

DEROGATION LETTER
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED
PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002

Consent under section 72(3C) of the Enterprise Act 2002 to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority ("CMA") on 21 October 2024.

Completed acquisition by Iberdrola, S.A. ("Iberdrola"), through its subsidiary Scottish Power Energy Networks Holdings Limited ("SPENH"), of North West Electricity Networks (Jersey) Limited ("NWEN") (the "Transaction").

We refer to your letter dated 3 October 2024 ("**Iberdrola's Request**"), as subsequently updated on 17 October 2024, requesting that the CMA consents to certain derogations to the anticipated Initial Enforcement Order (the "**Initial Order**"). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent from the CMA, Iberdrola is required to hold its group ("**Iberdrola Group**", which includes the ScottishPower group ("**SP Group**") in the UK) separate from NWEN and the rest of the Electricity North West group ("**ENW Group**") and refrain from taking any pre-emptive action which might prejudice a reference under section 22 or 68B of the Enterprise Act 2002 (the "**Act**"), or impede the taking of any remedial action following such a reference, unless written consent is provided by the CMA.

After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, Iberdrola may carry out the following actions, in respect of the specific paragraphs:

Paragraphs 5(a), 5(c) and 5(l) – The exercise by Iberdrola of certain limited rights and the receipt by Iberdrola of certain limited financial reporting intended to safeguard its investment in the ENW Group

In order to protect its investment in the ENW Group and to ensure that the ENW Group remains as a going concern, the CMA understands that Iberdrola will need oversight of certain actions by the ENW Group outside the ordinary course of business (collectively referred to as "**Non-Standard Acts**", as set out in Iberdrola's Request). The CMA understands that some Non-Standard Acts will become reportable only above specific thresholds, thereby ensuring infrequent reporting which does not restrict the ability of the ENW Group to operate independently from Iberdrola. The approval rights for Iberdrola are intended to be incremental and without prejudice to the CMA's power to review and approve any derogation request from the ENW Group in relation to actions outside of the ordinary course of business and that would otherwise be restricted by the Initial Order.

In addition, the CMA understands that Iberdrola requires periodic oversight in relation to certain information relating to the financial position of the ENW Group (as set out in Iberdrola's Request) to ensure that the financial integrity of the ENW Group is preserved and it can continue as a going concern.

The CMA consents to a derogation from paragraphs 5(a), (c) and (l) of the Initial Order for the ENW Group to (i) report to Iberdrola each time it proposes to undertake a Non-Standard Act, (ii) share limited commercially sensitive information with Iberdrola, as required in order for Iberdrola to take an informed decision on whether to approve the proposed Non-Standard Act, and (iii) share certain limited financial information with Iberdrola (as set out in the reporting template agreed between the Parties and attached as Annex 9 to Iberdrola's Request), on the basis that:

- (a) Any confidential information relating to the ENW Group is shared with Iberdrola only where it specifically relates to requests for approval by Iberdrola of any one of the Non-Standard Acts or the relevant financial reporting.
- (a) The relevant financial reporting is only shared with the following Iberdrola employees (the "**Iberdrola Reporting Recipients**"):
 - (i) [✂]
 - (ii) [✂]
 - (iii) [✂]
 - (iv) [✂]
 - (v) [✂]
 - (vi) [✂]
 - (vii) [✂]
- (b) Any confidential information necessary for the purpose of assessing and exercising Iberdrola's consent rights is only shared with the following Iberdrola employees (the "**Iberdrola Consent Recipients**"):
 - (i) [✂]
 - (ii) [✂]
- (c) The information to which Iberdrola Consent Recipients will be given access will be limited to that which is strictly necessary to allow Iberdrola to reach a view on the specific matter at hand and will not include any other commercially sensitive information.
- (d) Requests in relation to Non-Standard Acts will be raised by the ENW Group with, and information provided only to, the Iberdrola Consent Recipients. The Iberdrola Consent Recipients will not use any information provided by the ENW Group in any way to intervene in the day-to-day management or operations of the ENW Group.
- (e) The Iberdrola Consent Recipients will not consult with any other individual at Iberdrola in taking decisions on the Non-Standard Acts, and the Iberdrola Reporting Recipients will not share the relevant financial reporting with other individuals at Iberdrola.

- (f) The CMA will receive any requests in relation to Non-Standard Acts (and a derogation request from ENW, if required) and the relevant supporting information from the ENW Group at the same time as Iberdrola.
- (g) The Iberdrola Consent Recipients will not unreasonably delay their consent to a Non-Standard Act.
- (h) The CMA will be notified at least 48 hours in advance of Iberdrola's approval or veto (as the case may be), including the reasons for approval or vetoing.
- (i) If either (i) Iberdrola objects to a given Non-Standard Act (and the CMA does not object to Iberdrola exercising its veto); or (ii) the CMA objects to a given Non-Standard Act (where such act would require a derogation from the Initial Order), such Non-Standard Act shall not be implemented by the ENW Group.
- (j) No additions or changes to the Iberdrola Consent Recipients shall be made under this derogation without the prior written consent of the CMA.
- (k) The Iberdrola Consent Recipients and the Iberdrola Reporting Recipients will sign non-disclosure agreements in a form approved by the CMA.
- (l) Should the Transaction be prohibited, or remedies required, Iberdrola will ensure that any confidential information received from the ENW Group for the purposes of this derogation will be returned to the ENW Group and any copies destroyed, except to the extent that record retention is required by law or regulation.

The CMA consents to this derogation strictly on the basis that (i) it will not result in any integration between the relevant Iberdrola Group businesses and the ENW Group; and (ii) it will not prevent any remedial action which the CMA may need to take regarding the Transaction.

Joanne Webb

Assistant Director, Mergers

22 October 2024