

2nd August 2021

National Grid ESO response to Statutory Consultation on licence amendments to facilitate the introduction of an Electricity System Restoration Standard

Dear Alastair,

Thank you for the opportunity to respond to the statutory consultation on licence modifications to facilitate the introduction of an Electricity System Restoration Standard (ESRS). We support the introduction of the ESRS and acknowledge the key role we will play in coordinating restoration under this new standard.

A successful electricity system restoration, within the standard timescales, relies on the support of all industry; this cannot be achieved by the ESO alone. It is therefore important that clear accountabilities are defined and agreed with all parties, including the ESO.

Our key messages in response to the proposed licence modifications are set out below:

ESR Assurance Framework

We agree with Ofgem that responsibility for the development of an Assurance Framework; as outlined in the previous consultation; should reside with the ESO. We will work to ensure we have the right resources to deliver this Framework and acknowledge the need for swift establishment of working groups to ensure industry parties:

- support the development of an Assurance Framework,
- receive the appropriate cascade of obligations, and
- understand their roles and responsibilities in the implementation of the ESRS.

We will continue to work closely with Ofgem on the Assurance Framework, including developing an obligations and accountability matrix. We will seek to ensure Ofgem remains fully informed of areas where we consider compliance with the Framework may be challenging. This may be due to matters within our control or where we are reliant on other organisations. The following are examples of situations where restoration timescales may not be feasible due to circumstances which are not reasonably foreseeable or are beyond those that the ESO can reasonably control, for example:

- Widespread failure of TO assets on the system – due to, for example a large storm, or
- A contracted provider of restoration services failure to meet its obligations.

This list is not exhaustive but stresses the importance of ensuring clear obligations and accountabilities are in place and licence drafting reflects this appropriately (See the detailed drafting comments below).

Clear guidance provided around credible projections

In our response to Ofgem's initial consultation on licence modifications to facilitate the introduction of an ESRS, we asked that clear guidance from Ofgem be given as to the expectations of the credible projections ESO will create to ensure the ESRS is met by industry. We would also welcome clear guidance on the approval route of these projections for integration into planning.

It should be recognised that, regardless of the robustness of the Restoration Model used and its outputs, incidents may still occur which fall outside of these credible projections. As before, we believe the ESO should not be penalised for actions which were not reasonably foreseeable or outside our reasonable control.

Restoration model audit and assessment

We note that the requirement to audit the Restoration Model in line with the Assurance Framework is a change from the current arrangements. This will be a substantial undertaking for the ESO, requiring additional

resource within the ESO to work with the independent auditor to map between the restoration models and variables. We would like to flag that this will require significant engagement from industry.

Response to C16 Reporting Impacts:

As stated previously, we agree with the intention to integrate restoration service procurement into the StC C16 obligations and the production of an ESO Annual Report for balancing services.

The proposal will require changes to reporting timescales, reporting style (amalgamating several separate reports into one) and introduces the requirement for an independent audit statement across all areas.

The audit requirement is new for the Procurement Guidelines element of the report and therefore we welcome the two-month period duration to enable the compilation of the report, and submission for auditor review that this new Annual Report on balancing services requires.

We note in Ofgem's response to initial consultation responses the recognition that streamlining the content of the reporting will be phased, and that for the initial return the ESO Annual Report is likely to be a consolidation of current balancing and restoration reports.

We look forward to working with Ofgem in the following years to streamline this ESO Annual Report and to ensure that restoration costs are reported with balancing costs and that our reporting provides value and insight to the regulator and the wider electricity industry.

Detailed drafting comments

Our detailed drafting comments on the licence modifications consulted on are set out in the annex. The majority of these are suggestions for drafting clarifications or corrections. There are a small number of substantive points, in particular:

- We welcome Ofgem's acknowledgement in the statutory consultation that there may be circumstances in which the ESO cannot comply with the ESRS for events which or not reasonably foreseeable or for reasons outside of its reasonable control and Ofgem's agreement to make a change to the drafting to address this. However, ESO does not consider that SpC 2.2.5 as drafted addresses this concern. The drafting acknowledges that Ofgem will take the issue into account in considering enforcement action, but the drafting still places ESO in breach of its licence in such a situation. We do not consider this to be a reasonable position for the licence to adopt. A breach of licence is a serious matter regardless of Ofgem's enforcement policy. We therefore request that the drafting acknowledges that ESO should not be in breach where Ofgem is satisfied that the non-compliance with ESRS was not within ESO's reasonable control. This would ensure that the obligations are reasonable, whilst also allowing Ofgem to ensure that the consumer interest is adequately protected.
- We are not clear of the policy intent behind the sentence added to SpC 2.2.8(c), which does not appear to be referred to in the statutory consultation document. We request that either this wording is not included in the paragraph or Ofgem discusses further with us what is intended here.
- On considering the drafting further, we are not clear on the rationale for the timing set out in SpC 2.2.14 and we propose an alternative below.

