



Department for
Business, Energy
& Industrial Strategy

THE FUEL SECURITY CODE

November 2019 (minor revision)



OGL

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Contents

| | |
|---|----|
| Introduction | 5 |
| A. Certain powers of the Secretary of State to issue directions | 5 |
| B. Obligations of the industry | 6 |
| C. Amendments to the Code | 7 |
| D. General management of a fuel security period | 8 |
| The Fuel Security Code | 9 |
| Part 1 – Interpretation | 9 |
| A. Name | 9 |
| B. Definitions | 9 |
| C. Further interpretation | 14 |
| Part 2 – General | 16 |
| A. Principal objective | 16 |
| B. Inclusion within Licences | 16 |
| C. Modification under Section 7(5) of the Act | 16 |
| D. Illegality | 17 |
| E. Priorities | 17 |
| F. Notices | 18 |
| Part 3 – Planning for a fuel security period | 20 |
| A. Establishment of an Energy Emergency Executive (“E3”) Committee | 20 |
| B. Communication between members of the E3 Committee | 20 |
| C. Obligations of NGESO | 20 |
| D. Obligations of generators | 21 |
| E. Obligations of owners or operators of distribution systems | 21 |
| Part 4 – Operating during a security period | 22 |
| A. Operation of the GB transmission system | 22 |
| B. Operation of generating units | 22 |
| C. Operation of distribution systems | 22 |
| D. Obligation of NGESO and generators to ensure the provision and maintenance of certain data | 23 |
| Part 5 – Recovery of costs | 24 |
| A. General provision in relation to cost recovery | 24 |
| B. Recovery of exceptional costs by generators | 24 |
| C. Recovery of Exceptional Costs by NGESO | 25 |
| D. Recovery of Exceptional Costs by Distribution Licence Holders | 25 |

Introduction

This introduction and the associated guidance note do not form part of the substantive provisions of this Code. Their purpose is to assist the reader in understanding the reasons for, and background to, the Code. Neither this introduction nor the associated guidance has legal force and effect and neither confers rights or imposes obligations. In addition, neither shall affect the interpretation or construction of any of the substantive provisions of the Code.

A. Certain powers of the Secretary of State to issue directions

1. **The Electricity Act 1989 (the “Act”).** Under section 34 and section 35 of the Act, the Secretary of State has the power to issue directions to operators of certain power stations and to electricity transmission companies as follows:

(a) **Power to direct operators of certain Power Stations.** Section 34 of the Act enables the Secretary of State to direct an operator of any power station with a generation capacity of not less than a stated capacity (currently 10 MW) and which is fuelled otherwise than by waste or manufactured gases to make contingency arrangements for the level of fuel and other materials which it must keep in stock. These powers also enable him, among other things, to direct the manner in which the power station operator is to:

- (i) use such stocks; and
- (ii) operate its power stations.

Under section 34(5)(d) and section 34(6) of the Act, the Secretary of State may designate another person to specify these matters in a particular way. The recipient of a direction from the Secretary of State under section 34 of the Act need not necessarily be licensed under the Act.

(b) **Power to direct Transmission Licensees.** Section 35 of the Act enables the Secretary of State, among other things, to direct holders of electricity transmission licences not only to:

- (i) consult with other persons and provide the Secretary of State with such information and advice as the Secretary of State may reasonably require for purposes connected with his functions under section 34 of the Act; but also,
- (ii) when a direction under section 34(4) of the Act is in force, to carry on activities which their licences authorise them to carry on in a specified manner or with a view to achieving specified objectives.

B. Obligations of the industry

2. **Standing Directions.** The Secretary of State has given with effect from 31 March 1990, standing directions under;

(a) section 34(3), 34(4)(a), 34(5)(d) and 34(6) of the Act and Schedule 2 to the Energy Act 1976 in conjunction with section 35(7) of the Act; and

(b) section 25 (1) of the Act,

making arrangements with respect to the levels of fuel stocks and other materials. Under section 34 and section 35 of the Act, the Secretary of State may also issue further directions at any time in the future concerning the creation and maintenance of fuel stocks and related matters as he sees appropriate.

3. **Compliance with Directions.** Under section 107(1) of the Act, any person to whom a direction is given under the Act has a duty to give effect to that direction. Under section 35(5) of the Act, contravention of or failure to comply with a direction of the Secretary of State under section 34 or section 35 of the Act without reasonable excuse is an offence carrying (on summary conviction) a fine not exceeding the statutory maximum (currently £5000) or (on conviction on indictment) an unlimited fine.

4. **Licences.** Under section 4 of the Act it is an offence for a person to:

(a) generate;

(b) participate in the transmission of;

(c) distribute; or

(d) supply,

electricity or participate in the operation of an electricity interconnector unless he is either exempted under section 5 of the Act or authorised to do so by a licence issued under section 6. Class exemptions have been granted under the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001, although any person in an exempt class may still apply for a licence should he wish to do so.

