

# Energy UK response to Ofgem's Consultation on the Future of Local Energy Institutions and Governance

10 May 2023

## About Energy UK

Energy UK is the trade association for the energy industry with over 100 members - from established FTSE 100 companies right through to new, growing suppliers, generators and service providers across energy, transport, heat and technology.

Our members deliver nearly 80% of the UK's power generation and over 95% of the energy supply for 28 million UK homes as well as businesses.

The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources.

The energy sector supports 700,000 jobs in every corner of the country. Energy UK plays a key role in ensuring we attract and retain a diverse workforce. In addition to our Young Energy Professionals Forum, which has over 2,000 members representing over 350 organisations, we are a founding member of TIDE, an industry-wide taskforce to tackle Inclusion and Diversity across energy.

## **Future System Operator**

Energy UK notes that Ofgem consider the FSO to be the lead option to take on the proposed Regional System Planner and market facilitation roles. Industry requires urgent clarity on what Ofgem, DESNZ and the ESO see as the functions and governance structure of the FSO. We are concerned that the creeping scope of the FSO creates a risk that it is unable to manage its range of roles, without losing focus on its core functions, which will include an increasingly significant role in shaping the energy system and driving forward competition.

It is important that these parties agree on what the FSO will be accountable and responsible for, and that this view is shared with industry. There should also be clarity on how the FSO will be regulated and its interactions with Ofgem and Government; there must be measures in place to ensure it remains accountable to industry, with appropriate routes of appeal.

Whilst most Energy UK members tentatively consider the FSO as the best candidate for the market facilitator and regional system planner roles, this is neither a risk-free nor cost-free option, and the lack of clarity on the FSO limits our ability to provide useful input into some areas of this consultation.

## Open Networks

Much of the work identified under the Market Facilitator role is currently being undertaken by the Energy Networks Association's Open Networks Project. We appreciate that Ofgem has taken on board industry's feedback on Open Networks, which includes concerns about the consistency and speed of progress towards DSO functionality. Whilst we welcome that Ofgem are proposing action to overcome these issues, it is important that the progress being made isn't put on hold whilst governance changes are delivered.

There are a number of areas that Energy UK members suggest Ofgem could encourage the ENA to deliver in the interim. These are 'low-hanging fruit' that would ensure that progress continues in the absence of governance changes, and that the bodies responsible for the Regional System Planner and Market Facilitator role are set up for success. This should include:

- A Distribution level equivalent of the TEC register
- A streamlined DNO-TO process for assessing connections, with greater transparency for the connecting party
- Accelerating the development and implementation of the established ENA workstreams (e.g. PQQ standardisation, product standardisation, common and standardised APIs, primacy rules).
- Specific success criteria, determined by Ofgem (centralising the what, instead of the how) and the timeframes it expects

Ofgem must explore how this work can be clearly tied to the RIIO-ED2 framework, and what should be changed to incorporate these important developments. Without this connection, these developments and the ED2 framework on which DSOs base their activities are out of alignment and send confusing messages.

There is a lack of clarity around how future governance proposals will be sufficiently dynamic and adaptable to keep up with the pace of change in flexibility markets. Creating new governance and accountability is not a silver bullet to the problems identified, and further clarity and exploration is needed to ensure that any future governance structures enable competition, innovative solutions and developments to continue at pace and do not act as a blocker.

### **Q1. Do you agree with our proposal to introduce Regional System Planners as described, who would be accountable for regional energy system planning activities? If not, why not?**

The Regional System Planners must be enabled by clear strategic planning at a national level, with government guidance on the most effective decarbonisation pathways in regions with different characteristics.

Energy UK supports the identified need for regional whole-system planning, with most members supportive of an independent Regional System Planner. Whilst most members believe that expanding the FSO's national planning remit for gas and electricity to the regional level makes sense, more detail is needed. Without knowing exactly what the Regional System Planner is expected to deliver in practice, it's hard to say whether the role is correct or the FSO is the correct body to deliver it. It is important that the RSP adds value, rather than simply replicating functions within the remit of existing network operators.

In recent years, the ESO have taken on more responsibility for planning. Energy UK would welcome a review on how well they have delivered this planning function, in advance of the FSO being granted greater responsibility.

Ofgem have made an assertion that a new body would be too difficult, however, giving the FSO new capabilities and resources is also costly, and developing comms between new parties is a huge challenge. We would encourage Ofgem to seek further industry input if the outcomes of the Impact Assessment don't align with their assumptions.

It will be important to clarify how conflict is managed between the different parties involved in planning, and how parties can appeal discrepancies.

**Q2. What are your views on the detailed design choice considerations described?**

Design choices should also include coordination: the RSP will have to coordinate between different actors, including local authorities that have geographic considerations, and DNOs and GDNs that have technocratic understanding. It is important any change considers the existing commitments DNOs have made for ED2.

Consistency should be another consideration. There are different aspects to planning, including decarbonisation readiness plans and EV rollout plans that must be aligned locally and nationally.

