

# **Completed Acquisition by Iberdrola, S.A. through its subsidiary Scottish Power Energy Networks Holdings Limited of North West Electricity Networks (Jersey) Limited**

## **INITIAL ORDER MADE BY THE COMPETITION AND MARKETS AUTHORITY PURSUANT TO SECTION 72(2) OF THE ENTERPRISE ACT 2002 (THE ACT)**

1. Whereas:
  - (a) the Competition and Markets Authority (**CMA**) has reasonable grounds for suspecting that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in Scottish Power Energy Networks Holdings Limited (**SPENH**) and North West Electricity Networks (Jersey) Limited (**NWEN Jersey**) ceasing to be distinct;
  - (b) the CMA is considering whether to make a reference under section 22 of the Act and whether to make a reference under section 68B of the Act;
  - (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under sections 22 or 68B of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference; and
  - (d) the circumstances set out in section 72(6) of the Act do not apply and the reference or references have not been finally determined in accordance with section 79(1) of the Act.
2. Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to Iberdrola SA, SPW Investments and SPENH (collectively **Iberdrola**), and NWEN Jersey and NWEN UK (collectively **NWEN**) (the **Initial Order**).

## **COMMENCEMENT, APPLICATION AND SCOPE**

1. This Initial Order commences on the commencement date, being the date of completion of the Merger.
2. This Initial Order applies to Iberdrola and NWEN.
3. Notwithstanding any other provision of this Initial Order:
  - (a) no act or omission shall constitute a breach of this Initial Order, and nothing in this Initial Order shall oblige Iberdrola or NWEN to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date;
  - (b) this Initial Order does not prohibit the completion of the Merger provided that Iberdrola and NWEN observe the restrictions set out below.

## **MANAGEMENT OF THE IBERDROLA AND NWEN BUSINESSES UNTIL DETERMINATION OF PROCEEDING**

4. Except with the prior written consent of the CMA, Iberdrola and NWEN shall not, during the specified period, take any action which might prejudice a reference of the Merger under section 22 or 68B of the Act or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
  - (a) lead to the integration of the NWEN business with the Iberdrola business;
  - (b) transfer the ownership or control of the Iberdrola business or the NWEN business or any of their subsidiaries; or
  - (c) otherwise impair the ability of the NWEN business or the Iberdrola business to compete independently in any of the markets affected by the Merger.
5. Further and without prejudice to the generality of paragraph 4 and subject to paragraph 3, Iberdrola and NWEN shall at all times during the specified period take all necessary steps to ensure that, except with the prior written consent of the CMA:
  - (a) the NWEN business is carried on separately from the Iberdrola business and the NWEN business's separate sales or brand identity is maintained;
  - (b) the NWEN business and the Iberdrola business are maintained as a going concern and sufficient resources are made available for the development of the NWEN Business and the Iberdrola business, on the basis of their respective pre-merger business plans;

- (c) except in the ordinary course of business, no significant changes are made to the organisational structure of, or the management responsibilities within, the NWEN business or the Iberdrola business;
- (d) the nature, description, range and quality of goods or services (or both) supplied in the UK by each of the two businesses are maintained and preserved;
- (e) except in the ordinary course of business through the separate operation of the two businesses:
  - (i) all of the assets of the NWEN business and the Iberdrola business are maintained and preserved, including facilities and goodwill;
  - (ii) none of the assets of the NWEN business or the Iberdrola business are disposed of; and
  - (iii) no interest in the assets of the NWEN business or the Iberdrola business is created or disposed of;
- (f) there is no integration of the information technology of the NWEN or Iberdrola businesses, and the software and hardware platforms of the NWEN business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the two businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the NWEN business will be carried out by the NWEN business alone and for the avoidance of doubt the Iberdrola business will not negotiate on behalf of the NWEN business (and vice versa) or enter into any joint agreements with the NWEN business (and vice versa);
- (h) all contracts of the NWEN business and the Iberdrola business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the NWEN business or Iberdrola business;
- (j) no key staff are transferred between the NWEN business and the Iberdrola business;
- (k) all reasonable steps are taken to encourage all key staff to remain with the NWEN business and the Iberdrola business; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses shall pass, directly or

indirectly, from the NWEN business (or any of its employees, directors, agents or affiliates) to the Iberdrola business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (including, for example, where required for compliance with external regulatory or accounting obligations or for due diligence, integration planning or the completion of any merger control proceedings relating to the Merger) and on the basis that, should the Merger be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

