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Date: 20 January 2025

Dear Claire,

**Authority decision to send back System Operator Transmission Owner Code (“STC”) Modification Proposal CM095: ‘Implementing Connections Reform’ (CM095)**

On 20 December 2024, the Final Modification Report (“FMR”)<sup>1</sup> for STC Modification Proposal CM095 (“the Proposal”) was submitted to the Authority<sup>2</sup> for decision.

Given changes that were made to the applicable code objectives during the modification process (further described below), the Authority has decided to send back the Proposal for targeted further consideration and swift resubmission of the FMR (no later than 29 January 2025). The Authority considers this will allow it to properly form an opinion on CM095. We look forward to receiving the STC Panel’s confirmation that it can meet the timetable prescribed below at the earliest opportunity.

**1. Background**

On 1 October 2024, upon the establishment of National Energy System Operator Limited (“NESO”), an addition to the Applicable STC Objectives (“ASOs”) came into effect via Condition E4.5(b) of NESO’s Electricity System Operator Licence (“ESO Licence”) along with an amendment to the existing ASOs via Condition E4.5(e) of NESO’s ESO Licence. The addition was to include the following as ASO (b)– “(b) *efficient discharge of the obligations imposed upon the licensee by the Electricity System Operator licence, the Energy Act 2023 and Electricity Act 1989*” (“the New STC Objective”). This was to reflect the fact that the existing ASO(a) which provided “*efficient discharge of the obligations imposed upon*

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<sup>1</sup> <https://www.neso.energy/document/350386/download>

<sup>2</sup> References to the “Authority”, “Ofgem”, “we”, and “our” are used interchangeable in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This decision is made by or on behalf of GEMA.

*Transmission Licensees by Transmission Licences and the Electricity Act 1989*” would, given the introduction of the ESO Licence, no longer capture NESO alongside the other transmission licensees.

The amendment, made via Condition E4.5(e) of NESO’s ESO Licence, was the addition of the words underlined and in bold to existing ASO(e) – “*protection of the security and quality of supply and safe operation of the National Electricity Transmission System insofar as it relates to interactions between Transmission Licensees **and the licensee***” (“the Amended STC Objective”). Again, this was to ensure that the objective continued to apply in respect of NESO and the other transmission licensees.

Accordingly, from 1 October 2024, STC Modification Proposals fell to be assessed against the ASOs (which includes the New STC Objective and the Amended STC Objective). We note that the Workgroup vote, Code Administrator consultation (“CAC”) and the STC Panel recommendation vote for the Proposal took place after 1 October 2024 and accordingly these should have been with reference to the ASOs, which includes the New STC Objective and the Amended STC Objective - this was not the case for the Proposal. We note that the Workgroup consultation took place before 1 October 2024 and therefore the ASOs used at the time of the Workgroup consultation were those in effect at that time.

We are therefore sending back the FMR to require further targeted consideration against the updated objectives for completeness and to allow the Authority to properly form an opinion on the Proposal. Our reasons are set out in more detail below.

## **2. Reasons for our decision**

We note that prior to the introduction of the New STC Objective, ASO(a) was (and remains) “*efficient discharge of the obligations imposed upon Transmission Licensees by Transmission Licences and the Electricity Act 1989*”. As set out above, the New STC Objective reflects the fact that NESO is no longer a Transmission Licensee and is designed to essentially replicate the scope of the former ASO(a) to NESO, reflecting also the updated statutory obligations which apply to it. For this reason, we consider it likely that the views expressed, and votes submitted in relation to ASO(a) during the process will remain essentially the same and track across to ASOs (a) and (b) but consider it appropriate to test and formalise this position.

Similar logic applies to the Amended STC Objective in that the addition to this seeks to ensure that the scope of the Amended STC Objective is also applicable to NESO, in recognition of the fact that NESO is no longer a Transmission Licensee.

