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National Grid ESO response to Statutory consultation on a proposal to modify the special conditions of the electricity transmission licence held by National Grid Electricity System Operator Limited

Dear Charlotte,

Thank you for the opportunity to respond to Ofgem's Statutory consultation on a proposal to modify the special conditions of the electricity transmission licence held by National Grid Electricity System Operator Limited dated 21 September 2022.

National Grid ESO is the electricity system operator for Great Britain. We move electricity around the country second by second to ensure that the right amount of electricity is where it's needed, when it's needed – always keeping supply and demand in perfect balance. As Great Britain transitions towards a low-carbon future, our mission is to enable the sustainable transformation of the energy system and ensure the delivery of reliable, affordable energy for all consumers.

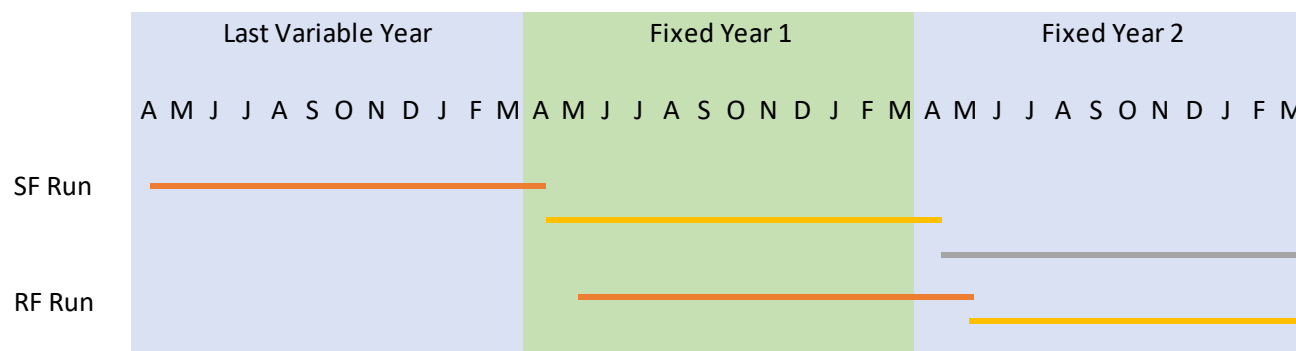
The ESO holds a unique position at the heart of the nation's energy system. We use our unique perspective and independent position to facilitate market-based solutions which deliver value for consumers.

We agree with the majority of the drafting as supplied alongside the consultation letter, although wish to raise a number of issues, set out below.

We note that this consultation runs in parallel with Ofgem's CMP361/362 - Minded-to decision and draft impact assessment consultation and that any changes made in response to that consultation may have a consequential impact on Ofgem's proposals and require new licence drafting to be consulted upon.

Substantive Issues

The definition of $SOTRR_t$ in section 4.1.3 should be amended. In the first two years that the fixed BSUoS price is in operation, the ESO will collect monies (largely via the Reconciliation Final (RF) run) that relate to the year before the fixed price was introduced, with a variable BSUoS tariff. Therefore, in those years, $SOTRR_t$ (collected revenue) should specifically exclude collections that relate to a previous year that used a variable tariff. This will not be an issue in any subsequent years (the reason this affects two years rather than just one is that collections in the third year may include the final two months' worth of settlement dates from the final variable year):



Note that Settlement Final (SF) runs appear to overlap years but this is adjusted for in the accounts, RF run figures however are not adjusted within years. Timescales are illustrative.

We also consider that the licence drafting should be expanded to specify that the limitation on revenue refers to revenue excluding anything that may be included in relation to the build-up of an Industry BSUoS Fund, as referred to in Ofgem's CMP361/362 - Minded-to decision and draft impact assessment consultation.

For the avoidance of doubt, it should be noted that our understanding of the licence conditions is that we would set a fixed tariff intended to recover $SOTAR_t$ and also to build up sufficient industry fund outside of our revenue if required (so total collected charges will exceed $SOTAR_t$).

We note that the limitation on revenue should be expressed as revenue exclusive of Value Added Tax (VAT) and other relevant taxes.

In addition, as drafted, paragraph 4.1.2 refers to the "best forecast" of $SOTAR_t$. This wording is ambiguous, both as to what a "best forecast" is and as to when forecasting would need to be undertaken.