## COMPLIANCE

6. Iberdrola and NWEN shall take all necessary steps to ensure that each of their subsidiaries complies with this Initial Order as if the Initial Order had been issued to each of them.
7. Iberdrola and NWEN shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Iberdrola and NWEN their subsidiaries with this Initial Order. In particular, on 26 November 2024 at 12pm (GMT) and subsequently at 12pm (BST/GMT) on the last Tuesday of every month (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of each of the addressees of the IEO that form part of Iberdrola and NWEN or other persons of Iberdrola and NWEN as agreed with the CMA shall, on behalf of Iberdrola and NWEN provide a statement to the CMA in the form set out in the Annex to this Initial Order confirming compliance with this Initial Order.
8. At all times, Iberdrola and NWEN shall actively keep the CMA informed of any material developments relating to the NWEN business or the Iberdrola business, which includes but is not limited to:
  - (a) details of key staff who leave or join the NWEN business or the Iberdrola business;
  - (b) any interruption of the NWEN or Iberdrola business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
  - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the NWEN or Iberdrola business including any substantial changes in customers' demand; and

- (d) substantial changes in the NWEN or Iberdrola business's contractual arrangements or relationships with key suppliers.
9. If any member of Iberdrola or NWEN has any reason to suspect that this Initial Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Iberdrola or NWEN (or both) may be directed to appoint under paragraph 100.
10. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Initial Order, or do or refrain from doing any specified action in order to ensure compliance with the Initial Order. The CMA may vary or revoke any directions so given.
11. Iberdrola and NWEN shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Initial Order.

## INTERPRETATION

12. The Interpretation Act 1978 shall apply to this Initial Order as it does to Acts of Parliament.
13. For the purposes of this Initial Order:

**'the Act'** means the Enterprise Act 2002 (including the modifications made by Schedule 5A where relevant);

**'an affiliate'** of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

**'business'** has the meaning given by section 129(1) and (3) of the Act;

**'commencement date'** means the date of completion of the Merger;

**'control'** includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

**'the decisions'** means the decisions of the CMA on the questions which it is required to answer by virtue of section 35 or 68B of the Act;

**'Iberdrola'** means Iberdrola SA, SPW Investments and SPENH;

**'Iberdrola SA'** means Iberdrola, S.A., a company registered in the Companies' Registry of Vizcaya, Spain in Tome BI-233, folio 156, page number BI-167A and whose registered office is at Plaza Euskadi 5, 48009, Bilbao, Spain;

**'the Iberdrola business'** means the business of Iberdrola SA and its subsidiaries, including the Scottish Power business and the SPENH business (but excluding the NWEN business) carried on as at the commencement date;

**'Initial Order'** means this initial enforcement order made by the CMA on 21 October 2024 and addressed to Iberdrola and NWEN;

**'key staff'** means staff in positions of (i) senior executive or managerial responsibility or (ii) whose performance affects the viability of the business;

**'the ordinary course of business'** means matters connected to the day-to-day supply of goods or services (or both) by the NWEN Jersey or Iberdrola SA and does not include matters involving significant changes to the organisational structure or related to the post-Merger integration of the NWEN Jersey and Iberdrola SA;

**'the Merger'** means the Merger by which Iberdrola and NWEN will cease to be distinct within the meaning of section 23 of the Act;

**'NWEN'** means NWEN Jersey and NWEN UK;

**'NWEN Jersey'** means North West Electricity Networks (Jersey) Limited (99259);

**'the NWEN business'** means the business of NWEN Jersey and its subsidiaries including NWEN UK carried on as at the commencement date;

**'NWEN UK'** means North West Electricity Networks (UK) Ltd (06428372);

**'the Scottish Power business'** means the business of SPW Investments and its subsidiaries;

**'specified period'** means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act;

**'SPENH'** means Scottish Power Energy Networks Holdings Limited (SC389555), a company registered in Scotland whose registered office is at 320 St. Vincent Street, Glasgow, Scotland, G2 5AD;

**'the SPENH business'** means the business of SPENH and its subsidiaries;

**'SPW Investments'** means SPW Investments Limited (SC473190), a company registered in Scotland whose registered office is at 320 St. Vincent Street, Glasgow, Scotland, G2 5AD;

**'subsidiary'**, unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006; and

**'the two businesses'** means the NWEN business and the Iberdrola business.

unless the context requires otherwise, the singular shall include the plural and vice versa.

