

BEFORE THE COMPETITION AND MARKETS AUTHORITY

AN APPEAL UNDER SECTION 173 ENERGY ACT 2004

BETWEEN:

(1) SSE GENERATION LIMITED

(2) THE ENTITIES LISTED IN THE SCHEDULE TO THE NOTICE OF APPEAL

Appellants

- and -

GAS AND ELECTRICITY MARKETS AUTHORITY

Respondent

- supported by –

NATIONAL GRID ELECTRICITY SYSTEM OPERATOR LIMITED

- and -

CENTRICA PLC AND BRITISH GAS TRADING LIMITED

Interveners

ORDER

UPON reading the Notice of Appeal from SSE Generation Limited and the Entities listed in the Schedule to the Notice of Appeal (the Appellants) against the decisions of the Gas and Electricity Markets Authority (GEMA) dated 17 December 2020 to approve Connection and Use of System Code Modification Proposals CMP317/327 and CMP339

AND UPON granting the Appellants on 21 January 2021 permission to appeal

AND UPON granting National Grid Electricity System Operator Limited and Centrica plc and British Gas Trading Limited on 10 February 2021 permission to intervene in the appeal

AND UPON extending the period for determination of the appeal by ten working days, pursuant to paragraph 6(2) of Schedule 22 to the Energy Act 2004

AND UPON considering the grounds of appeal and the representations and submissions of the parties

AND UPON considering the Administrative Court's judgment in *R (on the application of SSE Generation Limited and Others) v Competition and Markets Authority* [2022] EWHC 865 (Admin) and the Decision on Relief and Other Consequential Matters in *R (on the application of SSE Generation Limited and Others) v Competition and Markets Authority* [2022] EWHC 987 (Admin)

AND UPON being directed by Order of the Administrative Court dated 11 April 2022 to make certain decisions with consequential relief

IT IS ORDERED THAT

(1) The appeal is allowed against the Respondent's decisions dated 17 December 2020 approving Connection and Use of System Code proposals CMP317/327 and CMP339 on Ground 2 in the appeal and that matter is remitted to the Respondent with a direction to reconsider and determine that matter.

(2) The Respondent's decision dated 17 December 2020 in relation to CMP339 is quashed in so far as it relates to the definition given to Charges for Physical Assets Required for Connection, and that matter is remitted to the Respondent with a direction to reconsider and determine that matter.

(3) The appeal is allowed against the Respondent's decision dated 17 December 2020 approving Connection and Use of System Code proposals CMP317/327 on Ground 1 in the appeal in so far as it relates to the construction of the Connection Exclusion inherent in the approval of the Original Proposal, and that matter is remitted to the Respondent with a direction to reconsider and determine that matter.

(4) Costs be reserved

Kirstin Baker (Chair)
20 May 2022

Colleen Keck

Frances McLeman