

Consultation

Future System Operator – Draft amendments to other impacted licences consultation

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We are consulting on draft amendments to other impacted licences which would be required once the Secretary of State designates and grants licences to the Future System Operator (FSO) under the Energy Act 2023. We anticipate modifications to the following licences would be required:

1. Electricity Transmission Standard Licence Conditions
2. National Grid Electricity Transmission plc Special Conditions
3. Scottish Power Transmission and Scottish Hydro Electric Transmission Special Conditions
4. Electricity Generation Standard Licence Conditions
5. Electricity Interconnector Standard Licence Conditions
6. Electricity Supply Standard Licence Conditions
7. Electricity Distribution Standard Licence Conditions
8. Electricity Distribution Special Conditions (including additional changes to Scottish Hydro Distribution Special Conditions only)
9. Smart Meter Communication Licence
10. National Gas Transmission plc (NGT) Gas Transporter Licence (Part C) Special Conditions
11. Gas Transporter Standard Special Conditions (Part A)
12. Gas Transporter Standard Licence Conditions

This non-statutory consultation includes the proposed amendments that we believe are not impacted by the proposed policy direction for the FSO's regulatory framework.

In 2024, Ofgem and government intend to undertake a statutory consultation (using the Energy Act 2023 powers) on the proposed conditions of the FSO’s licences, ahead of FSO designation. We also intend to publish a statutory consultation on the proposed modifications to all of the licences listed above.

We would like views from parties with an interest in the above. We would also welcome responses from other stakeholders and the public.

This document outlines the scope, purpose, and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive on our website at [ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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Glossary

AAHDCS	Assistance for Areas with High Distribution Costs Scheme
ANCAR	Annual Network Capability Assessment Report
BSC	Balancing and Settlement Code
CCWG	Cross-Code Workgroup
CSNP	Centralised Strategic Network Plan
DAG	Data Assurance Guidance
Day 1	The first day of the FSO (i.e. the point of establishment as a government owned entity and when the first FSO licences come into force).
DESNZ	Department for Energy Security and Net Zero
DNO	Electricity Distribution Network Operator
Energy Act	Energy Act 2023 – The Energy Act that received Royal Assent in October 2023, and sets the overarching legislative framework for the FSO.
ESO	Electricity System Operator. When used in this document, the term refers to the ESO licence rather than National Grid Electricity System Operator Limited.
ET	Electricity Transmission
ETYS	Electricity Ten Year Statement
FES	Future Energy Scenarios
FSO	Future System Operator. This is the name currently given to the body that will be designated as the ISOP under the Energy Act. References to the FSO in this document should be read as referring to that body. The Energy Act provides for the ISOP to have statutory functions and duties.
GDN	Gas Distribution Network licensees
GDPR	General Data Protection Regulation
GSO	Gas System Operator
GSP	Gas System Planner
GT	Gas Transporter
GTYS	Gas Ten Year Statement

ICO	Information Commissioner’s Office
ISOP	Independent System Operator and Planner. See also FSO.
Net zero	Refers to the balance between the amount of greenhouse gas produced and the amount removed from the atmosphere. The UK is required by law to reach net zero carbon emissions by 2050.
NETS	National Electricity Transmission System
NG plc	National Grid plc
NGESO	National Grid Electricity System Operator Limited
NGT	National Gas Transmission plc
Ofgem	Office of Gas and Electricity Markets
PCFH	Price control financial handbook
PCFM	Price control financial model
RIGs	Regulatory Instructions and Guidance
SLC	Standard Licence Condition
SSMC	Sector Specific Methodology Consultation
SoS	Secretary of State
SpC	Special Condition
SPS	Strategy and Policy Statement
UNC	Uniform Network Code

Section 1: Introduction

Section summary

This section sets out the scope, purpose, and context for the proposed consequential amendments to other licences required when the Future System Operator (FSO) is designated.

What are we consulting on?

- 1.1 This non-statutory consultation sets out proposed draft amendments to all other licences required to establish the Future System Operator (FSO) once designated by the Secretary of State under the Energy Act.
- 1.2 The FSO will hold an Electricity System Operator (ESO) and Gas System Planner (GSP) licence. Our intent is to reflect the policy and language in the ESO and GSP licences in other affected licences to ensure regulatory alignment.
- 1.3 We expect a statutory consultation using the powers in the Energy Act will take place in 2024, ahead of FSO designation.

Background

- 1.4 This section sets out the background for the FSO, including an overview of new and existing roles. It builds on the first joint Department for Energy Security and Net Zero (DESNZ) and Ofgem consultation published in July 2021 and associated response published in April 2022¹ and is intended to be read alongside the joint DESNZ and Ofgem consultation 'Future System Operator – Update Document and Second Consultation'².
- 1.5 In July 2021, Ofgem and DESNZ issued the first FSO consultation, which followed the publication of Ofgem's review of GB system operation in January that year.³ This consultation sought views on the proposal for an expert, impartial body with responsibilities across the electricity and gas systems, as well as future new roles and the organisational model of the FSO.
- 1.6 A joint consultation response was published in April 2022 which outlined the intention to proceed with and establish the FSO (described in the Energy Act as

¹ [Proposals for a Future System Operator role - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/proposals-for-a-future-system-operator-role)

² [Future System Operator: second policy consultation and project update - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/future-system-operator-second-policy-consultation-and-project-update)

³ [Review of GB energy system operation | Ofgem](https://www.ofgem.gov.uk/review-of-gb-energy-system-operation)

the Independent System Operator and Planner or ISOP) as an independent body with the full capabilities of the ESO and additional gas planning, market and forecasting functions.