To address the points set out above:

- Since the Industry Fund itself is not mentioned in the licence (but is in Section 14.31 of the CUSC) the licence should define the Industry Fund as *'amounts supplied by Industry in order to enable the ESO to satisfy unforeseen short notice balancing costs. The Industry Fund (the Fund) will be held in a ring fenced ESO bank account and the ESO is obligated to repay the value of the Fund at a future, yet-to-be determined, date. If the Fund is utilised by the ESO to satisfy unforeseen short-notice balancing costs, at that point, and at that point only, said amounts will be considered ESO revenue and fall within the scope of $SOTRR_t$.'*
- We propose that paragraph 4.1.2 should be changed as follows *'The licensee must, when setting charges for Balancing Services Activity, use best endeavours to ensure that revenue collected from such charges for the Regulatory Year (after deduction of value added tax (if any) and any other taxes charged directly by reference to the amounts so collected) is consistent with its most recent forecast of the SO Revenue from Balancing Services Activity term ($SOTAR_t$) derived in accordance with the following formula....'*

(We note that this drafting also gives $SOTAR_t$ a name – this is missing in the current drafting.)

- We propose that in paragraph 4.1.3 the definition of $SOTRR_t$ should be changed to *'means the total revenue collected by the licensee from charges for Balancing Services Activity, excluding any revenue which relates to Balancing Services Activity in a Regulatory Year commencing on or before 1 April 2022 unless included within the scope of TotAdj_t as described in paragraph 4.3.3*' (this is the last year that will use a variable BSUoS tariff, assuming an implementation date of 1 April 2023 as set out in the consultation).
- We propose that a new paragraph 4.1.4 should be added as follows *'In this condition, for the avoidance of doubt any reference to the collection of revenue does not include any collection by the licensee for the purpose of paying into the Industry BSUoS Fund.'*

We also look forward to working with Ofgem to amend the Revenue Reporting Pack (RRP) tables and the associated guidance (RIGs), as well as the externally audited Agreed Upon Procedures (AUPs) as these are likely to require substantial amendment.

Drafting Corrections / Issues

- The formulae in new Special Condition 4.1 do not work as currently drafted. In paragraph 4.1.2, the definition of K_t should be updated to *'means the value derived in accordance with Part B for Regulatory Years commencing on or after 1 April 2024 and is otherwise the value of zero'*.
- In new paragraph 4.1.3, the definition of $SOTAR_t$ should be *'means the values derived in accordance with Part A*'.
- With the introduction of new Special Condition 4.1, the heading of Special Condition 4.2 is no longer clear since that condition no longer establishes a charging restriction. We propose changing this to *'System Operator Internal Allowed Revenue ($SOIAR_t$)'*.
- Similarly, with the introduction of new Special Condition 4.1, the wording of paragraph 4.2.1 is no longer clear. To be consistent with other licence conditions we propose that paragraph 4.2.1 should be changed to *'The purpose of this condition is: (a) to calculate the term $SOIAR_t$ (the SO Internal Allowed Revenue term), which contributes to the calculation of the SO Revenue from Balancing Services Activity term in Special Condition 4.1 (System Operator Balancing Services Activity Revenue Restriction); and (b) to set out the obligations of the licensee in respect of the term $SOIAR_t$.'*

- For the reasons set out above, we propose changing the heading of Special Condition 4.3 to '*Balancing Services external costs (BXext_i)*'.
- For the reasons set out above, we propose changing paragraph 4.3.1 to '*The purpose of this condition is: (a) to calculate the term BXext_i (the Balancing Services external costs term), which contributes to the calculation of the SO Revenue from Balancing Services Activity term in Special Condition 4.1 (System Operator Balancing Services Activity Revenue Restriction); and (b) to set out the obligations of the licensee in respect of the term BXext_i*'.
- In new paragraph 4.3.2, the definition of LOCTRU_i should say '*means, for the Regulatory Years commencing on 1 April 2021 and 1 April 2022, the value of OCTRU_i as determined in accordance with Part A of Special Condition 4J (SO-TO Mechanism) of this licence as in force on 31 March 2021 and thereafter the value of zero*'.
- Paragraph 4.10.2 is incorrectly numbered and should instead be 4.10.1. This also impacts the subsequent numbering. The reference in this paragraph should be updated and renumbered in line with the revised drafting. To be consistent with our comment above, this should become '*... Special Condition 4.2 (System Operator Internal Allowed Revenue)*'.
- The paragraph numbered paragraph 4.3.4 (beginning '*in each case*') should not be numbered.
- We note that in paragraph 4.3.5(b) the reference at the end to paragraph 4.3.4(a) should instead refer to 4.3.5(a) (but assuming that 4.3.5 becomes 4.3.4 in line with the point immediately above then this change will become correct).
- In line with our comment above, the reference in paragraph 4.4.1 should be '*Special Condition 4.2 (System Operator Internal Allowed Revenue)*'.

