

Code Administrator Consultation Response Proforma**GC0133: Timely informing of the GB NETS System State condition**

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to grid.code@nationalgrideso.com by **5pm on 13 May 2021**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Panel.

If you have any queries on the content of this consultation, please contact Nisar.Ahmed@nationalgrideso.com or grid.code@nationalgrideso.com

| Respondent details | Please enter your details |
|-------------------------|---------------------------|
| Respondent name: | Garth Graham |
| Company name: | SSE Generation |
| Email address: | Garth.graham@sse.com |
| Phone number: | 01738 456000 |

For reference the Applicable Grid Code Objectives are:

- a) *To permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity*
- b) *Facilitating effective competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the national electricity transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity);*
- c) *Subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in the national electricity transmission system operator area taken as a whole;*
- d) *To efficiently discharge the obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency; and*
- e) *To promote efficiency in the implementation and administration of the Grid Code arrangements.*

Please express your views in the right-hand side of the table below, including your rationale.

| Standard Workgroup Consultation questions | | |
|---|---|---|
| 1 | Do you believe that the GC0133 Original Proposal facilitates the Applicable Objectives? | Yes. As the Proposer of GC0133 we believe that GC0133 does better facilitate Applicable Objectives (a), (c) and (d); whilst being neutral in terms of (b) and (e); for the reasons we have detailed in the proposal |

| | | |
|---|--|---|
| | | itself which, for the sake of brevity, we have refrained from repeating here – please refer to pages 12-13 of the May 2021 Code Administrator Consultation document for further details. |
| 2 | Do you support the proposed implementation approach? | <p>We support the proposed implementation approach. We are mindful of (and we concur with) the NGESO view (as expressed on page 4 of the first GC0133 FMR, from May 2020) that:</p> <p><i>“...this [GC0133] modification as set out would be fairly easy to achieve as the system state is currently monitored and updated by the ESO through the ENTSO-E Awareness System which is a platform for information sharing with other TSOs used within the ESO Control Room.”</i></p> <p>In our view, given that the two core tasks that GC0133 would introduce (continually determining the state of the GB system and updating the BMRS accordingly) are both tasks that are currently undertaken today by NGESO, there is no need for either a transition period or a prolonged implementation period.</p> |
| 3 | Do you have any other comments? | [See below] |

Question 3 Do you have any other comments?

For the sake of brevity, we have refrained from repeating here the detailed comments we made, in respect of question 3, in our previous Code Administrator Consultation response (pages 3-8) in April 2020¹); however, those comments should also be read as part of the answer to this question 3 in this May 2021 consultation response.

Instead, we focus our other comments here on the two specific items raised in the Ofgem ‘send back’ letter of 4th September 2020, namely:

*“1. the benefits of the modification to market participants and stakeholders; and
2. the challenges to the ESO of providing this information, including the challenges of publishing the reasons for the changes of system state condition.”*

In respect of **item (1)**, that there are benefits of the modification to market participants and stakeholders is perhaps best shown by reference to the statements the ESO itself has made as to why providing information on the system state, in a timely manner, is beneficial (and which we, and other Workgroup members, referred to in the March 2021 Workgroup meeting, as summarised on pages 7-8 of this consultation).

¹ which is available in the Annex to the 11th May 2020 Final Modification Report submitted to Ofgem.

We will provide those ESO references later in this answer, but before doing so, we believe that when considering the benefits of the GC0133 modification to market participants and stakeholders of GC0133, it may first be helpful to have an appreciation of the value of transparency for those parties.

We note, in this respect, the lack of appreciation, on the part of the ESO², as to the value³ of enhanced transparency for market participants and stakeholders from having access to the changing System State that GC0133 provides.

This is to some extent understandable – the ESO itself has full access itself to all this information on the System State: therefore, it is not in a strong position to judge what value market participants, stakeholders and end consumers will obtain from greater transparency of this information in a timely manner.

Therefore, it falls to us and other market participants (as we and they have done already during the course of the Workgroup deliberations) to point out the beneficial value that access to this information will have for market participants and stakeholders.

In simple terms, as we summarised in our Workgroup Consultation and previous (April 2020) Code Administrator Consultation response, the value of the GC0133 solution; with the enhanced transparency of information on the operation of the transmission system including, in this case, the changes to the System State; is that this:

- (i) leads to deeper understanding and greater clarity of the operation of the transmission system;
- (ii) leads to better decision making;
- (iii) leads to a more efficient electricity market;
- (iv) leads to enhanced competition within the electricity market; and
- (v) leads to lower costs to consumers.

That these five effects occur, with GC0133, can be demonstrated by reference to what the ESO itself and, wider afield, European system operators have extolled as the beneficial value of enhanced transparency around electricity system operations.