- 1.7 The Energy Act⁴, which received Royal Assent in October 2023, enables the designation of the FSO⁵ and sets out key statutory duties for the FSO. It also provided for new categories of licences to be added into the Electricity Act 1989 and the Gas Act 1986. The ESO and GSP licences are now included categories respectively following Royal Assent. These licences will be granted in the first instance by the Secretary of State (SoS) using the Energy Act provisions⁶.
- 1.8 The draft ESO and GSP licences⁷ set out the FSO's activities and functions for Day 1⁸ in further detail and enable the FSO to deliver the roles set out in the joint DESNZ and Ofgem 'Proposal for a Future System Operator'⁹ and 'FSO Second policy consultation and update'¹⁰ consultations.
- 1.9 The proposed draft ESO and GSP licence conditions also contain further detail on the regulatory framework of the FSO. This includes enabling the independence of the FSO from energy interests, and how its statutory duties are reflected in relation to its functions. The draft licence conditions also provide further obligations regarding performance of, and reporting on, the FSO's functions.

Next Steps

- 1.10 The intention is for the powers in the Energy Act to be used to consult on and subsequently amend all licences (and other documents associated with the licences) regime and industry codes, as required for the establishment of the FSO.
- 1.11 This consultation enables stakeholders to engage in detail on how other licences are affected by the FSO. We intend to publish a statutory consultation on these changes (so far as they are retained depending on representations and views received), and any conditions introduced at subsequent stages (see below for

⁴ [Energy Act 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁵ FSO also known as ISOP

⁶ [Energy Act 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

⁷ [Future System Operator \(FSO\) draft licences consultation | Ofgem](#)

⁸ The first day of the FSO (i.e. from the point of designation as a government owned entity and when the first FSO licences come into force)

⁹ [Proposals for a Future System Operator role - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

¹⁰ [Future System Operator Second Policy Consultation and Project Update | Ofgem](#)

details). We expect the statutory consultation on all licence conditions for the FSO's Day 1 licences to take place in Spring 2024.

- 1.12 The proposed draft consequential amendments covered in this non-statutory consultation do not include amendments on those conditions relating to the financial provisions of the ESO or GSP licences, as we are conducting a concurrent policy consultation related to those areas. Any further consequential amendments to other licences resulting from the policy direction for the FSO's regulatory framework would be consulted on as part of the statutory consultation.
- 1.13 Responses to both of our consultations will be used to inform the development of the draft FSO and impacted licences before a statutory FSO licence consultation expected in 2024.

How to respond

- 1.14 We want to hear from anyone interested in this consultation. Please send your response to the team named on this document's front page.
- 1.15 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 1.16 Where feedback is provided with regards to a specific area or licence, please include the Licence Name, Condition Number, and Paragraph Number where possible followed by your feedback text (e.g. 'Electricity Distribution Standard Licence Conditions, Condition A1, Paragraph 1).
- 1.17 We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

- 1.18 You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential in its entirety, please clearly mark this on your response and explain why.
- 1.19 If you wish us to keep part or parts of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch

with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

- 1.20 If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice, see Appendix 2.
- 1.21 If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the numbers (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

1.22 We believe that consultation is at the heart of good policy development and welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

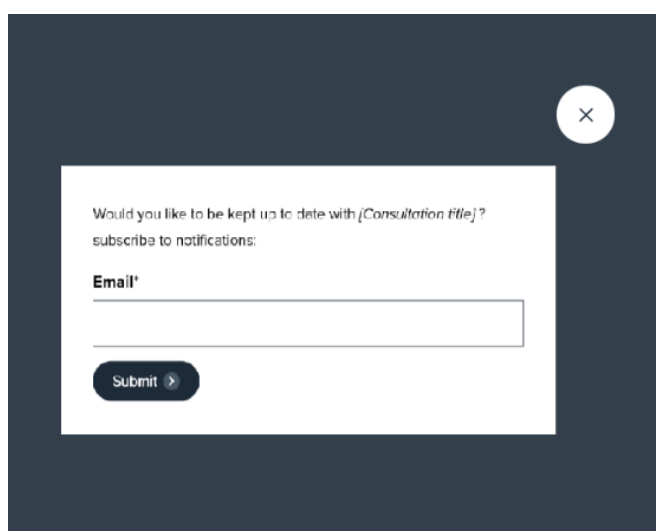
1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

1.23 Please send any general feedback comments to stakeholders@ofgem.gov.uk

How to track the progress of the consultation

1.24 You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations)

Notify me +



The image shows a dark-themed modal window with a white background for the form. At the top right of the modal is a close button (an 'X' in a circle). The form text reads: "Would you like to be kept up to date with [Consultation title]?" followed by "subscribe to notifications:". Below this is a label "Email*" and an empty text input field. At the bottom left of the form is a dark button with the text "Submit" and a right-pointing arrow.

1.25 Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:

- **Upcoming** > **Open** > **Closed** (awaiting decision) > **Closed** (with decision)

Section 2: Background

Section summary

This section sets out the background for the FSO, including an overview of new and existing roles.