5. **Licence Conditions.** Under section 7(1) of the Act, licences may include such conditions (relating to the activities authorised by the licence or other activities) as appear to the Authority to be requisite or expedient having regard to the duties imposed by sections 3A to 3C of the Act. Sections 3A to 3C of the Act set out:

(a) the principal objective of the Authority (that of protecting the interests of consumers, wherever appropriate, by promoting effective competition); and

(b) general duties of the Secretary of State and the Authority in exercising the functions assigned or transferred to each of them by the Act.

Section 7(4)(b) of the Act permits conditions authorised by section 7(1)(c) of the Act to be included in licences by way of reference to provisions set out in documents designated for that purpose. Section 7(6A) of the Act provides that references in licence conditions to any document may, if so provided, operate as references to that document as from time to time revised or re-issued. The incorporation of designated

documents into licences is actually effected through licence conditions which identify the documents to be incorporated. This is the method used to incorporate the Code into licences so that it binds the relevant generation, supply, distribution and transmission licensees.

6. Non-Licensees. The Code is made binding through parties' licences and so will not apply to any person who carries on any electricity-related activities under an exemption granted under section 5, even if such person is:

(a) the recipient of a direction from the Secretary of State under section 34 of the Act (for example, an operator of a power station of the stated capacity or more); and

(b) a party to the Balancing and Settlement Code (such as an operator of a power station that is exempt under section 5 of the Act).

It is recommended that any such person consider fuel security planning and operating during a Fuel Security Period in his contractual arrangements with other industry participants.

7. Enforcement of this Code. This Code is enforceable by the Authority under the general procedures for enforcement contained in sections 25 to 28 of the Act. These provisions allow the Authority to make orders and impose fines for the breach of licences.

C. Amendments to the Code

8. As explained in paragraph 5 above, the provisions of the Code have the status of licence conditions because they are incorporated by reference into licences by specific licence conditions. Section 11A of the Act confers upon the Authority a statutory power to amend standard conditions of licences, subject to the ability of:

(a) licensees (if sufficient of them object); and

(b) the Secretary of State,

to reject changes under that section.

9. The Competition and Markets Authority has the power to reject amendments notified to it by the Authority. Under section 11 (11B-11H) an appeal against a decision of the Authority to modify a condition of a licence may be made to the Competition and Markets Authority by the relevant licence holder, a licence holder who is materially affected by the decision, a body representing the licensees or Citizens Advice. In determining the appeal, the Competition and Markets Authority must have regard to the performance of the duties of the Authority or the Secretary of State under s.3A, s.3B and s.3C of the Electricity Act 1989. If the Competition and Markets Authority allows the appeal they can quash the decision or remit it back to the Authority for reconsideration.

10. Under section 15 of the Act the Secretary of State, the Competition and Markets Authority as appropriate may, in some circumstances when exercising particular powers under the Enterprise Act 2002, make modifications of the licence where that

amendment is required or expedient to give effect to or take account of any provision made in the exercise of those powers.

11. As contemplated by section 7(5) of the Act, clause C of Part 2 of this Code provides a further mechanism for modifications to be made to the provisions of this Code.

D. General management of a fuel security period

12. Under the Code, the Energy Emergencies Executive (“E3”) Committee will establish the Joint Response Team to liaise between industry and government and to develop the mechanism by which the practical management of an emergency can be achieved.
13. It is envisaged that the Joint Response Team, NGESO or another appropriate response team member will be required to undertake activities for and on behalf of the Secretary of State under section 34(5)(d) of the Act. This responsibility will be undertaken in addition to any obligation imposed on that party by the Secretary of State by a direction under section 35 of the Act.

The Fuel Security Code

Part 1 – Interpretation

A. Name

1.01 This Code shall be known as the “Fuel Security Code” and supersedes:

(a) the 1990 Code; and

(b) the modification of the 1990 Code made by the Secretary of State and dated 9 March 2001.

B. Definitions

1.02 In this Code, except where the context otherwise requires:

“Act” means the Electricity Act 1989;

“Ancillary Services” means:

(a) such services as any Authorised Electricity Operator may be required to have available as ancillary services pursuant to the Grid Code; and

(b) such services as any Authorised Electricity Operator or person making Interconnector transfers may have agreed to have available as being ancillary services pursuant to any agreement made with the System Operator and which may be offered for purchase by the System Operator for the purpose of securing stability of operation of the GB Transmission System and the Distribution System of any Authorised Electricity Operator or any system linked to the GB Transmission System by an Interconnector;

“Apparatus” means all equipment in which electrical conductors are used or supported or of which they form part;

“Auditors” means:

(a) in relation to a company, that Licence Holder’s auditors for the time being holding office in accordance with the requirements of the Companies Act 1985; and

(b) in relation to any other description of person, a member of one or more of the following bodies:

(i) the Institute of Chartered Accountants in England and Wales;

(ii) the Institute of Chartered Accountants of Scotland;

(iii) the Chartered Association of Certified Accountants; or

(iv) the Institute of Chartered Accountants in Ireland.