**Q3. Do you have views on the appropriate regional boundaries for the RSPs?**

One suggestion is that RSPs have to be compliant with the most local regional level, which is probably local authorities. It would be sub-optimal to have local authorities dealing with multiple GDNs and DNOs. As the responsible party with the lowest resources to commit to the process, there is logic to making engagement as easy as possible for local authorities.

A number of members raised concerns about how these future arrangements will apply to Independent Distribution Network Operators (IDNOs), that would benefit from clarity from Ofgem. They will have an input into Regional System Plans that should be formally drawn out.

We would encourage Ofgem to engage further with industry on proposals for regional boundaries.

**Q4. Do you agree that the FSO has the characteristics to deliver the RSPs role? If not, what alternative entities would be suitable?**

The ESO doesn't currently meet the requirements for a number of reasons. The ESO has incentives that do not deliver independence, which will have to change when it becomes the FSO. In addition, the ESO lacks regionality and a detailed understanding of the distribution networks. That said, we recognise that the FSO legislation will change some of these characteristics and that it will take time for the new body to develop new competencies, as well as appropriate regulatory structures.

Energy UK has concerns around the ability of the ESO to deliver in a timely fashion and whether they will have adequate skills and resources to take on the RSP role. There's currently issues with the ESO delivering on planning roles, for example the significant delays to the Holistic Network Design Follow-Up Exercise (HND FUE). In some cases, ESO's role in planning has created a barrier when trying to connect assets. Ofgem must ensure the RSP adds value, rather than creating another role in the connections process so that there are more bodies that need to communicate with each other and Ofgem have more to sign off.

**Q5. Do you agree with our proposal for a single, neutral expert entity to take on a central market facilitation role? If not, why not?**

Yes, Energy UK agrees there must be a single body to deliver standardization, in order to provide the best experience to customers. Any new entity must collaborate with and take learnings from the

Open Networks project. Having been involved in Open Networks, this adds to the case of the role sitting with the FSO.

More information is required on how this new market facilitator role will deliver the outcomes Ofgem want it to. Pace of change is quick with technological solutions, particularly in Software as a Service (SaaS) companies. It is imperative that this role does not hinder the development of competitive, cost-effective solutions, which create best practice to be iterated, standardised and implemented. The industry as a whole has benefited from the approach of iterative development, adopted learnings and standardisation. This role must enable those benefits, whilst delivering at an accelerated pace, with greater industry involvement and accountability for implementation.

**Q6. Do you agree with the allocation of roles and responsibilities set out in Table 2? If not, why not?**

The identified roles are too binary in their representation to comment fully on how they should be allocated. For instance, market engagement is necessary in all areas of flexibility markets and is currently carried out by the ESO, DSOs and market platforms. It is important that the nuances of responsibilities, activities and accountabilities are clear.

We would welcome more information on the market oversight function, as it is important that the market facilitator isn't marking their own homework. One aspect absent from the list is performance assurance, unless this is included in market oversight. There should be a party responsible for ensuring providers deliver what they are contracted to.

It is important that the development of products is not the sole responsibility of one party. Market participants should be able to come up with innovative products and solutions, and the market facilitator should have a collaborative role in that.

**Q7. Are there other activities that are not listed in Table 2 that should be allocated to the market facilitator or other actors?**

Members have suggested that the market facilitator should also be responsible for continuous monitoring of how the current approach to managing local congestion is working. The market facilitator should work closely with the Network Operators to assess whether current flexibility products continue to be effective, and facilitate the development of alternative solutions if necessary, alongside market participants.

**Q8. What are your views on our options for allocating the market facilitator role?**

As drawn out at the top of this response, there's a lot of uncertainty around the future of the FSO, which makes it hard to tell whether it will be equipped and resourced for this function.

In light of this uncertainty, we would encourage Ofgem to continue to consider other viable options, such as an independent market platform, or Elexon. Elexon will be licensed and have experience with some of the necessary functions. Their established governance would allow products to be designed in an open forum and without conflict of interest.

**Q10. Do you agree that DNOs should retain responsibility for real time operations? If not, why not?**

Yes, this is the least disruptive option and doesn't logically sit with any other party. That said, we welcome Ofgem's view that they should be encouraged to carry out the changes proposed in ED2 that will enable greater digitalisation and data sharing.

**Q11. What is your view on our proposed approach to the undertaking of an impact assessment as outlined in Appendix 1?**

An impact assessment is an essential part of the decision-making process and in our view this should be carried out and shared with industry ahead of, rather than alongside, any decision. It is important that industry participants can comment on the detail of the likely benefits and costs of Ofgem's proposals.

We are mindful that there was little mention of IDNOs during the consultation. It will be important to measure the impacts and costs on the those parties as part of the impact assessment.

As mentioned in our response to question 1, we would encourage Ofgem to review the additional planning roles that have been given to the ESO, and whether they have been delivered successfully, as part of the impact assessment.

**Q12. What is your view on the most appropriate measure of benefits against the counterfactual?**

Ofgem believes that its proposed package of reform would contribute to achieving significant benefits associated with better coordination and delivery of energy system planning at the sub-national level and more accessible flexibility markets. It also proposes measuring impacts of reaching the proposed end state vs the counterfactual; however it is not clear what the proposed end state will look like in the context of a changing regulatory framework.