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Dear Patrick,

**Electricity North West's response to Ofgem's consultation on Access SCR Updates to Minded to Positions.**

Thank you for the opportunity to respond to this consultation.

We will continue to work with Ofgem through the Delivery Group to identify practical solutions to ensure the Access SCR proposals are delivered in the proposed timescales.

We recognise that this consultation is focussed on the detail of the Access SCR reforms, however it is important that these reforms are properly translated into the ED2 funding arrangements. Primarily we see this as being implemented through the ED2 uncertainty mechanisms.

We appreciate that Ofgem has taken account of most of the recommendations of the implementation groups, but we have serious concerns in Ofgem's decision not to cap the liabilities of network operators (and the consequential knock-on impacts on DUoS customers) if curtailment limits are exceeded. Network operators cannot agree to a change that exposes them and their DUoS customers to an uncapped liability. This is also at odds with Ofgem's proposals to mitigate the impacts of these reforms on DUoS customers. We believe that this will seriously undermine the benefits of the proposals.

If you would like to further discuss any of our comments, please let me know.

Yours sincerely

**Paul Auckland**  
**Head of Economic Regulation**



## ENWL RESPONSES TO CONSULTATION QUESTIONS

### 2. Distribution connection charging boundary

#### **Question 2a:**

***i. Do you believe that it is necessary to introduce a High Cost Cap (HCC) for demand, and to retain one for generation?***

Yes, we support these proposals as they will help protect DUoS customers from very expensive connections.

***ii. Do you believe that our proposals to do so represent sufficient and proportionate protection for DUoS billpayers against excessively expensive connections driven reinforcement?***

We would expect so, but it is difficult to be definitive until the level of the cap is set. It may be appropriate to review the levels of the caps as part of the DUoS reforms when it is clearer what level of locational charges customers will face.

***iii. What are your views on retaining the current 'voltage rule' to determine whether the HCC is breached (ie considering the cost of reinforcement at the voltage level at point of connection and the voltage level above)?***

We believe this is appropriate but would support a review of the levels after the policy has been in operation for a period of time.

***iv. What are your views on the principles we have proposed to determine an appropriate HCC level for demand, including the potential for this to be set at a different level to generation under these principles?***

As the intention of the HCC is to protect DUoS customers from the costs of expensive connections, we think it is more appropriate to set the level of the cap relative to an average cost of a connection (eg a 4 x multiplier) rather than on the number of customers affected by the cap (eg the 95<sup>th</sup> percentile). Important principles are that the same approach ought to be used for generation and demand and that the caps can be reset periodically. The generation HCC needs to be reviewed as it hasn't changed for over 10 years. The fact that generation HCC has been operating for a number of years, means that higher cost connections are not proceeding and hence there will not be the data to recalculate the generation HCC using a percentile approach. We would therefore recommend that the generation HCC is reset using the current 4 x average approach and the demand HCC is calculated on the same basis. GB level caps should be set for demand and generation.

***Question 2b: What are your views on our proposals to maintain the requirement for three- phase connection requests to pay the full costs of reinforcement, in excess of Minimum Scheme (ie lowest overall capital cost)?***

We support the proposals on three-phase connections as they provide incentives for customers to only request a 3 phase connection when it is necessary.

#### **Question 2c:**

***i. Do you agree with our proposals to maintain the current treatment of speculative connections and is there a need for further clarification on the definition of speculative connections?***

We support the proposals on speculative developments as this acts as a constraining factor for developers not to ask for excessive capacity. We will continue to contribute through the implementation workgroups to develop proposals for further definition in the CCCM in time for the final Access SCR decision.

***ii. Do you agree that our wider connection boundary proposals broaden the disparity between connections deemed to be speculative versus non-speculative? If so, do you believe this needs to be addressed and how?***

The change in the connection boundary will mean that the difference in connection charges between speculative and non-speculative developments will increase even though the definition of speculative remains unchanged. We believe this is appropriate and does not need to be addressed. It is important that customers in general should not pick up the costs associated with developments that may never need the requested reinforcement. The greater clarity in definitions should help developers in considering their applications in more detail so they would not be classed as speculative.

***Question 2d: Do you consider that our proposed DUoS mitigations (a demand HCC, and retaining reinforcement payments for three phase and speculative connection contributions) present a cohesive package of protections for DUoS billpayers? Do you consider these proposals to interact in any way that could counter their effectiveness, and if so, how?***

We believe that the proposed DUoS mitigations do provide mitigation against very high or speculative reinforcement being funded by customers in general whilst maintaining the overall policy intent of the proposals.

***Question 2e: Do our updated proposals to treat storage in line with generation for the purposes of connection charging simplify charging arrangements for these sites and better align with the broader regulatory and legislative framework?***

Our understanding of the intent of the proposals for storage is that reinforcement is determined based on both their export and import needs. Reinforcement costs at the voltage of connection are chargeable to the storage customer and the HCC will be determined relative to the level of export. This approach simplifies the application of the charging methodology and ensures storage is treated as generation in line with the legislative framework.

