

## DETERMINATION PURSUANT TO REGULATION 3(8) OF THE CODE MANAGER SELECTION REGULATIONS 2024 OF THE BASIS OF SELECTION OF A CODE MANAGER FOR THE RETAIL ENERGY CODE

This determination sets out the decision of the Gas and Electricity Markets Authority ('the Authority'),<sup>1</sup> under section 187(1) of the Energy Act 2023 ('the Act'), to proceed with the selection of a code manager for the Retail Energy Code (REC) on a non-competitive basis.

### **Background**

Under new powers created by the Act, the Authority will be responsible for selecting code managers, leading to the potential grant of a code manager licence (as defined in section 7AC of the Gas Act 1986 and/or section 6(1)(g) of the Electricity Act 1989).<sup>2</sup> Each code manager will be responsible for the governance of its respective designated code, which they will be obligated to do in an independent and impartial manner. They will also be responsible for facilitating the development of the codes in line with the policy priorities set out in our annual Strategic Direction Statement.<sup>3</sup>

We will have to exercise our discretionary power to award a code manager licence on a reasonable basis. In particular, the Act makes provision for the selection of a code manager by the Authority on either a competitive basis (in accordance with forthcoming regulations made by the Authority) or a non-competitive basis (in accordance with regulations made by the Secretary of State).<sup>4</sup>

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<sup>1</sup> References to the "Authority", "Ofgem", "we", "us" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This determination is made by or on behalf of GEMA.

<sup>2</sup> See [Gas Act 1986](#) and [Electricity Act 1989](#) respectively

<sup>3</sup> Section 190 of the Act covers the requirements under the Strategic Direction Statement.

<sup>4</sup> [The Code Manager Selection Regulations 2024](#)

When deciding whether to select a code manager for the REC on a competitive or non-competitive basis, the Authority has considered the following:<sup>5</sup>

- **speed of delivery:** including the time needed to undertake a selection process, whether an existing entity may possess sufficient experience and expertise to meet the relevant eligibility criteria, and whether the code in question has been consolidated and may therefore have more than one incumbent code administrator or code body to consider, and
- **value for money:** including whether there is likely to be sufficient interest to justify a competitive process, whether there is likely to be sufficient value in running a competitive process (in terms of both potential cost savings and quality of outcomes), and whether competitive pressure is likely to be available through alternative mechanisms.

We decided to consider selecting the code manager for the REC on a non-competitive basis because the incumbent code administrator for the REC, the Retail Energy Code Company Ltd ('the Candidate'),<sup>6</sup> was likely to possess sufficient experience and expertise to meet our eligibility criteria. We also considered that its potential non-competitive selection would result in a quicker overall selection process, with lower overall costs, by removing the potential time and cost required to assess multiple candidates for this code, while still delivering an outcome that is likely to be the same or similar than if we had facilitated an open competition. Directly approaching the incumbent code administrator should also minimise the potential for wider disruption as part of the transition process, for the benefit of the industry and consumers.

In order to establish whether the Candidate may possess sufficient experience and expertise to meet the relevant eligibility criteria, we invited it to express interest in becoming the code manager for the REC, and to participate in an eligibility assessment process, in anticipation of considering its selection on a non-competitive basis. We also confirmed that once the Candidate had been fully assessed against our eligibility requirements, we would determine whether to proceed with the licensing assessment on a non-competitive basis.

### **Summary of reasons for the Authority Decision**

The Candidate submitted a completed eligibility assessment form to us on 27 January 2025. On 31 January 2025, we wrote to the Candidate to acknowledge receipt of the form.

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<sup>5</sup> Further context for this decision can be found in our November 2024 [Consultation on code manager selection](#). This consultation also includes proposals for the specific criteria that we would apply for future determinations on selection route for other industry codes, a decision on which is expected in due course.

<sup>6</sup> Company registration number 10989875, the registered office of which is 27 Old Gloucester Street, London WC1N 3AX.

The Candidate was required to satisfy the Authority that it met relevant eligibility requirements, as set out in our draft guidance on code manager selection ('the Guidance').<sup>7</sup> The proposed criteria were as follows:

1. **Basic information and expression of interest:** verification of relevant information about the Candidate, such as their solvency history, any recent substantive company changes, licensing history, etc., plus a requirement for the Candidate to express interest in the role.
2. **Suitability to hold a licence:** verification of whether the Candidate is fit and proper to hold a licence, by considering any disclosure or adverse information brought to light in respect of any directors, major shareholders, persons in effective control of the Candidate, or any person with significant managerial responsibility.
3. **Conflicts of interest:** affirmation of the Candidate's intent to comply with relevant conflict-of-interest requirements in the draft code manager standard licence conditions (SLCs) or to meet the requirements with the possibility of Authority approved exceptions to the SLCs, where this would not constitute an undue risk of conflicts of interest.
4. **Relevant experience:** evaluation of whether the Candidate has experience relevant to fulfilling the code manager role in key areas (ie, code administration, applying the relevant code's objectives, project management, stakeholder management, and delivering projects within budget).

We have assessed the information provided to us and have determined that, by reference to the criteria set out above, we consider that the Candidate is eligible to be considered for the potential grant of a code manager licence.

Given our determination of the Candidate's eligibility, we consider that its selection on a non-competitive basis will satisfy our key considerations of speed of delivery and value for money set out above.

### **Authority Decision**

We have decided, under section 187(1) of the Act, that the selection of the person who may become the code manager for the REC is to be made on a non-competitive basis.

### **Next steps**

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<sup>7</sup> [Guidance on code manager selection](#)

The Candidate will be invited to submit a licensing assessment form, using the form in Appendix 2 of the Guidance. In completing that form, it will be required to demonstrate that it has credible plans for taking on this new and expanded role, and that it can present appropriate conflict-of-interest mitigations where those may be required.

Following our assessment of the Candidate, in accordance with the process established under Regulation 5 of the Regulations, we will publish a notice of our decision stating whether we propose to grant it a licence and, if the Candidate is successful, the reasons why we propose to grant it a licence. We will also allow for a period within which representations may be made.

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**Cathryn Scott**

**Duly authorised on behalf of the Authority**

**Date: 10 March 2025**