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| Modification proposal: | Grid Code [GC0106]: Data exchange requirements in accordance with Regulation (EU) 2017/1485 (SOGL) | | |
| Decision: | The Authority ¹ directs ² that the proposed modification to the Grid Code be made | | |
| Target audience: | National Grid Electricity Transmission PLC (NGET), the Grid Code Review Panel, Grid Code users and other interested parties | | |
| Date of publication: | 08 March 2019 | Implementation date: | 14 March 2019 |

Background

EU Commission Regulation 2017/1485, the Transmission System Operation Guideline (the SOGL Regulation), entered into force on 14 September 2017. Articles 40-53 of the SOGL Regulation set out the data exchange requirements and common framework for data exchange between parties in order to ensure operational security during planning timescales and close to real time.

This modification proposal seeks to ensure that the data exchange provisions within the Grid Code are compliant with the requirements of the SOGL Regulation.

The modification proposal

GC0106 was proposed by NGET and was originally submitted to the Grid Code Review Panel (the Panel) for its consideration on 18 October 2017. The Panel decided to send the proposal to a Workgroup to develop and assess the proposal against the Grid Code objectives.

The modification proposal aims at ensuring that all of the technical requirements set out in Articles 40-53 of the SOGL Regulation are reflected within the Grid Code, in order for the regulatory framework of Great Britain (GB) to be compliant. The proposer believes that this will be achieved by retaining the existing Grid Code text, unless there is a conflict with the requirements of the SOGL Regulation, or that those requirements demand new additions to the Grid Code. The proposer's approach to only make necessary changes required for European Network Code (ENC) compliance is consistent with our open letter on ENC implementation.³

The original GC0106 modification proposal identified the following changes to the Grid Code which are required to ensure compliance with the SOGL Regulation:

- Amend the submission process of offline or 'structural' network data from an annual process to a 6 monthly cycle, in order to align with the requirement of Article 43(4) of the SOGL Regulation.
- Provide to the TSO, per primary energy source, the total aggregated generating capacity for all embedded power stations less than 1MW, in order to align with the requirement of Article 43(5) of the SOGL Regulation.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ See Ofgem open letter on ENC Implementation at

https://www.ofgem.gov.uk/system/files/docs/2018/02/open_letter_setting_out_minded_to_decision_tso_obligations_ebgl_er_sogl_final2.pdf

Following the Workgroup Consultation, on 2 May 2018 SSE Generation Ltd raised three potential Workgroup Alternative Grid Code Modifications (WAGCMs). These were voted through by the Workgroup to be worked up as full alternatives. Following this decision, the Workgroup sought guidance from the Panel due to, in its view, a significant amount of work having to be undertaken to fully develop them with proposed legal text.

The Panel instructed the Workgroup to fully develop the legal text for WAGCM2 but to not fully develop the text for WAGCM1 and WAGCM3. The content of the three WAGCMs is briefly detailed below:

- WAGCM1 Mod Title: 'As per original (TSO to provide where DSOs/SGUs do not provide)'. This WAGCM proposes to keep the original code modification but to provide further where the DSOs/SGUs do not need to provide the relevant data. This WAGCM is based on the interpretation of the phrase "*unless otherwise provided by the TSO*" in the SOGL Regulation as meaning that the DSOs/SGUs do not have to provide the required data if the TSO is already able to produce it.
- WAGCM2 Mod Title: 'As per original (Ensuring a non-discriminatory approach by the TSO to data provision as well as a 'level playing field' between relevant stakeholders)'. This WAGCM proposes to keep the original code modification but to provide further for the harmonisation of the rules applicable to the exchange of data from generators as the current rules would differ between generators and thus would prove to establish a discriminatory approach between different types of generators.
- WAGCM3 – This WAGCM would bring together both WAGCM1 and WAGCM2.

The justification of each WAGCM is included within the GC0106 Final Modification Report.⁴

Grid Code Review Panel recommendation

The Panel considered the original GC0106 modification proposal and WAGCMs at its meeting on 19 December 2018.