**Jenny Sugiarto**  
**Director, Mergers**  
**21 October 2024**

# ANNEX A: COMPLIANCE STATEMENT FOR IBERDROLA

I [insert name] confirm on behalf of [Relevant IEO addressee] that:

## COMPLIANCE IN THE RELEVANT PERIOD

1. In the period from [insert date] to [insert date] (the Relevant Period):
  - (a) [Relevant IEO addressee] has complied with the Initial Order made by the CMA in relation to the transaction on 21 October 2024 (the **Initial Order**).
  - (b) [Relevant IEO addressee]'s subsidiaries have also complied with this Initial Order.
2. Subject to paragraph 3 of the Initial Order, and except with the prior written consent of the CMA:
  - (a) No action has been taken by [Relevant IEO addressee] that might prejudice a reference of the transaction under sections 22 and 68B of the Act or impede the taking of any action by the CMA which may be justified by its decisions on such a reference, including any action which might:
    - (i) lead to the integration of the NWEN business with the Iberdrola business;
    - (ii) transfer the ownership or control of the Iberdrola business or the NWEN business or any of their subsidiaries; or
    - (iii) otherwise impair the ability of the NWEN business or the Iberdrola business to compete independently in any of the markets affected by the transaction.
  - (b) The NWEN business has been carried on separately from the Iberdrola business and the NWEN business's separate sales or brand identity has been maintained.
  - (c) The NWEN business and the Iberdrola business have been maintained as a going concern and sufficient resources have been made available for the development of the NWEN business and the Iberdrola business, on the basis of their respective pre-merger business plans.
  - (d) No significant changes have been made to the organisational structure of, or the management responsibilities within, the NWEN business or the Iberdrola business, except in the ordinary course of business.



- (e) The nature, description, range and quality of goods or services (or both) supplied in the UK by the NWEN business and the Iberdrola business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the NWEN business and the Iberdrola business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
  - (ii) none of the assets of the NWEN business or the Iberdrola business have been disposed of; and
  - (iii) no interest in the assets of the NWEN business or the Iberdrola business has been created or disposed of.
- (g) There has been no integration of the information technology of the NWEN or Iberdrola businesses, and the software and hardware platforms of the NWEN Business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the NWEN business have been carried out by the NWEN business alone and, for the avoidance of doubt, the Iberdrola business has not negotiated on behalf of the NWEN business (and vice versa) or entered into any joint agreements with the NWEN business (and vice versa).
- (i) All contracts of the NWEN business and the Iberdrola business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the NWEN business or the Iberdrola business.
- (k) No key staff have been transferred between the NWEN business and the Iberdrola business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the NWEN business and the Iberdrola business.
- (m) Except as permitted by the Initial Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two

businesses, has passed, directly or indirectly, from the NWEN business (or any of its employees, directors, agents or affiliates) to the Iberdrola business (or any of its employees, directors, agents or affiliates), or vice versa.

- (n) Except as listed in paragraph (o) below, there have been no:
- (i) key staff that have left or joined the NWEN business or the Iberdrola business;
  - (ii) interruptions of the NWEN business or the Iberdrola business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
  - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the NWEN business or the Iberdrola business; or
  - (iv) substantial changes in the NWEN or Iberdrola business's contractual arrangements or relationships with key suppliers.
- (o) [list of material developments]

3. [Relevant IEO addressee] and its subsidiaries remain in full compliance with the Initial Order and will, or will take all necessary steps to ensure that NWEN, continue actively to keep the CMA informed of any material developments relating to the NWEN or the Iberdrola business in accordance with paragraph 8 of the Initial Order.