Specific Paragraph Numbering and Reference Issues

We have identified many areas where paragraph numbering or references quoted are incorrect or inconsistent. We propose an alternative way to deal with these below, which will avoid widespread renumbering and re-referencing. However, the items that we have identified (which, as outlined in the last bullet, will not be exhaustive across the whole licence) based on the drafting proposed in the consultation are set out below. Some of these items include points that will need to be addressed beyond numbering / referencing.

- In new paragraph number 4.2.4, in the definition of TAXA_i the reference to Part J should be updated to refer to Part I.
- In new paragraph number 4.2.9, in the definition of RB_i the reference to Part H should be updated to refer to Part G.
- In new paragraph number 4.2.12 there is a reference to paragraph 4.2.11 – this reference should instead be to paragraph 4.2.10.
- In new paragraph number 4.2.17 there is a reference to paragraph 4.2.17 – this reference should instead be to paragraph 4.2.16.
- The references in paragraphs 4.5.1 should be updated and renumbered in line with the revised drafting. To be consistent with our comment above, this should become '*... Special Condition 4.3 (Balancing Services external costs)*'.
- The reference in paragraphs 4.6.1, 4.7.1, 4.8.1 and 4.9.1 should be updated and renumbered in line with the revised drafting. To be consistent with our comment above, these should become '*... Special Condition 4.2 (System Operator Internal Allowed Revenue)*'.

The proposals to update references cover only reference changes in Chapter 4 of the Special Conditions. There are a number of other references that would need to be updated if this approach is adopted, including a number of defined terms included in Part B of Special Condition 1.1 and references in paragraphs 1.1.13, 2.9.8, 5.1.11, 5.2.1 and 5.2.9 of the Special Conditions and Condition B16 of the Standard Conditions. We note that reference changes will also be needed in the ESO Price Control Financial Handbook.

Alternative Approach to Numbering

We appreciate that the natural place to introduce the new paragraphs is at the start of Chapter 4 of the licence conditions. However, in the middle of a price control period renumbering all of the licence conditions in

Chapter 4 by introducing a new Special Condition 4.1 is likely to be confusing and add to the burden of work for both ESO and Ofgem.

An alternative approach, which would be our preference, would be to introduce new numbering such that widescale renumbering is not required. In other words, the new licence condition should instead be numbered Special Condition 4.A1. This approach is commonly used in legislation and has been used in the licence previously (see Standard Condition C14, paragraph 1A).

In addition, to prevent the renumbering of new Special Condition 4.2 (which would remain Special Condition 4.1 following our proposed approach), we propose that the deleted paragraph (formerly 4.1.2) and the Part A heading are both replaced with '*Not used*'. This is again an approach used elsewhere in the licence conditions.

This approach would reduce the consequential changes which will need to be made.

We have commented above on issues based on Ofgem's proposed numbering. However, adopting these proposals would make the new changes far simpler. If Ofgem agrees to adopt these changes, we request the opportunity to review any updated draft.

General Issues

In general, whilst we acknowledge that they have the same mathematical meaning, we propose that formulae should standardise on the symbol used to represent the multiplication operator for consistency with the rest of the licence and to aid transparency and understanding for non-mathematical licence readers. We understand that the preferred symbol to use in all formulae that require it is the period (".") albeit this will not help non-mathematical readers for whom the times symbol ("x") would be more familiar. For example, the formula in new paragraph 4.8.7 would be:

$$CNIAV = NIAV_{2020/21} \cdot NGETBR_{2020/21} - (ENIA_{2020/21} + BPC_{2020/21})$$

This applies not just to the text covered specifically by this consultation but also to the rest of the licence which currently uses a variety of methods to display the multiplication operator. In particular, the use of * (such as in the old 4.7.7, which is the new 4.8.7) should be avoided as that symbol is used in the definition of TO^*_t (paragraph 3.6.3, where * is also used as a multiplication operator) and other terms.

We also note the guidance in the consultation document to consider whether changes are needed to the Connection and Use of System Code (CUSC), which we intend to deal with separately, depending on the outcome of the CMP361 consultation.

Finally, we note also that we have already submitted our response to the statutory consultation on RIIO-1 close out. In our response above we have not taken into account drafting changes proposed in that consultation, but we note that if the proposed approach to renumbering is taken some provisions included in that consultation will need to have references updated.

We welcome the opportunity to discuss any of the points raised within this response. Should you require further information or clarity please contact Craig Bell in the first instance at craig.bell@nationalgrideso.com. Our response is not confidential.

Yours sincerely

Jane West

Senior Finance Business Partner
National Grid Electricity System Operator