The Future System Operator

- 2.1 Ofgem and government set out a commitment to create a system operator which is independent, capable of taking on a wider remit of responsibilities as the energy system becomes ever more complex and which operates in the interests of consumers¹¹.
- 2.2 This new, independent FSO will take on all the main existing roles and responsibilities of NGESO and strategic planning, long term forecasting and market strategy roles in respect of gas.
- 2.3 Additionally, it will take on new and enhanced roles, including providing expert advice, analysis, and information to Ofgem and government, and will play an increasingly significant role in shaping the energy system and driving forward competition. It will also have statutory powers to request information to support its functions.
- 2.4 The FSO will have further statutory duties it will need to consider when performing its functions. These include the duty to promote particular objectives (net zero, security of supply, efficiency and economy) as set out in section 163 of the Energy Act, which we have referred to as the Primary Duty in the FSO's licences. The FSO will have further duties requiring it to have regard to particular matters (facilitating competition, consumer impact, whole-system impact, facilitating innovation) set out in section 164 of the Energy Act when carrying out its functions, which we have referred to as the Secondary Duty in the FSO's licences. The FSO will need to decide how to best balance these considerations.
- 2.5 We have also launched the Cross-Code Workgroup (CCWG)¹² to develop the code changes required for the establishment of the FSO. This includes the changes to the codes required to facilitate the transfer of existing NGESO functions to the FSO and to allow the FSO to take on new roles. The CCWG includes industry

¹¹ [Proposals for a Future System Operator role - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

¹² [Decision letter for Ofgem's Call for Volunteers – FSO Codes Change Programme | Ofgem](#)

stakeholders who have agreed to participate in a dedicated CCWG to develop the industry code modifications required for the establishment of the FSO.

Approach to further policy

- 2.6 This draft licence consultation represents our current expectation of impacted licence conditions held by other licensees resulting from the implementation of the FSO and policy decisions on its functions on Day 1. We recognise that a number of policy areas are still under development and so the licence condition changes proposed here do not represent an exhaustive or final list of impacted consequential amendments.
- 2.7 This section outlines some of the more significant and potentially impactful policy areas related to the FSO, the FSO’s licences, and to other licences across the electricity and gas sectors. These licence obligations may require further change once the policies outlined here have been finalised and resulting decisions have been made.
- 2.8 We anticipate that further amendments to the FSO licences and other impacted electricity and gas licences may be required as a consequence of the Retained EU Law (Revocation and Reform) Act 2023. For example, but not limited to, definitions which currently refer to “Retained EU Law”.

Central Strategic Network Plan (CSNP) and spatial planning

- 2.9 We note that work is ongoing within Ofgem on the formulation of the Centralised Strategic Network Plan (CSNP)¹³ and onshore electricity network competition¹⁴ which could place new responsibilities on the FSO on Day 1, and potentially impact other gas and electricity licences.
- 2.10 On 13 December 2023, Ofgem published the decision on the CSNP¹⁵ and the future of supply and demand modelling, and the FSO’s delivery of these. The document sets out our decision on the stages of the CSNP, how the FSO should implement them, and the timings of when the first whole system CSNP and annual CSNP products will be delivered. We are intending that licence conditions

¹³ [Centralised Strategic Network Plan: Consultation on framework for identifying and assessing transmission investment options | Ofgem](#)

¹⁴ [Onshore transmission project delivery | Ofgem](#)

¹⁵ Decision on the framework for the Future System Operator’s Centralised Strategic Network Plan, 13 December 2023

implementing the CSNP would, subject to timescales, form part of the FSO Day 1 licences, and be consulted on in 2024¹⁶

FSO regulatory framework

- 2.11 Please note, provisions related to the financial provisions of the FSO, as discussed in Section 1, are outside the scope of this non-statutory consultation.
- 2.12 Today, we have published a consultation on the proposed policy direction for the FSO’s regulatory framework, which includes key features of the FSO’s financial regulation and Ofgem’s emerging thinking on the wider regulatory approach].
- 2.13 This policy consultation, and any subsequent decision(s), may have an impact on the FSO’s licences, and the Electricity Transmission (ET), Electricity Distribution and Gas Transporter licences. We expect that any licence changes resulting from this will form part of the statutory consultations planned for 2024.

RIIO-3 and the Future Systems and Network Regulation

- 2.14 On 13 December 2023, we published our Sector Specific Methodology Consultation (SSMC)¹⁷ on the plans for the upcoming RIIO-3 price control. Prior to this, we published our decision on the frameworks for future systems and network regulation¹⁸, which included expectations on the future price controls across electricity and gas transmission and distribution networks].
- 2.15 The SSMC included a proposal for introducing an uncertainty mechanism for the RIIO-3 gas transmission price control, which would cover outputs of the FSO gas strategic planning process that will eventually be incorporated into CSNP. This would enable Ofgem to approve and release future funding for options and investments that have been proposed in response to the system needs identified by the FSO on the gas transmission network (as part of the FSO’s gas strategic planning role).
- 2.16 Whilst we anticipate that changes to other licences, particularly NGT’s Special Conditions, would be required in relation to this regulatory architecture and potential uncertainty mechanism, implementation of this would be for the next price control period (i.e. 2026 onwards). Therefore, we do not propose any such

¹⁶ We have not determined the full extent of the impact of the CSNP decision or Ofgem’s recent Decision on future of local energy institutions and governance ([Decision on future of local energy institutions and governance | Ofgem](#)), but changes may be required in the future.