“Authorised Electricity Operator” means any person (other than a licensee in its capacity as operator of the Licensee’s Transmission System or the GB Transmission System)

who is authorised to generate, participate in the transmission of, distribute, or supply electricity and shall include any person who has made an application to be so authorised which application has not been refused and any person transferring electricity to or from the GB Transmission System across any Interconnector or who has made an application for use of an Interconnector which has not been refused;

“Authority” means the Gas and Electricity Markets Authority;

“Balancing and Settlement Code” means the balancing and settlement code required to be in place pursuant to the Transmission Licence granted to the System Operator, as from time to time modified;

“Balancing Mechanism” means the mechanism for the making and acceptance of offers and bids pursuant to the arrangements contained in the Balancing and Settlement Code and referred to in the Transmission Licence;

“Balancing Services” means:

- (a) Ancillary Services;
- (b) offers and bids made in the Balancing Mechanism; and
- (c) other services available to a Transmission Licensee which serve to assist the Transmission Licensee in co-ordinating and directing the flow of electricity onto and over the GB Transmission System in accordance with the Act or the standard conditions or in doing so efficiently and economically, but shall not include anything provided by another Transmission Licensee pursuant to the System Operator – Transmission Owner Code;

“BM Unit” means a unit established and registered (or to be established and registered) by a Party in accordance with section K3 of the Balancing and Settlement Code or, where the context so requires, the Plant or Apparatus treated as comprised in or assigned to such unit for the purposes of that Code;

“BSCCo Charges” means amounts payable by persons bound by the Balancing and Settlement Code (by virtue of being a party to the BSC Framework Agreement) by way of specified BSC charges in accordance with section D3.1 of the Balancing and Settlement Code and any further charges in accordance with section D3.3 of the Balancing and Settlement Code and in respect of the recovery of BSC costs pursuant to section D4.2 of the Balancing and Settlement Code;

“BSC Framework Agreement” means the agreement of that title, in the form approved by the Secretary of State, by which the Balancing and Settlement Code is made contractually binding between the parties to that Agreement, as from time to time amended with the consent of the Secretary of State;

“1990 Code” means the Fuel Security Code designated by the Secretary of State as at 27 March 1990 as a condition of licences granted under section 6 of the Act;

“Connection and Use of System Code” means the connection and use of system code required to be in place pursuant to the Transmission Licence granted to the System Operator, as from time to time modified;

“Customer” means:

(a) in relation to a Distribution System, any person supplied or requiring to be supplied with electricity at any premises in Great Britain but does not include any Authorised Electricity Operator in its capacity as such; or

(b) in any other case, a person to whom electrical power is provided (whether or not he is the same person as the person who provides that electrical power);

“Distribution Code” means the distribution code that is required to be in place pursuant to the Distribution Licence as from time to time modified;

“Distribution Connection and Use of System Agreement” means the agreement of that title that is designated by the Authority pursuant to the Distribution Licence, as from time to time modified;

“Distribution Licence” means a licence granted or to be granted under section 6(1)(c) of the Act;

“Distribution Licence Holder” means the holder for the time being of a Distribution Licence;

“Distribution System” means the system consisting (wholly or mainly) of electric lines owned or operated by an authorised distributor and used for the distribution of electricity from Grid Supply Points or Generation Sets or other entry points to the point of delivery to Customers or Authorised Electricity Operators or any Transmission Licensee within Great Britain in its capacity as operator of the Licensee’s Transmission System or the GB Transmission System and includes any electrical plant, meters and metering equipment owned or operated by such distributor in connection with the distribution of electricity, but shall not include any part of the GB Transmission System;

“E3 Committee” means the Energy Emergencies Executive Committee established under and for the purposes of Part 3;

“Electronic Communication” means a communication transmitted:

(a) by electronic means; or

(b) by other means but while in electronic form;

“Emergency” means an emergency or anticipated emergency within or affecting the gas or electricity infrastructure or both of them;

“Energy Account” has the meaning given to that term in Annex X-1 of the Balancing and Settlement Code;

“Exceptional Cost” means costs incurred by a Generator, by NGENSO or by a Distribution Licence Holder or, in the case of a BM Unit comprising the premises of a Customer, by that Customer, which would not have been incurred but for a direction or directions given by the Secretary of State (whether in anticipation of or during a Security Period) under section 34 or 35 of the Act and which were incurred:

