

All interested parties,
stakeholders in GB and beyond,
and other regulatory bodies

Email: Eleanor.Warburton@ofgem.gov.uk

Date: 25 September 2020

Dear colleagues,

Decision on Dynamic Containment in relation to the Terms and Conditions related to Balancing

On 24 September 2020, we¹ received a proposal from the Electricity System Operator (ESO) to make amendments to the national terms and conditions related to balancing (T&C) required by Article 18 of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing (the EBGL Regulation).² This proposal relates to the inclusion of Dynamic Containment (DC) into the T&C.

DC is a service that will be procured by the ESO based on the DC Service Terms, DC General Terms and Conditions, and DC Participation Guidance Document.³ Therefore, the ESO request is for confirmation that the specific provisions within the DC Service Terms, DC General Terms and Conditions, and DC Participation Guidance Document form part of the T&C required by Article 18 of the EBGL Regulation.

This letter sets out our decision to confirm that the DC Service Terms, DC General Terms and Conditions, and DC Participation Guidance Document, as mapped by the ESO, form part of the T&C pursuant to Article 18 of the EBGL Regulation.

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 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/?uri=CELEX%3A32017R2195>

³ The current DC documents are accessible at: <https://www.nationalgrideso.com/industry-information/balancing-services/frequency-response-services/dynamic-containment?market-information>

Background

In accordance with Article 18 of the EBGL Regulation, the Transmission System Operators (TSOs) of a Member State must develop a proposal regarding the T&C for balancing service providers (BSPs) and balance responsible parties (BRPs). On 8 October 2019,⁴ we published our decision to confirm, upon satisfaction of certain conditions, that the T&C proposed by the ESO are the T&C required by Article 18 of the EBGL Regulation. On 25 June 2020, all the necessary conditions were met and the proposed T&C came into force in Great Britain (GB).

DC is a new opt-in service for BSPs to receive payments from the ESO to provide balancing capacity, and to deliver balancing energy, acting quickly on signal from the ESO in order to help maintain system frequency. DC is classed as a frequency containment response (FCR) product for provision of balancing capacity and balancing energy, and consequently the terms and conditions for the provisions of DC services by BSPs must be incorporated into the T&C required by Article 18 of the EBGL Regulation.

The ESO has therefore submitted a proposal to amend the T&C in order to include relevant provisions from the DC Service Terms, DC General Terms and Conditions, and DC Participation Guidance Document. To aid with the visibility of the T&C, the ESO has provided an updated mapping.

The proposal for amending the T&C to include the provisions was consulted between 21 August 2020 and 21 September 2020⁵ in accordance with Article 10 of the EBGL Regulation.

We note that Article 18(7) of the EGBL Regulation allows for TSOs to request “an exemption for specific products defined in Article 26(3)(b) to predetermine the price of the balancing energy bids from a balancing capacity contract pursuant to Article 16(6)”. This is covered by a separate request made by the ESO under Article 6(14) of Commission Regulation (EU) 2019/943 (the Electricity Regulation)⁶. We are considering the ESO request against Article 6(14) concurrent to this request.

⁴ Our 8 October 2019 decision is accessible at: <https://www.ofgem.gov.uk/publications-and-updates/decision-transmission-system-operators-proposal-terms-and-conditions-related-balancing>

⁵ The ESO consultation is accessible at: <https://www.nationalgrideso.com/industry-information/codes/european-network-codes-old/meetings/consultation-open-ebgl-article-18-0#:~:text=In%20accordance%20with%20the%20requirements%20of%20EBGL%20Article,our%20most%20immediate%20need%20for%20faster-acting%20frequency%20response.>

⁶ Regulation (EU) 2019/943 on the internal market for electricity (recast) can be accessed here: <https://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0943&from=EN>

Decision

We have reviewed the provisions related to DC proposed by the ESO to be recognised as T&C submitted to us in line with the requirements of the EBGL Regulation, the wider objectives of the Electricity Regulation and our statutory duties and obligations. We have also engaged with the ESO to better understand its proposals.

In light of the above, we believe that the ESO proposal meets the requirements of Article 18 of the EBGL Regulation. We therefore confirm that the proposed provisions in the DC Service Terms, DC General Terms and Conditions, and DC Participation Guidance Document form part of the T&C.

Next Steps

We expect the ESO to publish the DC Service Terms, DC General Terms and Conditions, and DC Participation Guidance Document as well as an updated mapping of the T&C as soon as possible.

Following our decision to recognise the provisions in the DC documents referred above as part of the T&C, any amendments to those provisions are subject to our regulatory approval going forward.⁷

If you have any queries regarding the information contained in this letter, please contact Alastair Owen (Alastair.Owen@ofgem.gov.uk).

Yours faithfully,

Eleanor Warburton

Deputy Director - ESO and Gas Systems

⁷ Following modification CMP323, the Connection and Use of System Charge code has provisions that require Authority approval to contractual arrangements for balancing services that are recognised as T&C. Modification CMP323 can be found in the following link: <https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc-old/modifications/cmp323-updating>