***Question 2f: Do you agree with our proposals regarding the treatment of in-flight projects (ie that they should not be permitted to reset their connection agreement and retain their position in the queue), noting they retain the right to terminate and reapply from 1 April 2023 should they wish to be treated under the proposed connection charging boundary?***

We fully support this approach as otherwise this could encourage all in-flight projects to have their connection charge reassessed and would be effectively backdating the implementation date.

***Question 2g: Do you agree with our proposals to retain the existing arrangements for managing interactive applications? Do you agree with our proposals on the treatment of unsuccessful applicants (that the connection charges at original application date will continue to apply if queue position is retained)?***

We support this approach that applicants cannot maintain their place in the queue whilst seeking to benefit from the new arrangements.

***Question 2h: Do you agree with continuing with the definition of the Minimum Scheme as currently set out in the CCCM? Do you believe this definition requires any further clarification or amendment, and if so, why?***

We support the proposal to retain the current definition of the Minimum Scheme as this will help DNOs deliver on their wider obligations to develop an efficient network. Our understanding is that non-build solutions are not required to be included or assessed in the calculation of Minimum Scheme costs. Ofgem recognises that further work is needed on this, and inclusion of such proposals could be subject of a further change proposal. It would be helpful if this were clarified in the decision document.

**Question 2i: Are there any risks associated with our proposals to allow current non-firm connected customers to seek a firm connection following the changes proposed by our SCR? Do you agree that existing non-firm connected customers that do seek a firm connection should be processed through existing queue management processes as determined by DNOs?**

There are clearly risks with allowing current non-firm customers to seek a firm connection. These are an increase in the overall number of connection requests and an increase in network reinforcement or flexibility requirements if current non-firm firm arrangements are removed. It would however, amount to undue discrimination against current non-firm users if they were barred from seeking the same level of access as new connectees.

**Question 2j: How necessary do you consider Ofgem intervention in Electricity Distribution Standard Licence Conditions 12, 15 and 15A? What duration might such measures be needed, or acceptable, following 1 April 2023? What value do you place on certainty of connection timeframes compared with time to connect?**

Ofgem intervention in the Electricity Distribution Standard Licences Condition is necessary as there may be increases in the numbers of applications which would be difficult for Licensees to plan for as it's not clear when the increases would commence or how long they would last.

The Licences provide flexibility in the application of the performance standards.

*12.5 The licensee must offer terms for an agreement for Use of System under paragraph 12.1 and for the making of a connection under section 16(1) of the Act:*

*(a) as soon as is reasonably practicable after its (or its agent's) receipt of the request from the requester or of the Notice under section 16A of the Act (as the case may be); and*

*(b) except and so far as the Authority otherwise consents, not more than the period set out in paragraph 12.6 after the receipt by the licensee of all the information that it may reasonably require for the purpose of formulating the terms of the offer.*

*15.5 The licensee is not required to comply with its obligations under paragraph 15.3:*

*(a) if and to the extent that the Authority consents otherwise;*

*15A.11 The Authority may, after consulting with the licensee, give a direction ("a derogation") to the licensee that relieves it of its obligations under this condition to such extent, for such period of time, and subject to such conditions as may be specified in the direction.*

It could be expected that there would be an initial rush of applications following implementation but there could also be a second wave as customers realise how cheap some areas will be, for distributed generation in particular. SLC12 applies to every connection offer and is a breach if the 65 working days is not met. It is recommended that this is suspended for a year as the timing of increased applications is not clear. DNOs are required to report on connection offers that go out over this time and this would give visibility to Ofgem. It should be noted that Guaranteed Standards would still be in place and customers would be receiving payments for any offers that go out over these timescales and this acts as an incentive for Licensees to issue the offer as quickly as possible.

SLC15 is measured as needing to achieve 90% of connection offers meeting the standards within the regulatory year. It is recommended that Ofgem gives its consent under 15.5(a) that the requirement in 15.3(b) to provide the relevant services, calculated on an annual basis, in at least 90 per cent of all cases does not apply in regulatory year 2023/24. The requirement under 15.3(a) to take reasonable steps in every case to provide the relevant service to the applicant will remain in force as do the voluntary payments when the individual standards are not met.

It is recommended that Ofgem issues a derogation under 15A.11 for regulatory year 2023/24 to remove the requirement set out in 15A.2 (f) to achieve the standards of performance, calculated on a quarterly basis, in at least 90 per cent on average of all of the cases. As mentioned above, payments would still be made to any customers where the service was not met.

### **3. Access rights**

***Question 3a: Do you agree with our proposal to exclude customer interruptions and transmission constraints from the definition of curtailment with respect to distribution network access arrangements?***

Yes, this is important as it recognises that all customers both firm and non-firm are at risk of supply interruption and that transmission issues are not in the control of licensees.