¹⁷ RIIO-3 Sector Specific Methodology Consultation Overview Document

¹⁸ [Decision on frameworks for future systems and network regulation | Ofgem](#)

changes to the existing licence conditions in place for the current RIIO-2 price control period that covers FSO Day 1.

- 2.17 Similarly, the RIIO-3 electricity transmission price control will include a regulatory framework to fund transmission owners to deliver the outputs of the CSNP, but as with gas transmission, this will be implemented through RIIO-3 licence updates after FSO Day 1.

Section 3: Proposed changes throughout the licences

Section summary

This section sets out the type and scope of broad changes expected across the impacted electricity and gas licences.

Navigating this document

3.1 This document sets out the anticipated changes applicable to all licence types in this section, and anticipated changes to individual licences in Sections 4 and 5.

Changes throughout licences

Global changes throughout licences

3.2 These changes are applied broadly across all of the licences. Where applicable, we will make the following changes.

Drafting style

- 3.3 We have proposed the following changes with regards to the drafting style:
- Where a whole paragraph (or sub-paragraph), condition or section of a licence has been deleted, it has been replaced with 'Not used' to keep cross-references intact (with certain exceptions).
 - All new drafting follows the existing style of that licence, for example not capitalising defined terms.
 - Where there is a mixed use of modern and legacy drafting styles in a licence (for example the mixed use of 'the licensee shall' and 'the licensee must' in the ET SLCs) these have been left as drafted, but any proposed new drafting we have inserted has been drafted following Ofgem's most recent style as this should result in the clearest drafting. The Licence Drafting Principles are detailed in Appendix 3.
 - We have aimed to make nominal changes (e.g. correcting clear spelling errors) where the impacted paragraph is impacted by the creation of the FSO's ESO and GSP licences.

Cross references

3.4 We have updated references to the current electricity system operator licence conditions held by NGESO in other licences:

- References to conditions that have been deleted from the ET SLCs or NGESO's Special Conditions and moved to the FSO's draft licences have been updated to refer to the appropriate condition of the FSO's licences.
- References to conditions that have been deleted altogether have been removed.
- Some existing cross references to the NGESO financial conditions have not been updated at this time. These will be updated once the financial provisions for the FSO licences have been drafted. This impacts the Electricity Distribution and Electricity Transmission licences, and may affect certain conditions in the existing gas transporter licences.

Defined Terms

3.5 We have created new defined terms in relation to the FSO and its new functions. These include:

- **ISOP:** means the person for the time being designated as the Independent System Operator and Planner under section 162 of the Energy Act 2023 who holds an Electricity System Operator licence and a Gas System Planner licence.
- This term has been created to refer to the FSO throughout the impacted licences and in the electricity and smart meter licences replaces terms that refer to NGESO like 'system operator' and NGESO.
- **Electricity System Operator Licence:** means a licence granted or treated as granted under section 6(1)(da) of the Electricity Act 1989.
This term is used to refer to the FSO's ESO licence where required for cross references.
- **Gas System Planner Licence:** means a licence granted or treated as granted under section 7AA of the Gas Act 1986.
This term is used to refer to the FSO's GSP licence where required for cross references.
- **Strategic Planning Options Report:** means the document prepared by the licensee [NGT] in accordance with Part B of Special Condition 9.10 (~~Long term~~ Licensee's Network Planning)
- **Gas Network Capability Needs Report:** means the report prepared by the ISOP in accordance with Part B of condition C8 (Gas strategic network planning) of the Gas System Planner Licence.

- **Gas Options Assessment Document:** means the document of that name prepared by the ISOP under Part C of condition C8 (Gas strategic network planning) of the Gas System Planner Licence.
- 3.6 We have also made amendments to one existing defined term:
- **Long Term Development Statement:** means a statement prepared by the licensee in accordance with Part A of Special Condition 9.10 (~~Long term~~ Licensee's Network Planning).
- 3.7 We have removed one defined term because of the proposed amendments to the NGT Gas Transporter (GT) Licence: Special Conditions (Part C):
- **Annual Network Capability Assessment Report:** means a report prepared by the licensee in accordance with Part B of Special Condition 9.10 (Long term network planning).
- 3.8 In the attached annexes we have removed all defined terms (that appear in the definitions licence conditions) that are not impacted to make it clearer which specific definitions we are proposing to change.

References to the System Operator

- 3.9 NGENSO is referred to as NGENSO, the 'system operator', or by way of similar terms ('GB system operator' for example) throughout the electricity licences. The FSO will take on the current functions of NGENSO, so we have assessed these references and proposed to replace them with 'ISOP' where appropriate.
- 3.10 In some instances references to system operator are to the defined term derived from EU regulations 'transmission system operator' or in specific cases like in the interconnector licence refers to system operators in GB and outside GB. These have not been changed, as they do not refer specifically to NGENSO.
- 3.11 We also propose that the term system operator should not be changed in the title of the System Operator – Transmission Owner Code (STC) as we considered doing so would have disproportionate impacts on that code.
- 3.12 For the Electricity Interconnector licence, specifically, we note that NGENSO is currently referred to as 'GB system operator' in the Electricity Interconnector licence. Given the international nature of interconnectors, it is necessary to retain territorial reference to GB in such definition. We have opted to replace 'GB system operator' with 'GB ISOP', therefore, instead of replacing simply with 'ISOP'. This includes updating the definition of GB ISOP to align with the definition of ISOP across the other licences.

