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Date: 06 February 2020

Dear Mr Gibbons,

Clarifications on the Authority's decision of 8 October 2019 on the Electricity System Operator's proposal for the Terms and Conditions related to balancing

Thank you for your letter of 23 January 2020 requesting some clarifications on our¹ 8 October 2019 decision² to confirm that the terms and conditions which had been proposed by the Electricity System Operator (ESO) are the Terms and Conditions related to balancing (T&C) required by Article 18 of the EBGL Regulation.³ Our decision is subject to three conditions being met.

In your letter, on behalf of the Balancing & Settlement Code (BSC) Panel, you asked us for "*clarification on whether the 4 April 2020 is in itself a condition (or an anticipated date for completion of the conditions)*".

With this question, we understand that the BSC Panel refers to condition (c) of our decision which requested the ESO to:

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

² Our 8 October 2019 decision can be found at: <https://www.ofgem.gov.uk/publications-and-updates/decision-transmission-system-operators-proposal-terms-and-conditions-related-balancing>

³ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing. The EBGL came into force on 18 December 2017. Accessible at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2195&from=EN>

“amend the industry codes to ensure the necessary alignment with the amendment process set in the EBGL. We expect that the relevant modifications to align the EBGL amendment process with current code practices, as well as the process to embed SCT’s [Standard Contract Terms] within the industry codes to be completed by 4 April 2020, as indicated as the latest date in the code modification proposals. This includes: P374, P371, P392, GC132, CMP322 & CMP323. This condition should be complied with by 4 April 2020.”

Our decision on 8 October 2019 indicated the dates by which we anticipated all the listed conditions to be fulfilled. These dates, more specifically 4 April 2020 in this case, are thus milestones against which we can monitor the progress of the ESO in fulfilling the listed conditions. These anticipated dates were carefully selected using the information available at the time based on the expected timetable for the completion of the necessary code modification processes. They also provided some guidance to stakeholders as to the date when all conditions would be satisfied and when the terms and conditions proposed by the ESO would be officially recognised as the T&C.

As stated in our 8 October 2019 decision, the T&C will take effect following the fulfilment of all the listed conditions. As P371 is due to be implemented by 25 June 2020, we now expect that all conditions listed in our letter should be fulfilled by 25 June 2020 at the latest.

We nevertheless ask the BSC Panel to continue to contribute to the fulfilment of all the conditions, especially the completion of the P392 code modification, as early as possible. This is because we expect any BSC modification aimed at amending the T&C to be carried out using a process aligned with the one established in the EBGL Regulation. This expectation applies to future BSC modifications aimed at amending the T&C but also to those modifications which have already been raised and were not listed in our decision of 8 October 2019. We understand that the earlier P392 is implemented, the easier it would be for the modifications to be carried out using a process aligned with the one established in the EBGL Regulation.

Finally, we do not believe that there is any practical reason for any code modification listed as a condition in our decision to be delayed beyond 25 June 2020. This should therefore give clarity to stakeholders on the latest date by which the T&C will come into effect in GB.

As the second section of questions posed by the BSC Panel are reliant on the Authority considering the 4 April 2020 date a condition, we have no response to these questions at this time.

I hope this clarification is helpful for the BSC Panel to continue to monitor progress and review and submit these code modifications to us for a decision. If you have any queries regarding the information contained within this letter or if the BSC Panel would like us to consider the urgency request timetable given our clarifications, please do not hesitate to contact me.

Yours sincerely,

[via e-mail]

Leonardo Costa

Senior Manager SO/DSO