In order to ensure that our decision takes proper account of the votes of Workgroup and STC Panel members as well as the views of CAC respondents, we consider that send back is appropriate to allow relevant parties to confirm if their votes (in respect of Workgroup and STC Panel members) or views (in respect of CAC respondents) in respect of ASO(a) and (e) are unaffected by these updates, and submit their votes in relation to ASO(b) before we make our decision on the Proposal. Whilst the Workgroup Consultation was undertaken on the ASOs as in effect at the time, the Workgroup vote did not take place against the ASOs as in effect at the time. With this being the case, we consider it appropriate to allow the Workgroup members to confirm if their votes (in respect of ASO(a) and (e)) are unaffected by these updates to the ASOs, and submit their votes in relation to ASO(b) before we make our decision on the Proposal.

We consider that the Proposal needs to be subject to another Workgroup vote, CAC and STC Panel recommendation vote, solely in respect of the impact of the New STC Objective and the Amended STC Objective with questions included in the Workgroup vote, CAC and STC Panel recommendation vote on: (i) views/votes (as applicable) on the New Objective; (ii) whether there is any change in view/vote (as applicable) on ASO (e) as a consequence of the Amended Objective; and (iii) whether either of the New Objective and/or the Amended Objective change any other views/votes (as applicable) in respect of the other ASOs and their overall assessment of the proposed solutions against all the ASOs.

When re-submitting the FMR to us, it must be ensured that the Workgroup and STC Panel members' votes, and CAC respondents' views against (i), (ii) and (iii) in the immediately preceding paragraph above are included in the FMR.

### **3. Direction**

Pursuant to Section B Paragraph 7.2.5.15 of the STC<sup>3</sup>, the Authority has determined that the FMR is such that it cannot properly form an opinion on the Proposal. The Authority directs that the following specific steps are undertaken to address the deficiencies identified above: -

- i. A further Workgroup vote must be undertaken, solely in respect of the New STC Objective and the Amended STC Objective seeking only (i) votes on the New Objective; (ii) confirmation of whether there is any change in vote on ASO (e) as a consequence of the Amended Objective, if yes – the Workgroup member must provide reasons why their vote has changed; and (iii) confirmation whether either of the New Objective and/or the Amended Objective change any other votes in respect of the other ASOs and their overall assessment of the proposed solutions against all the ASOs, if yes –

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<sup>3</sup> <https://www.neso.energy/document/40766/download>

the Workgroup member must provide reasons why their vote has changed. The Workgroup vote must not take place longer than 2 working days after publication of this direction.

- ii. A further CAC must be undertaken, solely in respect of the New STC Objective and the Amended STC Objective seeking only (i) an assessment of the proposed solutions against the New Objective and the Amended Objective; (ii) where an assessment has been previously given, confirmation of whether there is any change in view on ASO (e) as a consequence of the Amended Objective, if yes – the CAC respondent must provide reasons why their view has changed; and (iii) where an assessment has been previously given, confirmation whether either of the New Objective and/or the Amended Objective change any other views in respect of the other ASOs, if yes – the CAC respondent must provide reasons why their view has changed. The timeline for response to the CAC must not be longer than 2 working days after the Workgroup vote has taken place.
- iii. Following (i) and (ii) above taking place, a further STC Panel vote must be undertaken seeking only (i) votes on the New Objective; (ii) confirmation of whether there is any change in vote on ASO (e) as a consequence of the Amended Objective, if yes – the STC Panel member must provide reasons why their vote has changed; and (iii) confirmation whether either of the New Objective and/or the Amended Objective change any other votes in respect of the other ASOs and their overall assessment of the proposed solutions against all the ASOs, if yes – the STC Panel member must provide reasons why their vote has changed.
- iv. Following all of the steps above, the FMR must be updated to ensure that Workgroup and STC Panel members' votes, and CAC respondent's views against (i), (ii) and (iii) in the immediately preceding paragraph above are included in the FMR.
- v. The Workgroup and STC Panel meeting(s) must be set up as soon as reasonably practicable after receipt of this direction. Given the detail of the requirements in this direction, the STC Panel should carefully consider whether in this case an initial STC Panel meeting to consider this direction is required in order for the direction to be progressed.

- vi. Following all of the steps above taking place, the FMR must be re-submitted to the Authority. Such resubmission must take place on or before 29 January 2025, unless otherwise agreed with the Authority.

Your sincerely,

Jack Presley Abbott

**Deputy Director – System Planning and Connections**

**Duly authorised on behalf of the Authority**