References to Transmission licensee

- 3.13 References to 'Transmission licensees' (and similar phrases like 'relevant Transmission Licensee(s)') have been reviewed throughout the electricity licences and proposed updates made where appropriate. This includes references to 'any transmission licensee other than the system operator' which have been updated to remove 'other than the system operator'.
- 3.14 We have also amended drafting to include the FSO where appropriate, usually in the form of 'Transmission licensees and the ISOP'.
- 3.15 There are some references to transmission licensee in the DNO and Electricity Transmission licences that are impacted by the financial conditions. These will be updated alongside the financial provisions of the FSO's licences in due course.

Section 4: Changes to Electricity Licences

Section summary

This section sets out the type and scope of changes expected across the impacted electricity licences.

- 4.1 The overall changes we are proposing to the electricity licences reflect the FSO taking on all of the existing activities of NGESO. Because NGESO has roles in electricity system planning and connections, codes and administering charges and government schemes, there are references to NGESO and their licence conditions throughout the licences of other electricity licensees and the Smart Meter Communications Licence. In addition, there are changes to the ET licences required to reflect that the FSO will be a public corporation, rather than part of National Grid Group like the NGESO. And to reflect the Elexon ownership policy¹⁹.
- 4.2 We are not proposing changes influenced by new FSO policy as part of these changes. Instead, all of the changes are to reflect the FSO taking on the existing activities of NGESO and to keep conditions in the other licences aligned with the approach taken for the FSO's ESO Licence.
- 4.3 Further changes beyond those proposed in this consultation may be required to other electricity licences; these are expected to include changes to implement the FSO financial and price control changes, as well as the CSNP changes.

Changes to the structure of the Electricity Transmission licences and removal of impacted licence conditions

- 4.4 The FSO will take on all the existing roles and functions of NGESO but will not hold an ET licence. The FSO will instead hold both an ESO Licence and a GSP licence.
- 4.5 As we set out in our FSO draft licences consultation²⁰, we intend to move many of the provisions from the current ET licence framework to the FSO's ESO licence. Where these obligations currently only apply to NGESO this means removing those obligations from the transmission licence framework.

¹⁹ [The future ownership of Elexon - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/the-future-ownership-of-elexon)

²⁰ [Future System Operator \(FSO\) draft licences consultation | Ofgem](#)

- 4.6 Therefore, we propose that the NGESO Special Conditions will no longer exist. All of the conditions that need to be retained from that licence will be moved to the FSO's ESO licence.
- 4.7 In the ET SLCs, Section C currently only applies to NGESO. We propose that this whole section should be removed from the ET SLCs and replaced with 'Not Used'
- 4.8 In addition to the removal of all conditions in Section C, we propose that the following condition should be removed from the ET SLCs because it applied only to NGESO and we intend to move the condition (in a modified form) into the FSO's ESO licence:
- A4 (Payments by the licensee to the Authority)
- 4.9 Furthermore, we propose that the following conditions should be removed from the ET SLCs because they no longer apply to any of the licensees licensed under that licence, and the equivalent conditions are not proposed for inclusion in the FSO's ESO licence (see draft FSO licence consultation for rationale):
- A2 (Application of Section C)
 - D15 (Obligations relating to the preparation of TO offers during the transition period)
- 4.10 Similarly, we propose that the following condition of other licences are no longer required because of the removal of Condition C18 (Requirement to offer terms for connection or use of the GB transmission system during the transition period):
- Electricity Interconnector SLCs Condition 18 (Offers for connection to or use of the GB transmission system in the transition period)
- 4.11 We also propose removing cross-references to legacy BETTA conditions that have not been transferred from NGESO to the FSO.
- 4.12 The conditions related to the STC have been updated to align with the changes proposed in the FSO's ESO licence and to reflect the FSO not being a transmission licensee.

Changes to the Electricity Distribution Special Conditions

- 4.13 Note that we have used the Scottish Hydroelectric Power Distribution plc Special Conditions to represent all of the electricity DNO special conditions as per the marked up version in the annexes. All of our proposed changes to the DNO Special Conditions are the same across all of the DNOs' Special Licence Conditions except for a few additional changes to the Scottish Hydroelectric Power

Distribution plc licence related to the Assistance for Areas with High Distribution Costs Scheme (AAHDCS).

Changes to the Electricity Transmission Special Conditions

4.14 We have used the Scottish Power Transmission plc Special Conditions to represent both of the Scottish transmission owner Special Conditions since in our assessment the changes to both licences are the same.

Section 5: Changes to Gas Licences

Section summary

This section sets out the type and scope of changes expected across the impacted gas licences.

Changes to NGT Special Conditions

5.1 We are proposing changes to the National Gas Transmission plc (NGT)'s Gas Transporter Licence Special Conditions (Part C) due to the implementation of the FSO, and particularly because of the FSO's gas strategic planning function.