This, for example, has been recognised in the ESO's own Forward Plan (published in March 2020⁴) at:

Page 9:

"As we progress towards our longer term ambitions, we will also work to improve the transparency of our real-time actions and decision making. We believe that this level of information availability to market participants can help their real time decision making and lead to overall benefits for consumers" [emphasis added]

For the avoidance of doubt, the System State changes, related to GC0133, are examples of real time actions and decision making by the ESO and as such this

² As, for example, expressed in the Workgroup Report, as well as in the ESO's response to the Workgroup consultation and the previous (April 2020) Code Administrator Consultation along with this (May 2021) Code Administrator Consultation.

³ Based on the primary definition "The regard that something is held to deserve; the importance, worth, or usefulness of something." <https://www.lexico.com/definition/value>

⁴ <https://www.nationalgrideso.com/document/166441/download>

enhanced transparency can help market participants with their real time decision making, leading to overall benefits to end consumers.

Page 23:

[“In 2020-21 we [ESO] are going to deliver...”]

“Transparency of data used by our ENCC in our close-to-real-time decision making”

For the avoidance of doubt, the System State changes, related to GC0133, are examples of data used by the ESO in close to real time decision making.

[“Benefitting energy consumers this year...”]

“Stakeholders have specifically requested more transparency of ENCC actions. In publishing operational planning data, we are allowing stakeholders to make better informed decisions, leading to a better functioning market which will eventually lead to lower bills than otherwise would be the case.” [emphasis added]

[“...and in the future”]

“Transparency of ESO decision making, and a clear direction of travel for the future of the ENCC as part of the operability strategy report, will give stakeholders confidence that the market is functioning correctly, encouraging more new entrants and driving increased competition” [emphasis added]

Page 39

“This will increase transparency of the operational issues experienced in operating the system. This is linked to the following consumer benefit outcomes: • Improved safety and reliability • Benefits for society as a whole” [emphasis added]

For the avoidance of doubt, the System State changes, related to GC0133, are examples of operational issues, experienced by the ESO, in operating the GB transmission system. As such, this enhanced transparency can help market participants to make better informed decisions, leading to a better functioning market which will eventually lead to lower bills than otherwise would be the case; as well as providing market participants with confidence that the market is functioning correctly, encouraging more new entrants and driving increased competition whilst also improving safety and reliability.

Going further back than March 2020, ENTSOE, when developing the Network Codes identified, in respect of the explicit benefits of transparency, stated the following:

“Transparency is essential to achieve well-functioning, efficient, liquid and competitive wholesale markets.”

and

“...transparency is the foundation for creating a level playing field thus increasing competition between different market players”.

It was for these reasons (and others) that the Commission, guided by the National Regulatory Authorities (including GEMA) and the Members States (including BEIS) introduced within the transmission System Operation Guideline (SOGL⁵) explicit requirements on the TSOs (NGESO in this case) as well as the NRAs (GEMA in this case) in respect of both “*ensuring and enhancing the transparency and reliability of information on transmission system operation*” (as set out in Article 4(1)(g) of SOGL).

For the avoidance of doubt, the publication of the System State changes, related to GC0133, is a clear and visible demonstration of the ESO (and GEMA, as NRA) ensuring and enhancing the transparency (and reliability) of information on transmission system operation in GB.

Furthermore, the desire for enhanced transparency on the part of market participants is constantly being expressed to the ESO as, for example, was noted by the ESO in its 16th December 2020 Operational Transparency Forum webinar (at slide 19⁶) that:

“Industry feedback suggests that many would like to have a deeper understanding and hence greater clarity about the drivers of our operational decision making.”

For the avoidance of doubt, the enhanced transparency with the publication of the System State changes, related to GC0133, are examples of providing deeper understanding and hence greater clarity about the drivers of the ESO’s operational decision making.

That stakeholders continue to be directly impacted by the lack of information on system operations, in as near to real time, has most recently been demonstrated, only this very week (12th May), with the multiple questions raised at the ENCC’s Operational Transparency Forum⁷; as well as in the weeks before, about the Western HVDC ‘bootstrap’.

We invite the Ofgem colleagues when considering this GC0133 proposal in terms of item 1 (*‘the benefits of the modification to market participants and stakeholders’*) to listen to the Q&A session (which is always the last item, towards the latter third of the recording) from the 12th May meeting, or indeed any other Operational Transparency Forum meeting, at which those very market participants and stakeholders have, with their questions to the ESO, so eloquently identified the benefits that greater transparency of system operations which GC0133 (and indeed GC109) help to provide.

Finally, we would also note that the ESO has itself identified the minimal cost⁸ of implementing this GC0133 change. We fully concur with the ESO’s assessment – the cost of implementing this change is minimal.