We welcome the opportunity to further discuss the points raised in this response and recommend setting up a meeting to facilitate this. Should you require further information please contact Vitor Soares in the first instance at Vitor.Souares@nationalgrideso.com.

Yours sincerely

Isabelle Haigh

Head of National Control, Electricity System Operator

ANNEX – Specific comments on proposed licence modifications relating to Restoration Standards.

Reference	Current Text	Comment/Proposed Amend
Special Condition 1.1		
General	Definitions of: <ul style="list-style-type: none"> • “Annual report” • “Black Start” • “Black Start Capability” • “Black Start Procurement Methodology” • “Black Start Strategy” • “Feasibility Studies” • “Minimum Service Level” • “New Provider”, and • “Total Costs” 	Each of these definitions refers to the term “ <i>black start</i> ” in some way. Our understanding is that each of these definitions are now redundant and can be removed from SpC 1.1 (but see below on StC C16).
Definition of “Electricity System Restoration”	“...of the national electricity transmission system”	To align with the relevant definition, we suggest changing this to “...of the <i>National Electricity Transmission System</i> ”.
Definition of “Electricity System Restoration Framework”	“...under paragraph 2.2.9 (a)-(d) of Special Condition 2.2”	The correct reference is “ <i>paragraph 8(a) to 8(d) of Special Condition 2.2 (Electricity System Restoration Standard)</i> ”.
Definition of “Electricity System Restoration Model”	“...to assess the capabilities of the electricity system...”	To align with the relevant definition, we suggest changing this to “...to assess the capabilities of the <i>National Electricity Transmission System</i> ...”
New definition		We propose that a definition of “ <i>Restoration Services</i> ” should be added in SpC 1.1 as follows – “ <i>has the meaning given to that term in Standard Condition C1 (Interpretation of Section C)</i> ”. This will provide consistency between the standard and special conditions.
Special Condition 2.2		
2.2.2	Whole paragraph	We consider that this paragraph is unnecessarily complicated and could be clarified. It is not necessary to refer to the statutory basis for including the condition (and this is not done generally in the licence). Neither is it necessary to state that the obligation applies at all times. In addition, the obligation to comply “ <i>once</i> ” a direction is received does not make it completely clear what needs to be complied with. We suggest the simplified wording set out below. “ <i>The licensee must comply with the Electricity System Restoration Standard as designated by the Secretary of State from time to time, by direction given to the licensee setting out the date from which the direction takes effect</i> ”.
2.2.3	Whole paragraph	Following the change above, we suggest that this paragraph can be simplified to:

		<p><i>"The licensee must procure Restoration Services and propose any modifications to the Grid Code and other industry codes that are required to comply with the Electricity System Restoration Standard designated under paragraph 2.2.2".</i></p> <p>This drafting also uses the new defined term "Restoration Services".</p>
2.2.4	"...restoration services..."	We propose using the new defined term and changing this to " <i>Restoration Services</i> ".
2.2.5	Whole paragraph.	<p>As noted above, while we welcome Ofgem's acknowledgment that flexibility should be added in the drafting for "<i>unforeseeable/uncontrollable</i>" events", we are concerned that SpC2.2 currently places an unreasonable obligation on NGESO and that SpC2.2.5 does not adequately address this.</p> <p>The approach taken elsewhere in the licence is to place reasonable limitations on the licence obligation, rather than to make references to Ofgem's approach to enforcement action.</p> <p>We propose that the wording below implements Ofgem's policy intent as set out in the statutory consultation, whilst adopting a form of drafting which is more appropriate to be used in the licence:</p> <p><i>"The licensee will not have failed to comply with paragraphs 2.2.2 to 2.2.4 where the Authority is satisfied that the licensee has been prevented from complying with the Electricity Restoration Standard due to events which were not reasonably foreseeable or for reasons outside of its reasonable control".</i></p>
2.2.6	"...pursuant to paragraphs 2.2.2(a) and 2.2.2(b)..."	Following the change above, we propose that this should be changed to " <i>...under paragraph 2.2.2...</i> ".
2.2.7	"...the licensee must first consult with the Authority and other Electricity Licensees..."	We propose that " <i>first</i> " and " <i>with</i> " are removed as this is unnecessary drafting – " <i>...the licensee must consult the Authority and other Electricity Licensees...</i> ",
2.2.8(a)	"...which is to be applied for the next Regulatory Year, between the next one to three years, and beyond three years. This must include..."	<p>We note that the latter two time periods are not completely clear, in particular what periods are being referred to (e.g. Regulatory Years or calendar years). We propose making this clear. We also propose that the two sentences should be merged, given this sub-paragraph is part of a broader list and should (in drafting terms) form a single sentence.</p> <p>We propose the following drafting – "<i>...which is to be applied for the next Regulatory Year, for the two Regulatory Years after that and for subsequent Regulatory Years, which must include...</i>".</p>

