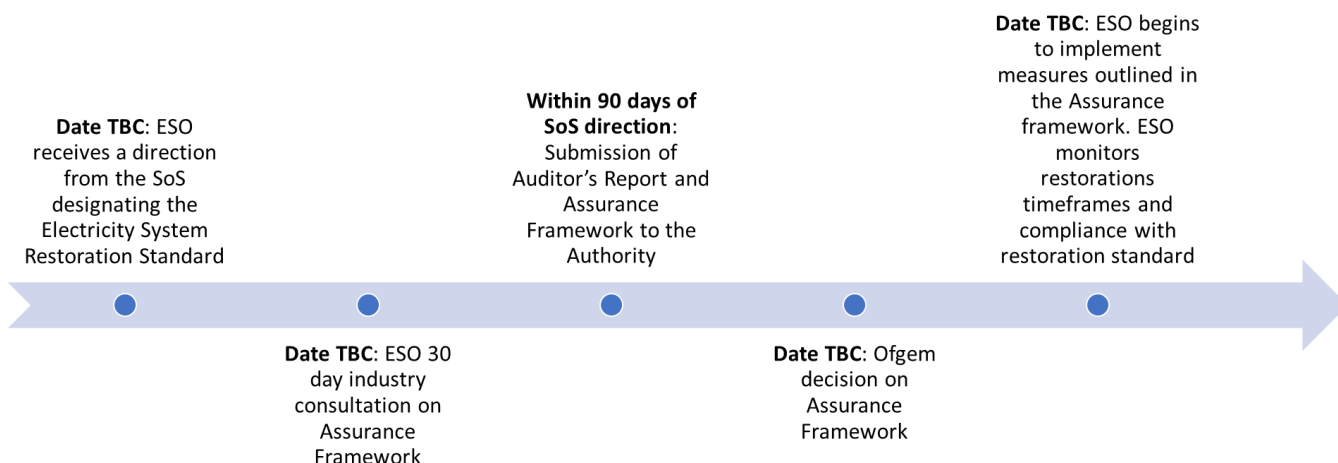
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<sup>11</sup> The method by which the licensee would restore the National Electricity Transmission System.



and discuss those aspects at a suitable industry forum, such as the Energy Emergencies Executive Committee (E3C).

**Figure 2: Flowchart outlining the timeline for developing the ESRS Assurance Framework**



### Amendments to StC C1 and C16 of the Electricity Transmission Licence

3.19. As set out in our RIIO-2 Final Determinations,<sup>12</sup> from April 2021 the ESO's performance and expenditure on ESR activities will be considered through the ESO's overall incentives scheme, with restoration costs also included in the overall balancing costs metric. We took this decision on the basis that the arrangements introduced in 2017 have since met a number of the goals we set out to achieve when introducing them;<sup>13</sup> in particular, greater transparency in how the ESO procures restoration services as well as transparency in its ESR planning.

3.20. To further align the regulatory framework for the procurement of restoration services with the framework for the procurement of balancing services, we propose to amend StC C1: 'Interpretation of Section C' to introduce the definition of 'restoration services' and to amend the definition of balancing services to include 'restoration services'. In doing so, we'll ensure that the relevant obligations relating to the procurement of restoration services (that previously were part of the 'Black Start Procurement

<sup>12</sup> Available at the following address: <https://www.ofgem.gov.uk/publications-and-updates/riio-2-final-determinations-transmission-and-gas-distribution-network-companies-and-electricity-system-operator>

<sup>13</sup> Our Final Proposals for electricity System Operator incentives from April 2017 are available at the following address: <https://www.ofgem.gov.uk/publications-and-updates/final-proposals-electricity-system-operator-incentives-april-2017>

Methodology' in SpC 2.2) are incorporated into the suite of balancing services procurement publications required by StC C16.

3.21. At various stages throughout the year, StC C16 also currently requires the ESO to provide *ex-post* reporting on:

- balancing services it has bought or acquired in the period of 12 months ending on the date in which the latest version of the procurement guidelines statement is published every year; and
- the manner in which the ESO has complied with the balancing principles statement in the period of 12 months ending on 30 September every year. The report must be accompanied by a statement from an independent auditor giving their opinion as to the extent to which the ESO has complied with the balancing principles statement.

3.22. The current timings of these obligations are misaligned with the regulatory year and the reporting arrangements for the ESO's incentives process. Consequently, it is difficult to consider the ESO's activities in these areas in the incentives assessment of the ESO's performance. Therefore, we are also proposing to align and streamline the StC C16 *ex-post* reporting obligations within a new, clearer section of StC C16.

3.23. The new section of StC C16 will not include new additional obligations but will consolidate the existing *ex-post* reporting obligations into a single annual report detailing the balancing and restoration costs that the ESO incurred during the previous regulatory year. The annual report will also incorporate the existing obligations related to demonstrating how the ESO's incurred costs were in line with the 'Procurement Guidelines Statement' and the 'Balancing Principles Statement'. We will also align the timing of the obligation for the ESO to submit a statement from an independent auditor on the extent to which the ESO has complied with the procurement guidelines and balancing principles statements.

3.24. We believe that consolidating all of the current *ex-post* reporting processes, and aligning the submission deadline to 30 April, will allow us to provide timely feedback through our incentives regime, and provide a clearer process for the ESO to follow. By including all external balancing and restoration costs in the reporting obligations outlined in our proposed StC C16 modification, we believe that we will ensure that all costs to balance and operate the GB system are treated consistently. This will ensure

that incentives are consistent across balancing and restoration services, and further remove any potential risk of distortion to the ESO’s approach to procuring and managing these services.

3.25. We are confident that the combination of the proposed StC C16 licence obligations, alongside the inclusion of restoration costs in the ESO’s incentives scheme, will sufficiently compel the ESO to ensure these costs are minimised and the services are procured efficiently. More generally, we see equal importance to the procurement and reporting of restoration costs and other balancing costs, and so do not see a continued rationale for distinct treatment of one or the other.

**Figure 3: Flowchart outlining the timeline for the ESO’s procurement and reporting obligations**