- The majority of the Panel agreed that the original modification proposal better facilitates applicable Grid Code objective (iv). Some Panel members also noted a positive impact on the Grid Code objectives (i) and (v).
- The Panel also voted on what they believed was the best option of the proposed modifications. 4 out of 6 of the Panel members voted in favour of the original modification proposal, whilst one member voted for WAGCM3 and the last member abstained from voting. The Panel members therefore recommended by majority that the original modification proposal solution better facilitates the relevant objectives and should be implemented.

Our decision

We have considered the issues raised by the original modification proposal and in the Final Modification Report dated 24 December 2018. We have considered and taken into account the responses to the industry consultation on the modification proposal which are included in the Final Modification Report. We have concluded that:

⁴ GC0106 Final Modification Report can be found at:

<https://www.nationalgrideso.com/sites/eso/files/documents/Final%20Modification%20Report%20to%20Authority%202412%20V2.pdf>

- the implementation of the original modification proposal will better facilitate the achievement of the objectives⁵ of the Grid Code compared to the baseline and compared to WAGCM 1 to 3; and
- approving the original modification proposal is consistent with our principal objective and statutory duties.⁶

Reasons for our decision

We agree with the proposer and the majority of the Panel and consider that the original modification proposal will better facilitate Grid Code objective (iv) as it discharges the obligations imposed on the licensee by the SOGL Regulation and ensures that the necessary changes are made in order to achieve the compliance required. We also believe that the original modification proposal will have a positive impact on objective (i) and a neutral impact on objectives (ii), (iii), and (v).

We note also that:

- For WAGCM1, the proposer believes that the phrase "*unless otherwise provided by the TSO*" creates an obligation for the DSOs/SGUs to provide the required data, unless the TSO can provide the said data on its own.

We believe that this is not a correct interpretation of the provisions of the SOGL Regulation. In the phrase "*unless otherwise provided by the TSO*", the term "provide" must be understood as an equivalent of "determining" and not as an equivalent of "producing". Title 2 on data exchange in the SOGL Regulation aims at ensuring that the TSOs have access to the data necessary to ensure the secure operation of the transmission system, including when need be from DSOs and SGUs. The TSO may however determine that DSOs/SGUs do not have to submit the required data, for instance when it already has access to it or when this data would prove unnecessary. In this regard, Article 40(5) of the SOGL Regulation gives the TSO discretion in terms of the 'applicability and scope of the data exchange'. We believe that the data must be provided by DSOs/SGUs, unless the TSO determines otherwise.

We therefore consider that WAGCM1 is built on the basis of an erroneous legal interpretation.

- For WAGCM2, the proposer believes that the original maintains a non-harmonised and therefore discriminatory approach to the data exchange obligations for transmission connected generators, which they consider creates an uneven playing field for market participants.

We recognise that there are differences in the current data exchange requirements that are a result of the historical development of the energy system that was captured at the time of the setup of the British Electricity Trading and Transmission Arrangements (BETTA) in 2005. In terms of the harmonisation approach, we believe that the SOGL does not require data exchange harmonisation and provides the TSO with some flexibility to determine the applicability and scope of the information they require to operate the system efficiently. While we recognise that there are differences in the current data exchange requirements, we have not identified a discrimination which would result from those differences and we note that the proposer did not in our view

⁵ As set out in Standard Condition C14(1)(b) of NGET's Transmission Licence, available at: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>

⁶ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

provide evidence of discrimination either. Finally, it is not clear what the improvements are that WAGCM2 would bring in terms of creating a level playing field.

We therefore consider that there is currently not sufficient justification to consider that the proposed harmonisation would be legally required, that it would ensure a non-discriminatory approach or would ensure a better level-playing field.

- For WAGCM3, the proposer relies on the same assumptions as for WAGCM1 and WAGCM2.

We therefore consider that WAGCM3 is built on the basis of an erroneous legal interpretation and that there is currently not sufficient justification to consider that the proposed harmonisation would be legally required, that it would ensure a non-discriminatory approach or would ensure a better level-playing field.

We have also assessed the different WAGCMs against the Grid Code relevant objectives with particular focus on objectives (i) and (iv) and this assessment is provided below.

(i) To permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity

The proposer believes that the original modification proposal has a neutral impact on objective (i) as it permits the development and maintenance of an efficient system by only implementing the mandatory changes necessary to achieve compliance.