(a) necessarily, properly and in good faith;

(b) on a basis consistent with commercial practices and procedures that were normal and prudent; and

(c) only after all reasonable efforts had been made to establish that no practicable alternative course of action was available at a lower cost;

“Export” has the meaning given to that term in section K1.1.4(b) of the Balancing and Settlement Code as interpreted in accordance with the provisions of section K1.1.4 of that Code;

“GB Transmission System” means the system consisting (wholly or mainly) of high voltage electric lines owned or operated by Transmission Licensees within Great Britain and used for the transmission of electricity from one generating station to a sub-station or to another generating station or between sub-stations or to or from any Interconnector and includes any electrical plant or meters owned or operated by any Transmission Licensee within Great Britain in connection with the transmission of electricity;

“Generating Unit” means (unless otherwise provided in the Grid Code) any Plant or Apparatus which produces electricity including for the avoidance of doubt a Combined Cycle Gas Turbine or CCGT Unit as defined in the Grid Code;

“Generation Business” in relation to a particular Generator has the meaning from time to time given to that term in the Generation Licence granted to that Generator;

“Generation Licence” means a licence granted or to be granted under section 6(1)(a) of the Act;

“Generation Set” means any Plant or Apparatus for the production of electricity and shall where appropriate include a generating station comprising more than one Generation Set;

“Generator” means a person who generates electricity under a Generation Licence acting in his capacity as a generator in Great Britain;

“Grid Code” means a grid code which the System Operator is required to have in place pursuant to its Transmission Licence, as from time to time modified;

“Grid Supply Point” means any point at which electricity is delivered from the GB Transmission System to any Distribution System;

“Import” has the meaning given to that term in section K1.1.4(b) of the Balancing and Settlement Code as interpreted in accordance with the provisions of section K1.1.4 of that Code;

“Interconnector” means so much of an electric line or other electrical plant as:

- (a) is situated at a place within the jurisdiction of Great Britain; and
- (b) subsists wholly or primarily for the purposes of the conveyance of electricity (whether in both directions or only one) between Great Britain and a place within the jurisdiction of another country or territory;

“Joint Response Team” means the team responsible, in the context of Emergencies, for:

- (a) the gathering of information;
- (b) the identification of gas and electricity supply priorities;

(c) the formulation of options; and

(d) the assessment, in conjunction with the E3 Committee, of the effectiveness of action taken;

“Lead Party” in relation to a BM Unit means the Party registered or to be registered in respect of that BM Unit pursuant to section K3 of the Balancing and Settlement Code;

“Licence Holder” means the holder for the time being of a Licence;

“Licences” means all Generation Licences, Supply Licences, Distribution Licences and Transmission Licences and “Licence” means any or (as the context may require) a particular one of them;

“Licensee’s Transmission System” means those parts of the GB Transmission System which are owned or operated by a Transmission Licensee within its Transmission Area;

“MWh” means megawatt-hour;

“NGESO means National Grid Electricity System Operator (registered number 11014226) whose registered office is situated at 1-3 Strand, London, WC2 5EH;

“Panel” means:

(a) the panel established under section B1.1.1 of the Balancing and Settlement Code; or

(b) where that panel considers the delegation of its functions to a sub-committee to be required for the effective performance of its functions under this Code, that sub-committee;

“Party” means a person who is for the time being bound by the Balancing and Settlement Code by virtue of being a party to the BSC Framework Agreement;

“Plant” means fixed and movable items used in the generation or supply or distribution or transmission of electricity, other than Apparatus;

“Section C (system operator standard conditions) Direction” means a direction issued by the Authority or (where appropriate) the Secretary of State in accordance with standard condition A2 (Application of Section C) of the standard conditions for Transmission Licences;

“Security Period” means a period:

(a) beginning on:

(i) the date on which a direction under section 34(4)(b) of the Act is given by the Secretary of State; or

(ii) such later date as may be specified in that direction; and

(b) ending on such date (being not earlier than the date on which that direction, as from time to time amended, is revoked or expires) as the Secretary of State shall determine subject to:

(i) consultation by the Secretary of State with the Authority and such other persons as the Secretary of State considers appropriate (including those

Licence Holders which the Secretary of State considers are likely to be principally affected by notification under sub-paragraph (ii)); and

(ii) notification of that date to all Licence Holders by the Secretary of State with the consent of the Authority;

“Supplier” means a Party which holds a Supply Licence and is responsible for Exports and for Imports for which such Party is required by virtue of Section K of the Balancing and Settlement Code to register one or more SVA Metering Systems;

“Supply Licence” means a licence for the supply of electricity granted under section 6 of the Act, as modified from time to time;