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1485&from=EN>

⁶ <https://data.nationalgrideso.com/backend/dataset/b3c55e31-7819-4dc7-bf01-3950dccbe3c5/resource/413ccf22-516e-4eda-a6a7-8297dbacbe1f/download/ngeso-transparency-forum-16-12-vfinal.pdf>

⁷ the recording(s) of which, that evidence this, can be found at: <https://data.nationalgrideso.com/plans-reports-analysis/covid-19-preparedness-materials>

⁸ As noted in our answer to Question 2 above.

Therefore, on a simple 'cost benefit analysis' basis, GC0133 is positive as the beneficial value (to market participants, stakeholder, competition and end consumers) of the greater transparency it provides is substantially larger; for the reasons stated, by the ESO itself (as well as by ENTSOE) - as we have just noted above; than this minimal cost.

In respect of **item (2)**, as to the challenges to the ESO of providing this information, including the challenges of publishing the reasons for the changes of system state condition we note the comments made by the ESO, in respect of this item 2, during the Workgroup deliberations (as set out on pages 8-9 of this consultation) and we examine them in turn.

Before doing so however, we wish to point out that the GC0133 legal text was deliberately written to ensure that there was no obligation on the ESO to provide any 'commentary' on why a system state change had occurred – therefore the ESO, in exercising 'good industry practice', would not be expected to be prone to misreporting. In simple terms, the GC0133 solution was just to report the system state change itself; and not the initial, or subsequent (after some investigation?) reasoning/understanding by the ESO for the change (in the system state).

Having said that, we now turn to the ESO's statements.

"In the view of the ESO given that the ESO only has to use "reasonable endeavours" it's difficult to see this information, on the system state, providing any real time use.⁹"

This seems to suggest that a 'reasonable endeavours' obligations is not, in the view of the ESO, robust enough to ensure that the ESO provide the necessary information on the state of the system in a timely manner (as GC0133 requires) – this is at odds with their legal department's long held view (expressed over many Modifications) that 'reasonable endeavours', when compared with the alternative, namely 'best endeavours', is sufficiently robust enough to ensure that the obligation is undertaken by the ESO.

However, if the ESO is now highlighted a genuine deficiency in the reassurance and comfort that market participants and stakeholders have, up to now, taken; that 'reasonable endeavours' obligations will be dutifully discharged by the ESO; then this is a very concerning revelation, on the part of the ESO, which warrants further investigation by Ofgem as to how the ESO is currently discharging other, existing, 'reasonable endeavours' obligations that are set out in the Grid Code (as well as the CUSC, STC and SQSS along with the ESO's other duties under its Transmission Licence).

"Given this the ESO will need to put context to the change of state it may, inadvertently, make commercially sensitive information publicly available. "

We do not share the ESO's pessimism of the professionalism of its staff. Rather the opposite – we believe as professionals going about their duties that the ESO staff will be fully aware that they are not obliged by GC0133 to provide any further

⁹ The ESO's statements from pages 8-9 of this consultation are shown in bold here so that they stand out for the reader.

information (beyond the degradation or improvement of the state of the system with the BMRS notification(s)) and as such the ESO will be circumspect about what it says on BMRS.

However, notwithstanding this official (BMRS) route of communications, between the ESO and market participants, there are a host of additional outlets; such as Twitter, Facebook, Instagram, Snapchat, LinkedIn, TikTok etc., etc.; that have been used by ESO colleagues both within and, perhaps importantly in this context, out-with the ENCC (it being the ENCC staff alone within the ESO who determine – and notify with GC0133, BMRS – the System State in real time) and we cannot vouch for anything that ESO colleagues may freely choose to say on their works Twitter, Facebook, Instagram, Snapchat, LinkedIn, TikTok etc., outlets.

But the key point is that the plethora of communications channels (there being over ten senior members of the ESO management with such accounts) are not a substitute for the official, BMRS, channel. Our staff do not have the time to constantly monitor all these other communications channels on the off chance that information on the state of the system will be imparted by one of a host of ESO colleagues – as the ESO's Communications Teams' recent discussion with stakeholders identified, we the users of the operational type information need to have a single authoritative source of information from the ESO, namely the BMRS (hence why that is used within the GC0133 solution).

“In the view of the ESO the ‘Alert’ status was designed by ENTSO-E to allow sharing of operational information between neighbouring TSOs. The list of contingencies that cause the ‘alert’ state to be activated include certain interconnector issues and situations in which, for a specific further fault, operational limits will be exceeded. The ESO has reservations about whether this information would be useful to stakeholders or whether sharing specific details of a next fault that could severely impact system security would be wise.”

We put to one side the concerns that some Workgroup members expressed as to the extraordinary lengths that the ESO seems to go to, in opposing transparency, in order to protect the blushes of its corporate related entities; namely interconnectors; from scrutiny as to the robustness of their assets etc., (as the ESO approach to GC0105 and now GC0133 testify too).