## INTERPRETATION

4. Terms defined in the Initial Order have the same meaning in this compliance statement.

## I UNDERSTAND THAT:

5. It is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **fines, imprisonment for a term not exceeding two years, or both.**<sup>1</sup>
6. Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and

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<sup>1</sup> Section 117 of the Act.

outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed.<sup>2</sup>

FOR AND ON BEHALF OF IBERDROLA S.A., SPW INVESTMENTS LIMITED AND SCOTTISH POWER ENERGY NETWORKS HOLDINGS LIMITED

Signature .....

Name .....

Title .....

Date .....

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<sup>2</sup> Section 94A of the Act.

# ANNEX: COMPLIANCE STATEMENT FOR NWEN

I [insert name] confirm on behalf of [Relevant IEO addressee] that:

## COMPLIANCE IN THE RELEVANT PERIOD

1. In the period from [insert date] to [insert date] (the Relevant Period):
  - (a) [Relevant IEO addressee] has complied with the Initial Order made by the CMA in relation to the transaction on 21 October 2024 (the **Initial Order**).
  - (b) [Relevant IEO addressee]'s subsidiaries have also complied with this Initial Order.
2. Subject to paragraph 3 of the Initial Order, and except with the prior written consent of the CMA:
  - (a) No action has been taken by [Relevant IEO addressee] that might prejudice a reference of the transaction under sections 22 and 68B of the Act or impede the taking of any action by the CMA which may be justified by its decisions on such a reference, including any action which might:
    - (i) lead to the integration of the NWEN business with the Iberdrola business;
    - (ii) transfer the ownership or control of the Iberdrola business or the NWEN business or any of their subsidiaries; or
    - (iii) otherwise impair the ability of the NWEN business or the Iberdrola business to compete independently in any of the markets affected by the transaction.
  - (b) The NWEN business has been carried on separately from the Iberdrola business and the NWEN business's separate sales or brand identity has been maintained.
  - (c) The NWEN business has been maintained as a going concern and sufficient resources have been made available for the development of the NWEN business, on the basis of its respective pre-merger business plans.
  - (d) No significant changes have been made to the organisational structure of, or the management responsibilities within, the NWEN business, except in the ordinary course of business.

- (e) The nature, description, range and quality of goods or services (or both) supplied in the UK by the NWEN business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the NWEN business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
  - (ii) none of the assets of the NWEN business have been disposed of; and
  - (iii) no interest in the assets of the NWEN business has been created or disposed of.
- (g) There has been no integration of the information technology of the NWEN or Iberdrola businesses, and the software and hardware platforms of the NWEN business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the NWEN business have been carried out by the NWEN business alone and, for the avoidance of doubt, the Iberdrola business has not negotiated on behalf of the NWEN business (and vice versa) or entered into any joint agreements with the NWEN business (and vice versa).
- (i) All contracts of the NWEN business and the Iberdrola business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the NWEN business.
- (k) No key staff have been transferred between the NWEN business and the Iberdrola business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the NWEN business.
- (m) Except as permitted by the Initial Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the NWEN business (or

any of its employees, directors, agents or affiliates) to the Iberdrola business (or any of its employees, directors, agents or affiliates), or vice versa.

- (n) Except as listed in paragraph (o) below, there have been no:
- (i) key staff that have left or joined the NWEN business;
  - (ii) interruptions of the NWEN business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
  - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the NWEN business; or
  - (iv) substantial changes in the NWEN business's contractual arrangements or relationships with key suppliers.
- (o) [list of material developments]
3. [Relevant IEO addressee] and its subsidiaries remain in full compliance with the Initial Order and will continue actively to keep the CMA informed of any material developments relating to the NWEN or the Iberdrola business in accordance with paragraph 8 of the Initial Order.

## INTERPRETATION

4. Terms defined in the Initial Order have the same meaning in this compliance statement.

## I UNDERSTAND THAT:

5. It is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **finances, imprisonment for a term not exceeding two years, or both.**<sup>3</sup>
6. Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed.<sup>4</sup>

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<sup>3</sup> Section 117 of the Act.

<sup>4</sup> Section 94A of the Act.

FOR AND ON BEHALF OF NORTH WEST ELECTRICITY NETWORKS (JERSEY) LIMITED AND NORTH WEST ELECTRICITY NETWORKS (UK) LTD.

Signature .....

Name .....

Title .....

Date .....