“SVA Metering System” has the meaning given to that term in Annex X-1 of the Balancing and Settlement Code;

“System Operator” means the holder for the time being of a Transmission Licence in relation to which the Authority or (where appropriate) the Secretary of State has issued a Section C (system operator standard conditions) Direction and in which Section C remains in effect (whether or not subject to any terms included in that Direction or to any subsequent variation of its terms to which the Transmission Licensee may be subject);

“System Operator – Transmission Owner Code” means the code required to be in place pursuant to the Transmission Licence granted to the System Operator, as from time to time modified;

“Trading Charges” has the meaning given to that term in the Balancing and Settlement Code;

“Trading Party” means a Party other than NGENSO which holds Energy Accounts;

“Transmission Area” means the area specified in special condition AA of the Transmission Licensee’s Transmission Licence;

“Transmission Licence” means a Licence granted or to be granted under section 6(1)(b) of the Act;

“Transmission Licensee” means the holder for the time being of a Transmission Licence; “User System” has the meaning given to that term in the Grid Code;

“Written Document” includes any information, notice or other form of written communication (including Electronic Communication) mentioned in this Code or a copy thereof.

C. Further interpretation

- 1.03. In this Code, except where the context otherwise requires, any reference to any agreement or any deed or other instrument (or any part or section or other provision thereof) shall be construed as a reference to that agreement, deed or other instrument (or any part or section thereof) as the same may have been, or may from time to time be, amended, varied, supplemented, novated or re-numbered.
- 1.04. Unless the contrary intention appears, references in this Code to any provision of legislation, including any provision of subordinate legislation, include any statutory

modification, re-enactment or replacement of that provision after the date on which this Code comes into force.

Part 2 – General

A. Principal objective

- 2.01 The principal objective of this Code is to provide an administrative structure designed to enable compliance with directions issued under section 34 or 35 of the Act by the Secretary of State to be effected with the minimum of interference with normal market arrangements.

B. Inclusion within Licences

- 2.02 The provisions of this Code as from time to time amended shall be read and construed together as one document with and as if they were included within each Licence in which provision is made for that Licence Holder to comply with this Code.

C. Modification under Section 7(5) of the Act

- 2.03 In addition, but without prejudice to the powers of modification contained in sections 11 to 15 of the Act (but subject to sub-clause 2.04 of this Part), the Secretary of State, after consultation with the Authority, or the Authority, with the consent of or in accordance with a general permission given by the Secretary of State, may (having regard to their duties under the Act) modify any provision of this Code in such manner as appears to them to be appropriate in any of the following circumstances:

(a) where they reasonably consider that such modifications are of a minor and inconsequential nature; or

(b) where the consent of all Licence Holders has first been obtained; or

(c) where they consider (having regard, in addition to their duties under the Act, to any representations or objections which are duly made in accordance with sub-clause 2.04 and not withdrawn, to the periods of time within which they consider it desirable to introduce such modifications and to the availability of the powers of modification contained in sections 11 to 15 of the Act) that such modifications are in the best interests of the electricity industry as a whole.

- 2.04 Before making any modifications to any provision of this Code under paragraph (b) or (c) of sub-clause 2.03 of this Part, the Secretary of State or, as the case may be, the Authority shall give to each Licence Holder a notice stating in such detail as they shall consider appropriate in the circumstances:

(a) the modifications proposed; and

(b) in the case of paragraph (c) of sub-clause 2.03 of this Part, the reasons why such modifications are considered to be in the best interests of the electricity industry as a whole and the reasons why any powers of modification available pursuant to sections 11 to 15 of the Act are not being used specifying the period of time which, in the circumstances, they consider appropriate within which representations or objections with respect to the proposed modifications may be made.

2.05 The Secretary of State or, as the case may be, the Authority shall promptly notify each Licence Holder of any modifications to the provisions of this Code under sub-clause 2.03 of this Part when made.

D. Illegality

2.06 No Licence Holder shall be obliged by any provision of this Code to take any action or refrain from taking any action to the extent that such action or inaction would be unlawful or prohibited by virtue of any one or more of the following:

- (a) an enactment of the Westminster Parliament, the Scottish Parliament or the Welsh Assembly;
- (b) any provision of subordinate legislation;
- (c) a regulation or directive of the Council or Commission of the European Union, or any decision of the Commission of the European Union which is binding on the Licence Holder;
- (d) an order, decree or judgement of any court or tribunal of competent jurisdiction; or
- (e) a covenant, agreement, restriction, stipulation, instruction, provision, condition or notice contained in a licence for the time being in force granted in accordance with the Nuclear Installations Act 1965 or any consent, direction or approval issued, or to take effect from time to time, under such licence and any emergency arrangements, operating rules or other matters from time to time approved by the relevant authority under, or pursuant to any such agreements, restrictions, stipulations, instructions, provisions, conditions or notices.

