

# Energy UK response to the ESO Whole System Technical Code Consultation

12 November 2021

## About Energy UK

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

We represent the diverse nature of the UK's energy industry with our members delivering nearly 80% of the UK's power generation and over 95% of the energy supply for the 28 million UK homes as well as many businesses.

The energy industry invests £13bn annually, delivers nearly £30bn in gross value added on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors, and supports over 700,000 jobs in every corner of the country.

We welcome the opportunity to respond to the ESO Whole System Technical Code (WSTC).

Energy UK believe industry Codes can be long and complex and can be a barrier to entry and engagement by smaller parties. We therefore welcome opportunities to merge, simplify and consolidate the regulatory Code documents. However, Energy UK have some concerns regarding the WSTC workstream as outlined below.

## Cost Benefit Analysis

This workstream only considered the consolidation and digitalisation of two industry Codes: the Distribution Code and the Grid Code. It has not been evidenced why these Codes in particular have been selected. We encourage the Cost Benefit Analysis (CBA) to include the benefit of merging other industry Codes.

When considering whether to launch the work to merge the two regulatory Codes, consideration should be given to whether resource could be more productively allocated elsewhere. There may be a benefit in merging the Codes, but at a time with such a deal of change in the industry, it is unclear if this would be the best use of industry resources at this time given other ongoing works i.e. the Energy Code Review, charging reviews, and other initiatives from BEIS, Ofgem and the ESO.

When conducting the CBA, it is vital all costs of any potential work stream are captured. As well as ESO costs, this should include industry and other stakeholder costs. The cost to industry for such a potentially time-consuming work stream cannot be overlooked.

## Resource

Code merging or consolidation and digitalisation will be a huge process requiring line by line assessment of the Codes. It's very unlikely that the industry or the ESO have the resource or legal capability to do this. Energy UK do not envisage a standard Code Workgroup being able to manage the merging or consolidation of Codes in an effective or timely manner. Instead, external lawyers will be required to do the majority of the work at not inconsiderable cost.

With the Energy Codes Review (ECR) progressing, communication between the ESO, BEIS and Ofgem will be important to ensure the two work streams complement each other and result in no duplication of work.

### Legality of the Codes

The resulting legal text must remain legally enforceable. The industry is complex and as such the obligations on Code Signatories must be detailed enough to direct exactly what said obligation entails. Further, there is a concern that some smaller market participants see Code merging and the potential for 'simplification' as a reduction in obligations. In actual fact it is the Code text that is being simplified and consolidated where possible with no change in obligations. This workstream must not result in any changes in obligation for existing or new Code parties, including Code Administrators and network operators. This distinction must be made clear should the ESO further any work.

Should the solution to merge the two Codes into one WSTC be implemented, there is a risk that the resulting document becomes very large. Full digitisation would therefore be needed to enable the document to be workable given the large number of asset and connection types it would cover. It will be critical for legal certainty that only one legally enforceable version of the document exists at any one time and this is likely to be in a pdf type format. Furthermore, this one large document does not necessarily equate to a simplified document as it may be perceived by some industry parties, but could lead to further confusion if parties cannot clearly identify the obligations that apply to them.

Should you have any questions regarding our response, please do get in touch.

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