Changes to support the FSO's functions – Gas strategic planning process

5.2 As restated in the Future System Operator – Second Policy Consultation and Update in August 2023²¹, the FSO will coordinate a strategic planning gas options assessment process from Day 1. In summary, this will involve the following steps:

1. The FSO will publish an independent view of gas network capability and its statement of system needs²².
2. NGT (and potentially other parties in future) will produce a response to the needs set out by the FSO under (1), which may include a proposal of options to satisfy the need;
3. The FSO will produce a form of gas options assessment document²³ that will include analysis and recommendations/advice to Ofgem on the options proposed under step (2);

²¹ [Future System Operator - Second Policy Consultation and Update \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

²² In the Gas System Planner (GSP) Licence that we consulted on in September 2023, this document was referred to as the Gas Network Capability Needs Report (GNCNR). We have repeated that terminology in this consultation (and in the changes we are consulting on in Special Condition 9.10 and the defined terms). However, this may not be the final name given to this document that is referred to in the statutory consultations planned for 2024.

²³ In the Gas System Planner (GSP) Licence that we consulted on in September 2023, this document was referred to as the Gas Options Assessment Document. We have repeated that terminology in this consultation (and in the changes we are consulting on in Special Condition 9.10 and the defined terms). However, this may not be the final name given to this document that is referred to in the statutory consultations in 2024.

4. The FSO submit its analysis/advice on proposals and options (from step (3)) to Ofgem for further decisions on funding and progression.
- 5.3 The changes proposed to NGT’s GT Licence Special Condition 9.10 (Long term network planning) as part of this consultation seek to:
- Obligate NGT to undertake step (2) of this process, and provide a response to the FSO’s view of gas network capability and statement of need;
 - Remove the obligation for NGT to produce the Annual Network Capability Assessment Report (ANCAR) from NGT’s Special Conditions, because the ANCAR requirements will form part of the FSO’s obligations to produce its view of gas network capability and statement of need under step (1) above;
 - Provide additional requirements on what NGT should include in its Long Term Development Statement, in respect of outputs of the FSO’s gas strategic planning process.
- 5.4 We are also proposing to change the title of Special Condition 9.10 to ‘Licensee’s network planning’ because of the introduction of the FSO’s function covering longer-term strategic gas planning.
- 5.5 The amendments we are consulting on in NGT’s GT Licence Special Condition 9.12 (Licensee’s Network Model) also obligate NGT to provide the inputs that are required from NGT to support the FSO’s analysis of gas network capability (for its strategic planning), including provision of the Network Model and additional obligations to ensure maintenance and necessary support of the Network Model, and associated tools, systems and data.
- 5.6 We are also proposing minor changes to SpC 1.1 (Interpretations and definitions) that correspond with the changes above (to defined terms). Further detail on all the proposed amendments under this section are set out in the annexes.

Planned future changes to NGT’s Special Conditions (for future consultation)

- 5.7 As outlined in the overview, further policy areas and decisions are still to be finalised ahead of the statutory consultations in 2024. These decisions are likely to impact other licences beyond the FSO’s electricity and gas licence conditions, including the NGT’s Special Conditions.
- 5.8 This list is not intended to be an exhaustive or final list of relevant policy areas or impacted licence conditions. This is a present indication of expected further

impacts to other licences from the future implementation of the FSO. There may be additional functions of the FSO that are not outlined here that could impact licence conditions, and further amendments may be required across other licences beyond those granted to the FSO.

Potential further changes to support FSO’s functions – Gas strategic planning and gas forecasting

- 5.9 We anticipate that further changes to NGT’s Special Conditions will be required in the future in respect of the FSO’s gas strategic network planning.
- 5.10 This includes amendments to existing conditions or the creation of new licence conditions to cover the outputs of the gas strategic planning process, which may be linked to further Ofgem decision-making on funding and progress of options.
- 5.11 As outlined above, Ofgem’s Sector Specific Methodology Consultation includes a proposal for introducing an uncertainty mechanism for the RIIO-3 gas transmission price control, which would cover outputs of the FSO gas strategic planning process (and the CSNP).
- 5.12 We are not consulting here on any proposed licence conditions to cover this regulatory architecture or introduction of an uncertainty mechanism, or further elements of the gas strategic planning process beyond the FSO’s options advice document (see step (3) above). Any mechanism would be introduced as part of the RIIO-3 price control (from 2026), and so cannot be consulted on as a change to the current licences in place for RIIO-2 gas transmission price control.
- 5.13 As outlined in the FSO second²⁴ policy document of August 2023²⁴, our decision was for the FSO to produce medium to long-term gas supply and demand forecasting, and that the specific detail of this would be linked to Ofgem’s work on Future Energy Scenarios (FES) and supply and demand scenarios.
- 5.14 Ofgem’s decision on the CSNP and future of supply and demand modelling outlines the direction of travel on the whole system CSNP and FES processes to be carried out by the FSO in the future.
- 5.15 In light of this, we are considering what new licence conditions will be required in the FSO’s GSP Licence to support the CSNP and FES (forecasting) roles. We are also considering whether any further amendments to other licences – including

²⁴ [Future System Operator: second policy consultation and project update - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/future-system-operator-second-policy-consultation-and-project-update)

NGT's Special Conditions – will be required, and intend to include any proposed licence conditions and amendments in future consultations.