E. Priorities

For the avoidance of doubt:

2.07 In the event of any inconsistency between any provision of this Code and any direction issued by the Secretary of State under section 34 or section 35 of the Act, the latter shall prevail.

2.08 This Code shall prevail in the event of any inconsistency between any provision of this Code and any of the following:

- (a) the Balancing and Settlement Code;
- (b) the Distribution Code;
- (c) the Distribution Connection and Use of System Agreement;
- (d) the Grid Code;
- (e) the Connection and Use of System Code;
- (f) the System Operator – Transmission Owner Code; and
- (g) the Uniform Network Code.

- 2.09 Where a Licence Holder reasonably considers that complying with any direction given by the Secretary of State under section 34 or 35 of the Act will require it to act in a manner which is inconsistent with any provision of its Licence, the Licence Holder shall, without delay, inform the Secretary of State of such inconsistency and the direction shall be appropriately amended.
- 2.10 In the event of any inconsistency between this Code and:
- (a) the decisions of the E3 Committee;
 - (b) the decisions of any Joint Response Team; or
 - (c) the terms of any manual or plan developed by the E3 Committee (to the extent that it deals with the handling of Security Periods),
- this Code shall prevail to the extent that it deals with the handling of Security Periods.

F. Notices

- 2.11 A Written Document may be sent, given or issued:
- (a) to a body corporate by being sent, given or issued to its company secretary;
 - (b) to a firm (including a Scottish partnership) by being sent, given or issued to a partner in the firm or to a person having management or control of the partnership business;
 - (c) to an unincorporated body by being sent, given or issued to a member of its governing body.
- 2.12 For the purposes of this clause, the proper address (except in a case falling within sub-clause 2.15) of:
- (a) the Secretary of State is the address of the principal office of the Secretary of State who for the time being exercises the functions of the Secretary of State under this Code;
 - (b) a body corporate is the address of its registered or principal office;
 - (c) a firm (including a Scottish Partnership) or unincorporated body is the address of its principal office;
 - (d) any other person is his last known address.
- 2.13 Where, by virtue of the above provisions of this clause, the proper address of the intended recipient of a Written Document is outside the United Kingdom, references in this clause to the proper address of:
- (a) a body corporate, firm or unincorporated body include its principal office (if any) in the United Kingdom; and
 - (b) any other person include his last known address in the United Kingdom (unless he is known no longer to have an address in the United Kingdom).
- 2.14 If the person to whom a Written Document is to be sent, given or issued has furnished the person by whom the Written Document is to be sent, given or issued with an

address pursuant to any provision of this Code, that address shall also be treated for the purpose of this clause as his proper address.

2.15 Where a Written Document is to be sent, given or issued by means of an Electronic Communication, the proper address of any person includes the number or address which he has indicated is to be used by him for receipt of that Electronic Communication.

2.16 This clause is without prejudice to any other lawful means of giving or serving notice.

Part 3 – Planning for a fuel security period

A. Establishment of an Energy Emergency Executive (“E3”) Committee

- 3.01 The E3 Committee shall include NGENSO, the Authority and the Secretary of State. The E3 Committee shall meet on a regular basis.
- 3.02 The purpose of the E3 Committee is to assist in the development of processes and procedures across industry and government to manage Emergencies, including the formation of a Joint Response Team.
- 3.03 A Joint Response Team shall be established to make recommendations to the Secretary of State as to the most appropriate way to exercise his powers under the Act to manage an Emergency and ensure consistent communication between government and the electricity industry in Emergencies in accordance with the E3 Committee processes and procedures as from time to time amended.
- 3.04 In a Security Period, the E3 Joint Response Team will be chaired by the Department for Business Enterprise and Regulatory Reform.

B. Communication between members of the E3 Committee

- 3.05 In the event that NGENSO the Authority or the Secretary of State becomes aware of any circumstances which may result in an Emergency, the party becoming so aware shall inform the other members of the E3 Committee of those circumstances and shall consult with them concerning the appropriate response and whether a Joint Response Team should be formed.

C. Obligations of NGENSO

- 3.06 Without prejudice to any requirements from time to time imposed upon NGENSO by the Secretary of State under section 35(1) of the Act, NGENSO shall provide to the Secretary of State such information which it holds as a result of the operation of the Grid Code and its position as System Operator as he may reasonably require (either at the time of the request or any time thereafter) for the purposes of:
- (a) assessing the capability and availability of power stations to meet the demand of Customers;
 - (b) assessing the balance of supply and demand for electricity; and
 - (c) assessing the ability of the GB Transmission System to accommodate the prevailing pattern of availability and capability of generation to meet demand from Customers.
- 3.07 NGENSO shall maintain, until the Authority otherwise directs, records of:
- (a) advice given to the Secretary of State by it under section 35(1) of the Act; and
 - (b) the information it holds in relation to the compliance by Licence Holders with any direction issued by the Secretary of State as to the stocks of fuel and other materials held by Licence Holders pursuant to directions issued by the Secretary of State under section 34 of the Act.