In our view, the original modification proposal has a positive impact on objective (i) as it allows the TSO to collect more data useful for the operation of the system than it currently is and therefore allows the TSO to ensure a more efficient operation and maintenance of the transmission system.

WAGCM1

The proposer believes that WAGCM1 will have a positive impact on objective (i) as it believes that it would apply a correct legal interpretation of the SOGL regulation text which would provide clarity on the allocation of responsibilities on data provision and would therefore ensure a more efficient, coordinated and economical system for the transmission of electricity.

We believe that WAGCM1 would not better facilitate the maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity, as it would force the TSO to collect and market participants to provide unnecessary data for the operation of the transmission system. We therefore believe that WAGCM1 would have a negative impact on Grid Code objective (i).

WAGCM2

The proposer believes that WAGCM2 has a positive impact on objective (i) as they consider it would apply a non-discriminatory and consistent approach to data provision between relevant stakeholders and therefore permits the development of a more efficient and coordinated system.

We believe that we do not have sufficient information to determine the impact of WAGCM 2 on objective (i) at the moment as the FMR does not sufficiently elaborate on the impact of WAGCM 2 on different parties nor on the operational security of the system. We have also not identified a discrimination which would result from those differences and we note

that the proposer did not seem to provide evidence of discrimination either. We understand that the assessment of the impact of WAGCM2 would need to be holistic and take into account considerations reached beyond data exchange requirements. This is something that could be considered, if appropriate, under proposed Grid Code modification GC0117⁷. The added value that harmonisation would have, compared to the impact on system security has not been demonstrated and we therefore believe on balance that the original proposal would have a positive impact on Grid Code objective (i) while WAGCM2 would have a neutral impact.

WAGCM 3

As WAGCM3 is a combination of both WAGCM1 and WAGCM2, we believe that it would also have a negative impact on objective (i).

(iv) 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.

The proposer believes that the original modification proposal has a positive impact on objective (iv). The current version of the Grid Code contains provisions which are contradictory to the provisions of the SOGL Regulation which supplements the Electricity Regulation. We agree that by removing the inconsistencies, the original modification proposal therefore ensures a better compliance with the Electricity Regulation and therefore better facilitates Grid Code objective (iv).

WAGCM1

The proposer believes that WAGCM1 has a positive impact on objective (iv) as it believes that the alternative modification applies a correct legal interpretation. As explained above, we do not believe that the proposer adopted the correct interpretation of the relevant provisions of the SOGL Regulation and we therefore believe that the alternative modification would not facilitate the efficient discharge of the obligations imposed upon the licensee to comply with the Electricity Regulation. We therefore believe that WAGCM1 would have a negative impact on objective (iv).

WAGCM2

The proposer believes that WAGCM2 has a positive impact on objective (iv) as it believes it applies a non-discriminatory and consistent approach to data exchange requirements between relevant stakeholders.

We agree that WAGCM2 could be seen as having a positive impact on Grid Code objective (iv) as it discharges the obligations imposed on the licensee by the SOGL Regulation. We are not convinced however that WAGCM2 would allow to discharge the licensee's obligations more efficiently than the original modification as the impact of WAGCM2 on market participants and on operational security is currently unclear. We have also not identified a discrimination which would result from those differences and we note that the proposer did not in our view provide evidence of discrimination either. We therefore believe that we do not have enough information to determine the impact of WAGCM 2 on the objective (iv).

⁷ GC0117 found at:

<https://www.nationalgrideso.com/sites/eso/files/documents/PP5.%20GC0117%20Single%20harmonised%20common%20approach%20for%20GB%20generator.pdf>

WAGCM3

As WAGCM3 is a combination of both WAGCM1 and WAGCM2, we believe that it would have a negative impact on objective (iv).

We therefore believe that the original modification proposal is a better option than WAGCM1, WAGCM2 or WAGCM3.

Decision notice

In accordance with Standard Condition C14 of NGET's Transmission Licence, the Authority hereby directs that Grid Code modification proposal GC0106: *'Data exchange requirements in accordance with Regulation (EU) 2017/1485 (SOGL)* be made.

Louise van Rensburg

Interim Deputy Director SO and Whole Systems – Systems & Networks

Signed on behalf of the Authority and authorised for that purpose