- 5.16 We are also not currently consulting on changes to Special Condition 9.11 (Transmission Planning Code) or to the Transmission Planning Code (TPC) itself. We are continuing work on whether the TPC will need to change because of the FSO's role in gas strategic planning and are interested to hear views from stakeholders on the FSO and the TPC.

Funding of FSO's gas functions

- 5.17 In today's published policy direction for the FSO's regulatory framework, the process for funding the FSO's gas functions was proposed whereby NGT will recover gas charges and pass through an amount notified by the FSO that equates to the latter's gas costs.]
- 5.18 New licence obligations and amendments – and potentially changes to the Uniform Network Code (UNC) – would be required to implement this process for Day 1. We expect that the licence obligations and amendments would form part of the statutory consultations in 2024.

Potential further changes – obligations on information sharing

- 5.19 The work to establish specific information sharing requirements between other parties and the FSO is ongoing. As part of this consultation, we have aimed to draft and consult on some specific data and information sharing obligations between NGT and the FSO. Ofgem is also coordinating a separate working group (as part of the CCWG) to determine if other information sharing requirements should be introduced into industry codes, including what is specifically needed in the UNC.
- 5.20 We are exploring whether any additional amendments to the FSO's GSP Licence and NGT's Special Conditions will be required to share data and information between these parties for the FSO (and NGT) to perform their functions. If we determine that any additional amendments or new licence conditions are needed to support this, we intend to consult on these amendments as part of any statutory consultation in 2024.

Changes to GT Standard Special Conditions

- 5.21 We are proposing changes to licence conditions in the Gas Transporter (GT) Licence Standard Special Conditions Part A. These changes are mostly centred on the following two licence conditions:

- Standard Special Condition A11 (Network Code and Uniform Network Code)
- Standard Special Condition A28 (Gas Network Innovation Strategy)

- 5.22 The changes to A11 relate to the proposal set out in the FSO Second Policy Document of August 2023²⁵ for the FSO to become a new class of signatory under the UNC. This includes amendments to A11 to provide for the ability for the FSO to be signed up to the UNC, propose modifications (and make representations on modifications) to the UNC and provide a representative to the UNC panel.
- 5.23 These changes complement the proposed new condition (E1: Obligations regarding the Uniform Network Code) that we consulted on in September 2023²⁶ to be introduced in the FSO’s new GSP Licence as part of the FSO’s implementation. We are still considering responses received from that consultation, and will also review any responses to the changes proposed to A11 to ensure both the GT licence conditions and GSP Licence work effectively together. We are also consulting on very minor housekeeping changes and changes to cross-references in A11, and corresponding changes to SSC A3 (Definitions and Interpretation).
- 5.24 The change proposed to Standard Special Condition A28 is to include the FSO as a relevant party that will produce the Gas Network Innovation Strategy with relevant GT licensees.
- 5.25 This change also corresponds with a licence condition we previously consulted on in September proposed for inclusion in the GSP licence (C9: Gas Network Innovation Strategy), which obligates the FSO to work with relevant parties on producing a Gas Network Innovation Strategy (alongside and in conjunction with the FSO’s obligations to produce an Electricity Network Innovation Strategy). There are also some minor housekeeping and text changes we are consulting on in A28.
- 5.26 We are not currently proposing any changes to Part B or Part D of the GT Standard Special Conditions in this consultation.

²⁵ [Future System Operator: second policy consultation and project update - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/future-system-operator-second-policy-consultation-and-project-update)

²⁶ [Future System Operator \(FSO\) draft licences consultation | Ofgem](https://www.ofgem.gov.uk/consult/condocs/fso/fso-draft-licences-consultation)

Potential future changes to GT Standard Special Conditions

- 5.27 Whilst we are proposing changes to A11 to enable the FSO to become a new class of signatory under the UNC, we are not currently proposing any change to the ownership structure of the Central Data Service Provider, or to the Joint Office Governance Arrangements for Day 1 of the FSO. As such, we are not consulting here on changes to Standard Special Condition A12 (Joint Office Governance Arrangements) or to Standard Special Condition A15 (Central Data Service Provider), but this may change in the future, and we are happy to receive further comments on this as part of this consultation.
- 5.28 The future gas funding arrangements for the FSO may also lead to potential changes to the GT Standard Special Conditions (and the GT SLCs), depending on the full detail of the Day 1 NGT funding pass through process, and what a future gas funding option could look like in the future (beyond Day 1). Any further licence condition amendments to support the funding of the FSO's gas functions would be appropriately consulted on.

Changes to GT Standard Licence Conditions

- 5.29 We are proposing changes to two licence conditions in the GT SLCs. This is to SLC 9 (Network code and uniform network code), and the changes are drafted to mirror those to Standard Special Condition A11 described above. We are also proposing minor changes to SLC 1 (Definitions and Interpretation).
- 5.30 The specific text changes to SLC 9 and SLC 1 are set out in Annex 1.
- 5.31 Whilst the changes described in this document may not constitute a final or exhaustive list of proposed licence changes related to the FSO's implementation, we have not currently identified any changes required to the Gas Shipper, Gas Supplier or Gas Interconnector licence conditions.
- 5.32 We welcome any thoughts or views as to whether these licence conditions, or any additional licence conditions across the GT licences, may need amending because of the implementation of the FSO.

