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for energy consumers

Grid Code Review Panel

Email: Adam.Gilham@ofgem.gov.uk

Date: 24 January 2023

Dear Panel Members,

**Authority decision to send back Grid Code modification GC0148 "Implementation of EU Emergency and Restoration Code Phase II"**

We have decided to send back the GC0148 ("the Proposal") Final Modification Report (FMR) and direct the Grid Code Review Panel to revise and resubmit the FMR.

The aim of the Proposal is to to implement Article 15(5) – 15(8), Article 41 and Article 42 (1) (2) and (5) of the EU Emergency and Restoration Code<sup>1</sup> ("the NCER"). The Proposal also addresses some outstanding issues from previous modifications under the NCER, such as treatment of storage under low frequency conditions and the treatment of how non-CUSC parties would fall under the remit of the NCER.

We received the FMR on 12 October 2022. On 16 November 2022, the ESO contacted us with new information to notify us that aggregators may not be able to satisfy some of the requirements placed on them by the Proposal. Aggregators are considered Significant Grid Users and if the Proposal was approved in its current form it is likely that aggregators would be in breach of their obligations under the Grid Code. If we were to approve this

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<sup>1</sup> The Emergency and Restoration Code is accessible here: [COMMISSION REGULATION \(EU\) 2017/ 2196 - of 24 November 2017 - establishing a network code on electricity emergency and restoration \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2017/2196/oj)

modification we would therefore be approving a modification that cannot be complied with by some relevant parties.

We consider that, in view of the new information, there is a deficiency in the original submission, including the legal text, which means the Proposal does not deliver on implementing the NCER. We therefore direct that further work is undertaken on the FMR to address this and allow the workgroup to take the new information into account and ensure the intent of the modification is met. We note that GC0148 updates a number of sections of the Grid Code to meet the requirements of the relevant provisions in the NCER and the issue regarding aggregators only impacts certain sections regarding critical tools and facilities. As the vast majority of the Proposal is fit for purpose, taking into account the new information regarding aggregators would be consistent with the direction and intent of the Proposal. For these reasons we have decided that send back, rather than rejection, is the most appropriate avenue to ensure the legal text is updated to account for the new information.

Updates to the legal text need to enable all relevant parties to comply with the new provisions or ensure that those who cannot comply with the new provisions are exempt or have the necessary routes available to derogate from the requirements. These changes need only be made to the sections of legal text in the Proposal which were updated in order to comply with Article 42 of the NCER.

If you have any questions regarding the content of this letter, please contact Chris Statham ([Christopher.Statham@ofgem.gov.uk](mailto:Christopher.Statham@ofgem.gov.uk)).

Yours sincerely,

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