***Question 3b: Do you agree that the curtailment limit should be offered by the network based on maximum network benefit and agreed with the connecting customer?***

We do not understand what is meant by the phrase “maximum network benefit” and the phrase ‘agreed with the connecting customer’ implies a degree of negotiation which is not practicable.

Curtailment limits should be set using a deterministic process. Reinforcement or flexible solutions would normally be undertaken to ensure networks remained within their firm capacity when the customer connects.

***Question 3c: Do you have any views on the principles that should be applied to ensure curtailment limits are set in a consistent manner?***

The principles that should be applied to the approach to be used to set curtailment limits are:-

- It should be common across GB
- It needs to be capable of being calculated in timescales that meet connection offer timescales
- It should use available data

We will continue to work with the implementation and Open Networks working groups to develop an approach that will satisfy these principles.

***Question 3d: Do you agree with our proposal not to introduce a cap for flexibility payments made should any curtailment in excess of agreed limits be required?***

No, we do not support this. This is effectively exposing network operators and DUoS customers to an unquantifiable and uncapped liability. This proposal is contrary to Ofgem’s other proposals looking to mitigate the potential impacts on DUoS customers in relation to changes to the connections boundary.

The issue of concern arises is when there is no effective market and the only party who can provide the service is the user who is being curtailed. In this situation, the network operator has an obligation to buy the service from the user regardless of the price demanded. The non-firm arrangements are not an enduring solution. It is an option for the customer to allow a quicker connection. Ofgem’s proposal could make it financially more lucrative for customers to find areas where they will be curtailed This is clearly not consistent with Licence Condition 31E.

We do not agree with the reasons stated in the consultation for not introducing a cap:

- *A cap would not be market based and would be distortive, therefore it would not be in keeping with the principles and policy intent of C31E. We also think that it could also create an incentive to exceed curtailment limits as the most “cost efficient” option.*

A cap is proposed in situations where there is no market and hence cannot be described as distortive. Condition 31E also includes the concept of only using a market where it is economic and efficient to do so which implies the uses of a cap where market prices are too high.

- *Flexibility markets are, at this time, still developing. We consider that higher prices to be a short-term risk and that there continues to be a natural backstop in the cost of physical reinforcement. We believe that the risk of excessive and expensive reinforcement driven by connections will be mitigated to an extent by the detail of our High Cost Cap proposals (see section 2).*

Whilst physical reinforcement may be a natural backstop for long-term flexibility solution, it has no impact on interim solutions. Ofgem are proposing an obligation on network operators to buy from the customer creating the problem who is able to specify the price they are willing to accept. This creates an unlimited liability on network operators and DUoS customers. The High Cost Cap has no impact on this issue.

- *We do not consider that we have received sufficient evidence on the materiality of the risk of unjustified and excessive costs. We believe that DNOs are able to take action to mitigate these risks, for example, in the way that they manage the non-firm stack and efficiently procure flexibility ahead of need (ie before the need to curtail beyond agreed limits arises).*

This situation could arise without allowing sufficient time for network operators to take alternative approaches but exposing them and DUoS customers to unlimited costs in the short term.

***Question 3e: Do you agree with our proposal to introduce explicit end-dates for non-firm arrangements? Are there any mitigations for DUoS billpayers we should consider?***

We agree with the proposal to introduce specific end-dates. This should provide sufficient time for network needs to develop and for solutions to be implemented. We estimate the minimum time to allow this to happen is five years for schemes requiring EHV reinforcement and three years for schemes requiring other reinforcement. These approaches should provide sufficient mitigations to DUoS customers. We do not think that end-dates should be agreed with customers but should be standard from the date of energisation.

***Question 3f: Do you have views on whether the end-dates should take into account only current known or likely works, or if it should allow time for wider developments to take place?***

In order to deliver the benefits of allowing more strategic and cost-effective solutions, the non-firm time period needs to allow time for wider developments to take place. If this is not the case, there will be no benefits from these reforms, merely a transfer of costs from new connectees to existing demand customers. Having end-dates act as a balance to give some time to allow wider developments but not never ending.

***Question 3g: Do you have any comment on our proposal not to further define or standardise time-profiled access arrangements?***

We support this approach. Time profiled access is likely to be most beneficial when DUoS reforms are introduced.

## **5. General questions**

***Question 5a: Has the additional information in this consultation affected any of the views your previously submitted in response to our June 2021 consultation (if so, in what way)?***

The additional information has not changed our overall views in respect of these reforms.

***Question 5b: Do you have any other information relevant to the subject matter of this consultation that we should consider in developing our proposals?***

Our current understanding is that the need for ECCR reforms may not be a showstopper as in the worst case, some customers may get charged for ED1 reinforcement for a period until the reforms come into force. We do not think this short term affect to a small number of customers is material enough to delay the overall implementation.