Appendices

Table 1: List of appendices

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Appendix 1 – Questions

Q1. Have we correctly identified the impacts of the FSO licence proposals on other licences?

Q2. Are you aware of any further amendments that may be required to other licences?

Q3. Do you have any other comments?

Appendix 2 – Privacy notice

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, “Ofgem”). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data

Data provided in response to this consultation will be shared with the Department for Energy Security and Net Zero (DESNZ).

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for six months after the project is closed.

6. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services

- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. Your personal data will not be sent overseas.

8. Your personal data will not be used for any automated decision making.

9. Your personal data will be stored in a secure government IT system.

10. More information

For more information on how Ofgem processes your data, click on the link to our "[ofgem privacy promise](#)".

Appendix 3 - Licence Drafting Principles

These are the licence drafting principles that we have applied when developing the drafting for the FSO licence conditions. These licence drafting principles build upon those used in RIIO-2 and aim to ensure a consistent approach to all the licence conditions for the FSO.

Definitions

- A3.1 Each licence will contain a definitions condition at the start of the conditions, which sets out all of the definitions used in those conditions. It will also set out which definitions in legislation or other documents such as industry codes apply to the conditions.
- A3.2 It is acceptable for a definition simply to refer to a definition in documents outside the licence and legislation e.g. in industry codes or the Price Control Financial Handbook. However, a decision will need to be made about whether that definition should be ambulatory e.g. “as from time to time amended” or static e.g. “version 2.3”.
- A3.3 In general, where Ofgem are the authors (e.g. RIGs), or have a degree of control (e.g. industry codes), especially if there are frequent updates, we recommend that the reference is ambulatory.

Structure of Conditions

Title

- A3.4 Each licence condition will have a title, which in general should be no more than one line.

Headings

- A3.5 Licence conditions that are more than a few paragraphs long should have headings, which should generally be no more than one line.

Paragraphs

- A3.6 Each paragraph should only deal with one idea and this means that generally it should only contain one sentence.
- A3.7 In terms of paragraph levels, we should stick to paragraphs and sub-paragraphs without going any further. We have retained sub-sub-paragraphs in some of the existing NGESO licence conditions where it would be difficult to redraft without

changing the original policy intent. This makes the licence condition easier to read. In some cases a defined term has been created to resolve this.

- A3.8 If listing things, sub-paragraphs should be used for each item on the list, rather than one long sentence.
- A3.9 Multiple paragraphs should be referred to as “paragraphs 4, 5 and 7”, rather than “paragraph 4, paragraph 5, and paragraph 7”, and sub-paragraphs written as “paragraph 4(a) and (c)”.

Introduction

- A3.10 Every licence condition should start with a section headed “Introduction”. This should set out the purpose of the condition and should generally be no more than three paragraphs long.
- A3.11 It is possible to have a short introduction even for a long licence condition because it should not replicate anything that is in the main body of the licence condition. It should only explain the purpose of the licence condition.

A Logical Flow

- A3.12 After the introduction, a structure needs to be determined for the licence condition that ensures a logical flow. This includes:
- having basic concepts explained before any variations.
 - having any provisions dealing with uncertainty or how the licence will be changed set out after the provisions dealing with how things commence.
 - having any provisions on what happens if the licensee fails to comply with the condition set out after the provisions on what they are being required to do.
 - dealing with any procedural or minor points after the more substantive parts of the condition e.g. the establishment of Associated Documents.

Obligations

- A3.13 Obligations should be set out precisely and not simply reiterate the existing duty to act in an “economic and efficient” manner. If necessary, this can be done outside of the licence for example in industry codes or guidance.
- A3.14 In some cases, it may be appropriate to qualify the extent of the obligation. This can be done by specifying particular circumstances in which the licensee does not have to comply with the obligation in the licence or creating an uncertainty mechanism to remove the obligation in certain circumstances or at specific times.

A3.15 Where an obligation is qualified by the level of effort, we will use “reasonable endeavours” or “best endeavours” and not “all reasonable endeavours”. As a starting point for new obligations we would expect to use “best endeavours”, since we have considered the obligation worth adding to the licence. However, there may in some contexts be a cost implication to this and the specifics of individual licence conditions and policy areas must be properly considered and may well warrant use of “reasonable endeavours”.

A3.16 The licence could also specify the steps the licensee should take or at least the minimum steps as part of their “best endeavours” or “reasonable endeavours”.

Consistency Rules and Style Guide

A3.17 Use plain English wherever possible.

A3.18 Use “must” instead of “shall” for placing obligations on the licensee.

A3.19 Use the active rather than the passive voice i.e. “the licensee must send a notice”, rather than “a notice must be sent by the licensee”.

A3.20 Use sub-paragraphs to show items in a list for clarity. The Oxford comma may assist in the understanding of a provision by showing that the last two items in a list are separate, but consider whether it would be clearer to use sub-paragraphs instead.

A3.21 “Licensee”, “condition”, “licence”, “special condition” and “standard condition” should be all lower case, unless at the beginning of a sentence.

A3.22 Avoid cross references if possible. Where needed, the first cross reference to another condition should refer to the number and the title. Subsequent cross references should simply refer to the number. We have left most cross references in the existing NGESO conditions in place, but are considering whether to do further redrafting to remove them where they can be avoided.