2.2.8(a)	<i>"...include a Restoration Approach that ensures that..."</i>	On considering this further, we consider that the following drafting better reflects our understanding of the policy intent here – <i>"include a Restoration Approach to ensure that..."</i> .
2.2.8(a)	<i>"...for the provision of Electricity System Restoration services"</i>	We propose changing to use the new definition as above – <i>"...for the provision of Restoration Services"</i> .
2.2.8(c)	<i>"...real world..."</i>	On considering further, we suggest replacing this with <i>"...actual..."</i> .
2.2.8(c)	<i>"...If the modelling indicates that the licensee has not been able to comply with the Electricity System Restoration Standard, the licensee must explain the reasons why it is unable to do so to the Authority..."</i>	<p>We are not clear of the policy intent behind this addition, which does not appear to be referred to in the statutory consultation document. It is not clear from the drafting whether the requirement would relate to ex-ante or ex-post monitoring. It is also not clear whether this requirement relates to the Electricity System Restoration Assurance Framework or whether it is intended to be a standalone requirement.</p> <p>We request that either this wording is not included in the paragraph or Ofgem discusses further with us what is intended here.</p>
2.2.9	<i>"...during the subsequent Regulatory Year."</i>	We suggest referring to <i>"next Regulatory Year"</i> so that the language is consistent with SpC2.2.8(a).
2.2.10	Whole paragraph	<p>This paragraph is unnecessary as it is a duplicate of SpC2.2.6. We suggest this is deleted. (We have not updated paragraph numbers for this in our response below.)</p> <p>We suggest a minor change to SpC2.2.11 below to ensure clarity.</p>
2.2.11	<i>"If the Authority rejects..."</i>	On the basis that SpC 2.2.10 is deleted, for clarity we suggest changing this to – <i>"If, following a submission under paragraph 2.2.6, the Authority rejects..."</i> .
2.2.14	Whole paragraph	<p>On considering this further, we are unclear why this paragraph refers to a particular time period. In particular, if NGESO proposed a change before any Regulatory Year covered by the assurance framework, we do not understand why a submission to make the change could only be made in the Regulatory Year (once the framework is "live"). In addition, it is not clear what "12-month period" is being referred to, given SpC2.2.8(a) sets out a number of periods which are covered by the framework.</p> <p>We propose that the paragraph is simplified to – <i>"Before revising the approved Electricity System Restoration Assurance Framework, the licensee must submit the proposed revisions to the Authority for approval"</i>.</p>
2.2.15(b)	<i>"...consult with other..."</i>	As above, we suggest that <i>"with"</i> is unnecessary wording.
2.2.15(d)	Whole sub-paragraph	On considering this further, we note that it is not clear for this wording to be included in SpC2.2.15, since the wording is part of the exception set out in the opening wording.

		<p>We suggest that this sub-paragraph and the preceding “;and” are deleted and that a new paragraph is added below as follows –</p> <p><i>“Where the Authority directs that any part of paragraph 2.2.15 shall not apply, the licensee shall comply with such other requirements as are specified in the direction”.</i></p>
Special Condition 4.2		
Part A	References to “ <i>balancing services</i> ” and “ <i>Balancing services activity</i> ”	These should be capitalised to align with the defined terms that have been introduced.
Standard Condition C16		
C16.17	Reference to “ <i>feasibility studies</i> ”	We note that this term is defined in SpC1.1.16 of the licence currently. Is it intentional that the term not in SC C16.17 is no longer defined?