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Dear Robert

Re: Consultation on new electricity supply and generation licence conditions to implement new ownership arrangements for Elexon

On behalf of SSE Energy Supply Limited, I am pleased to enclose our views on Ofgem's consultation on the new licence conditions required to implement the new ownership arrangements for Elexon. As one of the proposed shareholders for Elexon we would also highlight our appreciation at the early and ongoing engagement to discuss these arrangements.

We have set out our response to Ofgem's questions in the annex to this letter. We agree with Ofgem's implementation approach but would highlight the following key points:

- We welcome the ongoing confirmation that the role and liabilities of shareholders is limited to the provisions set out in the Balancing & Settlement Code (BSC). However, we remain concerned at the potential for future BSC modifications to materially change this versus the stated policy position and would welcome assurance from Ofgem that it will consider relevant representations regarding this risk as part of its consideration of future BSC modification proposals by industry participants.
- We recognise that the timeline for implementation of the new ownership arrangement is subject to the Energy Bill receiving royal assent. We welcome Ofgem's assurance that it will "allow adequate time for all affected parties to prepare to comply with any direction to hold a share, including obtaining any approvals." We would welcome further clarification on the expected timeline and steps associated with this process.
- In order to achieve the necessary internal approval, we would welcome clarification on the extent of due diligence being undertaken by DESNZ or Ofgem that can be relied upon by shareholders. We would continue to welcome limited due diligence.
- We would continue to welcome assurance from Ofgem and DESNZ that the number of shareholders will not fall below an appropriate de minimis limit to mitigate the risk that shareholders are exposed to liabilities that would not apply at the current time.

We look forward to your ongoing engagement on this matter.

Yours sincerely,

Sam Bird
Head of Group Regulation

Annex 1

Q1. Do you agree with our proposed approach to implementation, including our proposal for flexibility?

Yes – whilst we do not currently intend to delegate our obligation to hold a share to a different legal entity we consider that this flexibility is likely to be welcome in the future.

Q2. Are there any other factors that we should consider to enable successful implementation?

We welcome the updates provided by Ofgem in this consultation (and the associated redrafting published in the associated BSC consultation). Whilst we recognise that any change in the shareholder mix will not always result in new shareholders being appointed, we welcome the proposed change to BSC C3.1.8. We consider this could mitigate the risk of liabilities being imposed on shareholders should the number of shareholders fall below a de minimis level.

Notwithstanding this, we remain concerned that future BSC modifications could materially alter the rights and responsibilities of shareholders and we would welcome assurance from Ofgem that it will take into account relevant representations regarding this risk as part of its consideration of future BSC modification proposals by industry participants.

Q3. Do you agree that the approach taken in the proposed licence condition serves the purpose required?

No – we recognise Ofgem's intention is that "This condition also creates an obligation on the licensee to inform the Secretary of State and the Authority of any arrangements for delegation under paragraph 3 of the licence condition, including the name of the party to whom any responsibility delegated, and to inform the Secretary of State and the Authority if there are any changes to these arrangements." However, we note that there is no obligation in the licence to notify Ofgem of any change to arrangements and would recommend that the proposed drafting is amended to make this clearer.

Q4. Do you have any additional comments on the proposed licence condition?

We recognise that the timeline for implementation of the new ownership arrangement is subject to the Energy Bill receiving royal assent. We welcome Ofgem's assurance that it will "allow adequate time for all affected parties to prepare to comply with any direction to hold a share, including obtaining any approvals." We would welcome further clarification on the expected timeline and steps associated with this process.

In order to achieve the necessary internal approval, we would welcome clarification on the extent of due diligence being undertaken by DESNZ or Ofgem that can be relied upon by shareholders. We would, as set out in our email to DESNZ (30 June), welcome limited due diligence in a number of key areas and can share this with Ofgem if helpful.