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25 February 2022

Dear Sir/Madam,

**Draft Forward Work Programme 2022/23**

Thank you for the opportunity to comment on Ofgem's draft Forward Work Programme for the 2022/23 regulatory year. This letter should be treated as a consolidated response on behalf of UK Power Networks' three licensed distribution companies: Eastern Power Networks plc, London Power Networks plc, and South Eastern Power Networks plc. It is not confidential and may be published on Ofgem's website.

We are generally supportive of the strategic priorities set out in the document, with the understandable focus on the future of the retail sector, whilst the need to finalise the RIIO-ED2 settlement for DNOs is also recognised, alongside an appropriate suite of other priorities.

We would like to comment on five issues which relate to Ofgem's strategic work planning and its delivery against these objectives in the coming year. These are set out in the accompanying appendix.

We hope that you will find our feedback helpful and look forward to working and sharing further ideas with Ofgem in the coming year.

If you have any questions, please do not hesitate to contact me.

Yours faithfully,



James Hope  
Head of Regulation & Regulatory Finance  
UK Power Networks

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## **Appendix**

### **1. Regulatory Burdens**

The draft plan confirms that Ofgem is currently considering what actions it can take to reduce regulatory burdens in 2022/23. We understand that this is an annual process and welcome this exercise.

Once concluded, we would welcome the expected review of the RIIO-ED2 Price Control setting process. This presents an opportunity to absorb the lessons learned from the entire RIIO-ED2 process and to lay the ground work for the RIIO-ED3 Price Control setting process, which, given the move back to five year price controls, will commence in only a few years' time.

We remain supportive of the UK regulatory framework, noting that the price control process appears to be becoming longer and more complex each time. RIIO-ED2 has been the most extensive price control to date and there may be opportunities, in the cold light of day, to streamline and simplify elements, whilst ensuring the interests of current and future customers are met.

We have a further point to raise, relating to the development of regulatory frameworks and licence conditions for RIIO-ED2. It is tempting for regulators to respond to variations in approach by settling on principles, which are sufficiently vaguely worded that they can be interpreted in different ways. We would recommend that Ofgem avoid introducing ambiguity into the process. Clarity up front ensures that the arrangements and expectations with respect to the delivery of outputs and services that customers are paying towards and should receive are clearly specified and transparent to all stakeholders. Clarity also assists with keeping compliance and risk management costs to a proportionate level. We would advocate that the default for licence conditions should be that they are clear and definitive, with principles based conditions introduced where it is proven that the default cannot be attained.

### **2. Low Carbon Infrastructure – RIIO-2 Electricity Distribution Price Control Development**

We believe that Ofgem is right to view energy price volatility and decarbonisation of the energy sector as key challenges. UK Power Networks remains committed to working with the industry to address the associated impacts, to ensure that customers' interests are protected.

We have been very conscious in the development of our RIIO-ED2 Business Plan that keeping costs down for customers is crucial. For this reason we have challenged ourselves on the costs contained in our plan and taken a strategy that is demand-led and focused on avoiding over-investment via a smart plus flexibility approach. By taking an agile approach to RIIO-ED2 that does not preclude any Net Zero pathway, we believe costs can be kept as low as possible for customers, whilst not being a blocker to the Net Zero transition.

### **3. Systems Governance – FSO**

We welcome Ofgem's confirmation that it will continue to work with BEIS and the ESO on the future FSO's functions at a national level. As far as distribution-level systems are

concerned, however, we would welcome some certainty that time will be given to allow current change to bed down and have an opportunity to show results.

Our RIIO-ED2 Business Plan contains ambitious and fully worked provisions for the establishment of an independent DSO. These plans are integrated with our approach to making maximum use of flexibility, including at the secondary level, and for securing and sharing data on capacity utilisation and other network information, such that third parties can play a full role in improving the efficiency of the network to offset, wherever feasible, Net Zero-related growth in demand.

We note the Secretary of State's encouragement of regulatory innovation in his letter of 31 January 2022 to economic regulators. He writes:

*You have played an enabling role in the introduction of cutting-edge products and services in your sectors and we expect you to continue do so through innovative regulation. We greatly welcome further exploration of regulatory sandboxes to incubate new business models and services, and encourage the facilitation of schemes to harness the power of industry and customer data to improve market outcomes.*

We would submit that our proposed innovation in respect of an independent DSO is exactly the sort of thing he is referring to. It needs to be given the time and the regulatory certainty to develop, such that its results can be judged on their merits. We hope that any future role of the FSO will not curtail the securing of this evidence base or prematurely undermine this project, but are, of course, fully expecting to continue our engagement with both the ESO and with Ofgem on the detail of their wider agenda as this progresses.

#### **4. Local Authority Energy Plans**

There is no mention in the Forward Work Programme of Ofgem's plans in respect of Local Area Energy Plans (LAEPs). This may reflect the particularly difficult agenda which Ofgem faces in the coming months and perhaps the expectation that LAEPs are only likely to have a significant impact on the energy sector in later years.

Nevertheless, we would encourage Ofgem to start thinking about how it wants regulated businesses to take account of local and regional (and devolved) Government mandates and how to manage local and regional Government expectations. We are already engaging with the Greater London Authority about its plans and in 2020, we held 14 regional engagement sessions covering 116 local authorities and three Local Enterprise Partnerships to discuss our future energy scenarios, understand their local and regional ambitions and to gather feedback on projected LCTs in their area. In relation to heat, we expect collective decision making and national or local zoning to be an important part of determining customer options and defining our investment needs. We also expect more local authorities to become concerned about on-street charging facilities for EVs and to want us to react to any market failure to establish sufficient access for consumers on attractive terms.

Our RIIO-ED2 Business Plan contains plans to further strengthen our engagement with local authorities and others to help develop LAEPs. However, there is potential for disappointment if public bodies expect networks to invest proactively to support their chosen solutions, but DNOs feel that customer demand for the new infrastructure is insufficiently clear and definite. There may also be issues of zoning where different levels of Government disagree about the best options for a given locality and networks are left not

knowing how to respond. While the proposed Access SCR reforms should resolve many potential difficulties, they are unlikely to solve them all.

## **5. EV Charging – The Driveway Divide**

We welcome Ofgem's promise to work with BEIS in 2022 to set out a vision for EV smart charging and related, required actions. We are concerned, however, that the implications of limited on-street charging options for consumers without driveways continue to be underestimated. We understand that the cost of charging on-street is higher than the cost of charging at home (twice as high, according to a 2021 Which? report<sup>1</sup>) – this is a problem in itself but it is not the only one. Smart charging, and especially V2X, depend on long-lasting connections and the ability to be plugged in even when no download of power is required, but commercial charge point operators only receive revenue for download of power and have every incentive to ensure that the numbers of chargers on-street reflect only power-download needs.

Even if on-street charge points are obliged to allow smart charging in future, practical availability of on-street chargers for long-term plug-in is likely to remain heavily curtailed and the economic advantages of flexible charging will be disproportionately reserved for those with driveways and dedicated home charge points. The driveway divide will inhibit the growth of EV-related flexibility markets in places with a high proportion of households without driveways (especially London), raising costs for network operators in those locations.

Radical solutions may need to be considered, including redefinition of markets to separate commercial, on-the-go charging from charging at or close to home, with regulation of residential, slow charging on-street to resemble more retail supply of electricity.

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<sup>1</sup> Which? Car Guide, February 2021, found that the average unit prices for charging EVs at public charge points were 97% higher than the average fixed price home energy tariffs at that time.