- 3.08 NGESO shall make available to the Authority such of the records referred to in sub-clause 3.07 as the Authority may at any time request.
- 3.09 NGESO shall report to the Secretary of State on all matters referred to in sub-clauses 3.06 to 3.07 at such times as the Secretary of State may request.
- 3.10 NGESO shall, without prejudice to the confidentiality provisions of the Connection and Use of System Code, and subject to any direction from the Authority to the contrary, keep each Generator properly informed in relation to advice given by NGESO to the Secretary of State by it under section 35(1) of the Act.

D. Obligations of generators

- 3.11 Generators shall provide the Secretary of State or NGESO with such information as they or NGESO (as appropriate) may require (either at the time of the request or any time thereafter) for the purposes of assessing the capability and availability of generation to meet demand and assessing balance of supply and demand on the GB Transmission System and their compliance with any directions issued by the Secretary of State as to stocks of fuel and other materials held or to be held by them under section 34 of the Act. Where information is provided to NGESO by a Generator, this will be on the basis that the Generator has consented to NGESO's provision of the information the Secretary of State.

E. Obligations of owners or operators of distribution systems

- 3.12 Owners or operators of Distribution Systems shall provide the Secretary of State or NGESO with such information as he or NGESO may require for the purposes of assessing the capability and availability of power stations to meet demand for electricity and assessing the balance of supply and demand (either at the time of the request or any time thereafter) on the GB Transmission System. Where information is provided to NGESO by the owner or operator of a Distribution System, this will be on the basis that that person has consented to NGESO's provision of the information to the Secretary of State.

Part 4 – Operating during a security period

A. Operation of the GB transmission system

- 4.01 If the Secretary of State gives a direction to NGENSO under section 35(2) of the Act, any such direction shall specify the objective or objectives which the Secretary of State is seeking to achieve by means of the direction and NGENSO may (without limitation) achieve that objective or those objectives by any one or more of the following methods:
- (a) the issuing of instructions pursuant to the Grid Code;
 - (b) the use of Balancing Services.
- 4.02 To the extent that the operation of the GB Transmission System to achieve the objective or objectives of the Secretary of State as set out in a direction under section 35(2) of the Act is inconsistent with the terms of the Balancing and Settlement Code, the Connection and Use of System Code, the Grid Code or the System Operator – Transmission Owner Code, the terms of any such Code shall be deemed to be modified to such extent and for such period of time as shall be necessary for the GB Transmission System to be operated without such inconsistency (but not further or otherwise).
- 4.03 In giving effect to a direction of the Secretary of State under section 35(2) of the Act, NGENSO shall have regard to the emergency arrangements in other industry codes and agreements.
- 4.04 NGENSO shall from time to time during a Security Period keep each other Licence Holder properly informed as to the manner in which the GB Transmission System (or any part thereof) will be operated in order to give effect to a direction which has been given to it by the Secretary of State under section 35(2) of the Act.
- 4.05 NGENSO shall, until directed otherwise by the Authority, maintain records of all information supplied by it in accordance with sub-clause 4.04 of this Part and of all subsequent communications (including telephone communications) made by it in relation to such information. NGENSO shall make available to the Authority such of those records as the Authority may at any time request.

B. Operation of generating units

- 4.06 If the Secretary of State gives a direction to a Generator under section 34 of the Act in respect of the availability, status or operation of one or more Generating Units, the Generator shall comply with that direction.
- 4.07 A Generator shall notify NGENSO of any change in the availability, status or operation of a Generating Unit or power station brought about by a direction to a Generator under section 34 of the Act in data that are required to be submitted to NGENSO in accordance with the Grid Code.

C. Operation of distribution systems

- 4.08 During a Security Period, each operator of a Distribution System shall operate that Distribution System in a manner that is consistent with the operation of the GB Transmission System.

- 4.09 In order to facilitate compliance with sub-clause 4.08 above NGESO shall:
- (a) make itself available to each operator of a Distribution System for consultation; and
 - (b) provide such information as is required to enable any operator of a Distribution System to comply with sub-clause 4.08.
- 4.10 To the extent that the operation of any Distribution System in the manner described in sub-clause 4.08 above is inconsistent with the terms of the Distribution Code, those terms shall be deemed to be modified accordingly to such extent and for such period of time as shall be necessary for such distribution system to be operated without such inconsistency.
- D. Obligation of NGESO and generators to ensure the provision and maintenance of certain data**
- 4.11 NGESO and Generators shall take steps to ensure the provision and maintenance for the duration of any Security Period of any data that the Secretary of State may specify which may include (without limitation) in relation to each Generating Unit:
- (a) the maximum output when using primary and secondary fuel sources;
 - (b) capability from primary and secondary fuel sources;
 - (c) the rate of replacement of primary and secondary fuel sources expressed in MWhs/ day; and
 - (d) notification of primary and secondary fuel utilisation.

