

Action 0201: National Grid NTS (PL) to confirm if National Grid NTS would still be a member of ENTSOG following BREXIT.

National Grid response

National Grid and ENTSOG's prospective relationship post no deal BREXIT remains the subject of discussion and debate between National Grid and ENTSOG. National Grid will confirm the position to its stakeholders as soon as it is able.

Action 0202: National Grid NTS (PL) to confirm which UK organisation would be replacing European referenced organisations to direct Code changes post BREXIT? Will there be any replacement body tasked with making binding decisions current made by the European Commission or ACER i.e. will there be a need for an additional relevant objective to account for decisions made by such a body?

National Grid response

In summary, there will be no additional UK decision body/ies in place of the European Commission or ACER. Consistent with this, the principle approach of the Statutory Instruments (SIs) is to amend the EU Networks Codes (to the extent they form part of Retained EU Law) to address any inoperabilities. Such inoperabilities include provisions in the Codes which refer to these EU decision making bodies, for example those which contemplate or require an ACER decision.

In this scenario, it is contemplated that this decision would be taken by the National Regulatory Authority (Ofgem for GB, or Utility Regulator for Northern Ireland). This approach is reflected in the following example from the EU Tariff Code (Regulation 2017/460):

Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas

Article 37 para 5.

"The national regulatory authorities may revoke a derogation if the circumstances or underlying reasons, or both, no longer apply or upon a reasoned recommendation of the Agency or the Commission to revoke a derogation due to a lack of justification."

Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019.

SCHEDULE 5

Amendments to the Tariffs Code

17.—(1) Article 37 is amended as follows. (5) For paragraph 5, substitute—

"5. The national regulatory authority may revoke a derogation if the circumstances or underlying reasons, or both, no longer apply. The national regulatory authority must endeavour to cooperate with any non-UK regulatory authorities whose approval is required in reaching a decision on whether to revoke a derogation."

The approach of the SIs to other occurrences of ACER references in Regulation 2017/460 are to omit the relevant Article in its entirety, for example Articles 31(1) and 32(2) are omitted by Schedule 5 para 14 of the SI.

On the basis of the above principle, Ofgem has not proposed any additional UNC Relevant Objectives in the licence and therefore no further UNC changes (in this respect) are justified.