Rather, we say that any reservations that the ESO has as to the usefulness of this information to stakeholders can simple be assuaged by the ESO reading their own duties, as a market participant, under the REMIT Regulation (1227/20113) – the Article (2) (7) definition says that:

“‘market participant’ means any person, including transmission system operators, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets” [emphasis added]

The same Regulation also defines, in Article (2) (1), *inside information* as:

“(1)means information of a precise nature which has not been made public, which relates, directly or indirectly, to one or more wholesale energy products

and which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products”.

“For the purposes of this definition, ‘information’ means:.... (d) other information that a reasonable market participant would be likely to use as part of the basis of its decision to enter into a transaction relating to, or to issue an order to trade in, a wholesale energy product. Information shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or may reasonably be expected to come into existence, or an event which has occurred or may reasonably be expected to do so, and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of wholesale energy products;”

If there was no usefulness to this inside information for market participants (as the ESO is suggesting with GC0133) then why, pray, would the Commission, the Member States (guided by the NRAs, including GEMA for GB) and the Parliament go to such extraordinary lengths as to place such legal duties upon the transmission system operators (and other market participants)?

It is also of particular relevance to note Recital (19) of Regulation 714/2009 (which is part of the EU Third Package) which set out that:

“Equal access to information on the physical status and efficiency of the system is necessary to enable all market participants to assess the overall demand and supply situation and identify the reasons for movements in the wholesale price. This includes more precise information on electricity generation, supply and demand including forecasts, network and interconnection capacity, flows and maintenance, balancing and reserve capacity.” [emphasis added]

Thus, by reference to the REMIT Regulation as well as the Third Package (both of which are retained in UK law following the conclusion of the Brexit transition period at the end of December 2020) it is clear, in law, that by providing equal access to inside information (including, for example, ‘*network and interconnection capacity, flows and maintenance*’) that as a market participant themselves, the ESO will be ensuring a robust market for electricity is maintained in GB (and beyond – noting that, according to the ESO, changes to the GB System State is already reported in real time to other market participants, namely TSOs, out-with GB: why should they be privy to this inside information, and be able to act in the market accordingly, whilst all other market participants are kept in the dark?).

“If codified then the ESO would have no future choice over the sharing of system state information regardless of any ongoing consequences of misreporting.”

The ESO seems to have inadvertently misunderstood the nature of the notification of the System State required by GC0133 and are conflating it with their own erroneous assumption that GC0133 requires additional (unspecified by them) details of the asset(s) concerned to be published that are over and above the duties parties already have under law (such as REMIT) today which, furthermore, will then lead the ESOs’ own staff to act in an unprofessional manner and misreport that information.

The GC0133 proposal, as the legal text makes clear, “**is concerned with the real time public reporting, by The Company, of the GB NETS System State**”. Nothing more, or less, than this. Given that this does not include any obligation whatsoever as to the reason(s) why the system state has changed we can see no justification for the ESO’s assertion here.

We would also note, that these concerns by the ESO (as expressed in the Workgroup meeting in March 2021) seem to concern the ‘Alert’ state and arise because of changes to interconnector – we find it hard to imagine that the ESO or the interconnectors to/from GB can, practically, keep the information quiet from interconnector trading parties. However, that would, in the absence of GC0133, mean that some market participants (the ESO, interconnector owning TSOs and interconnector contracting parties) would be privy to this inside information whilst all other market participants would not: this would be (as the REMIT regulation notes – see above) ‘*likely to significantly affect the prices of those wholesale energy products*’ in GB.

“This proposal is one of a number (GC0105, GC0107/113, GC0109) that seek to place reporting obligations on the ESO through the Grid Code. In the view of the ESO this changes the purpose of the Grid Code and places obligations on the ESO that could perhaps be made elsewhere within the regulatory framework.”

- It is with regret that we felt the need to raise GC0133. Like GC0109 before it, we had hoped that the ESO would actively engage with market participants and stakeholders to commit to greater transparency. However, as market participants and stakeholders found with the unilateral withdrawal, by the ESO, of the annual System Incident Report; which had been published by the ESO for some 17 years; the ESO’s attitude has been that if an obligation is not codified, then they are not bound to continue to publish it – hence the need to raise GC0105¹⁰. Given the actions of the ESO in the past of talking in terms of greater transparency whilst, it might appear, avoiding actually delivering on that (when it comes to transparency of information pertaining to system operations), this puts into context the ESO’s statement above as to their aversion to codification (as we doubt any obligations placed on the ESO elsewhere in the regulatory framework; i.e. the Licence; would have the necessary detail to ensure that the ESO practically delivers what market participants and stakeholders want).

¹⁰ <https://www.nationalgrideso.com/document/169821/download>