Part 5 – Recovery of costs

A. General provision in relation to cost recovery

5.01 Subject to the following provisions of this Part 5, each Licence Holder who is a party to the Balancing and Settlement Code or the Connection and Use of System Code shall comply with the provisions of those Codes (insofar as applicable to that Licence Holder) governing payments for electricity or Balancing Services either in anticipation of or during a Security Period.

B. Recovery of exceptional costs by generators

5.02. Where a Generator considers that it has incurred Exceptional Costs in relation to a BM Unit in anticipation of or during a Security Period, the Lead Party in relation to that BM Unit may apply to the Panel for a determination that, in the opinion of the Panel:

(a) the Generator has incurred Exceptional Costs in carrying on its Generation Business as a result of a direction or directions given by the Secretary of State (whether in anticipation of or during a Security Period) under section 34 or section 35 of the Act; and

(b) the Generator should receive compensation in respect of those Exceptional Costs:

(i) in the sum specified by the Generator in accordance with sub-clause 5.04; or

(ii) in such other sum as the Panel deems appropriate.

5.03 An application under sub-clause 5.02 must be made within sixty days (or such longer period as the Panel may in any case approve) after:

(a) the end of the period beginning with the date on which a direction under section 34(4)(b) of the Act is given by the Secretary of State and ending on such later date of commencement of a Security Period as may be specified in that direction; or

(b) in the case of an application for an interim payment of compensation in respect of Exceptional Costs incurred, the end of the period beginning with the date on which a direction under section 34(4)(b) of the Act is given by the Secretary of State and ending on such later date as is specified in that application; or

(c) the end of the Security Period,

as the case may be during which the Exceptional Costs which are the subject of the application were incurred.

5.04 The Lead Party shall enclose with its application under sub-clause 5.02 a written statement (signed by a director of the relevant Generator) of the circumstances in which that Generator considers that it has incurred Exceptional Costs and the amount of the Exceptional Costs which that Generator considers that it has incurred and the Lead Party shall provide a copy of any such application to the Authority.

5.05 The Lead Party shall obtain and supply to the Panel any information or explanation (and shall provide such other assistance) as the Panel may from time to time request for the purpose of disposing of an application under sub-clause 5.02.

5.06 If required to do so by the Panel, the Lead Party shall, within such period as the Panel may reasonably stipulate, submit a statement signed by:

(a) the Lead Party's Auditors; and

(b) where the Exceptional Costs the subject of the application under sub-clause 5.02 relate to a BM Unit comprising the premises of a Customer and include costs incurred by that Customer, the Customer's Auditors

to the effect that the Generator's estimate of Exceptional Costs has been prepared on a basis which is both fair, complete and reasonable and consistent with the definition of that term in Part 1 of this Code.

5.07 If required to do so by the Authority, the Panel will discuss with the Authority any determinations to be made under sub-clause 5.02 and, in making any such determinations, shall take account of any guidance given by the Authority.

5.08 When the Panel has made a determination under sub-clause 5.02, it shall notify the Lead Party of the determination, and that proportion of the Exceptional Costs allowed by the Panel shall be settled as a charge upon suppliers. The mechanism for cost recovery shall be determined by the Authority.

C. Recovery of Exceptional Costs by NGESO

5.09 The recovery of Exceptional Costs by NGESO shall be governed by Special Condition 4C (Balancing Services Activity Revenue Restriction) and Special Condition 3K (Allowance in Respect of Security Costs) of NGESO Transmission Licence and Exceptional Costs incurred by NGESO shall constitute "allowed security costs" for the purposes of Special Condition D7. Subject to sub-clause 5.10, nothing in this Code shall prejudice the rights of NGESO to recover the costs incurred by it in procuring any Balancing Services in accordance with the use of system charging methodology statement produced in accordance with NGESO's Transmission Licence.

5.10 Nothing in this Code shall permit double recovery of costs by NGESO.

D. Recovery of Exceptional Costs by Distribution Licence Holders

5.11 The recovery of Exceptional Costs by Distribution Licence Holders shall be governed by special condition C2 of Distribution Licences.

E. Prohibition of double recovery

5.12 Nothing in this Code shall permit double recovery of costs by a Generator, NGESO, or a Distribution Licence Holder.

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