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2 February 2024

Dear David,

### **Policy direction for the Future System Operator's regulatory framework**

EDF is the UK's largest producer of low carbon electricity. EDF operates low carbon nuclear power stations and is building the first of a new generation of nuclear plants. EDF also has a large and growing portfolio of renewables, including onshore, offshore wind and solar generation, and energy storage. With around six million electricity and gas customer accounts, including residential and business users, EDF aims to help Britain achieve net zero by building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

We welcome the opportunity to respond to this important consultation on the Policy direction for the Future System Operator's (FSO) regulatory framework. The FSO will be at the centre of the energy system. It will develop plans and advice to drive forward energy system decarbonisation in a robust and fair manner alongside a crucial role in keeping the lights on as the power system decarbonises.

We are supportive of the outline approach Ofgem are proposing but recognise that there is much more to do, including assessing regulation of comparable organisations, to build this framework in detail.

Our responses to the questions raised are set out in the annex to this letter and we make the following key points:

- 1) We support the proposed approach to financial regulation. This includes moving to a fully "fast money" approach and cost pass through. It is likely that the FSO's costs will be materially higher than the ESO due to the business separation and the increased scope. These costs will need to be paid largely by electricity suppliers. It will be important that annual budgets are known with plenty of advanced notice so that suppliers can factor these costs into their tariffs to consumers. Predictability of these costs is important. Ofgem also need to confirm the process to agree annual budgets and involvement of industry consultation.

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- 2) The objectives Ofgem propose to guide the FSO's performance are very generic and, as Ofgem note, contain important trade-offs. There are also very important trade-offs that the FSO will need to make between managing day-to-day operation of the power system effectively and allocating enough time and resource to horizon scan and plan the future energy system. Both are really important and Ofgem through their regulatory framework must provide clear direction and expectations. In addition:
  - a. While we understand the need for proportionality, in the absence of a financial incentives it is likely that additional reporting will be needed to build confidence and evidence of FSO performance.
  - b. We would expect the highest standards from the FSO in terms of performance, independence and the integrity and professionalism of its people. The regulatory framework should drive these behaviours.
  - c. We would expect a high performing FSO. The regulatory framework will need to help determine the right balance between operational performance, cost-efficiency and innovation.
- 3) Finally, the decarbonisation of the power system means a radical change in how it is operated. This will require cutting-edge technical capability and constant development leaning on international best engineering practice. This technical focus, including reporting and metrics, is missing from the proposed performance framework.

Should you wish to discuss any of the issues raised in our response or have any queries, please contact me or Natasha Ranatunga on 07875 112 981.

Yours sincerely

A handwritten signature in dark ink, appearing to read "AM Cox".

Mark Cox  
Head of Nuclear & Wholesale Policy and Regulation

**Q1) Do you have any views on our proposed financial regulatory framework for the FSO?**

We support Ofgem's proposal that the FSO should operate under a not-for-profit regulatory model and that funding the FSO's gas functions via National Gas Transmission is appropriate.

We note Ofgem's proposal for the FSO to be funded by consumers using a 100% 'fast money' approach with the FSO's full forecast spend within the financial year recovered. Ofgem set out that its proposal centres on moving the funding of capital investment from the current RAV approach to 'fast money'. We believe Ofgem should assess the impact of this change on the charges that would ultimately be passed through to end-consumers via suppliers, with a focus on ensuring that this process provides adequate predictability to suppliers. We would expect the FSO's costs to be materially higher than the current NGESO and passing through significant IT investment or similar fully within year could be particularly volatile.

We would welcome clarification on what the 'true up' approach would look like in order to account for differences between industry charges and actual spend by the FSO and to what extent the government would ensure the FSO is able to manage temporary cashflow issues – will there be a cap for instance.

**Q2) Do you have any views on our emerging thinking on how we should regulate the FSO, including our objectives, the case for change, and potential future options?**

We believe that the proposed objectives for the FSO regulatory framework need further consideration. The change to the power system will stretch the FSO and they need to be incentivised effectively. At the same time Ofgem's judgement of its performance in that environment will be hard.

We agree that the FSO will be a very different type of organisation to the ESO and there is a strong case for a full review of the regulatory approaches Ofgem currently applies to the ESO. The vision for the FSO is that it will be an expert, impartial body with responsibilities across both the electricity and gas systems. Ofgem needs to clearly signal on how it will hold the FSO to account. We would like to see some objectives which relate to the actual work which the FSO is going to do in terms of running and planning the energy system and how trade-offs will be assessed. There is little detail in the proposed objectives on how Ofgem will measure whether the FSO is driving progress towards net zero, maintaining energy security and minimising costs for consumers.

In light of this, we do not believe there is a robust case for moving towards a lighter touch regulatory approach for the FSO. We would expect that the scope and extent of Ofgem's monitoring, and assessment will vary over time and across different issues. But the power system though is going through the biggest transformation in our lifetime, and these challenges increase

the importance of monitoring. We need a FSO at the heart of this with the right capability and incentives. In the absence of a financial performance incentive, we would expect the need for a robust suite of reporting and regulation.

We also believe that the FSO ought to have targeted objectives around pace, prioritisation, system operability and engineering adaptability, and around energy resilience.

In particular, we believe that Ofgem need to consider how they will assess the FSO's technical performance. The decarbonisation of the power system means a radical change in how it is operated. This will require advanced technical capability and constant development learning from international best practice – we strongly advocate a role for a regular technical peer or expert review processes to provide confidence around the resilience of the power system during this transformation. It will be crucial that the FSO provides regular reporting on progress to manage novel technical issues and reporting on a suite of technical performance metrics.

Finally, we would expect the highest standards from the FSO both in terms of performance, independence and the integrity and professionalism of its people. The regulatory framework should drive these behaviours to increase trust in the FSO.

### **Q3) What role should industry stakeholders and external parties have in holding the FSO to account, and what platforms are needed to achieve this?**

We agree that it is important there are appropriate routes for stakeholders and external parties to provide feedback on the FSO's performance and hold it to account. We note the role that the ESO Performance Panel undertakes and believe that this should be built upon so that the recommendations provided to Ofgem on the ESO's business plans and performance assessment are more robust. Ofgem needs to ensure that the FSO is listening to its stakeholders, and feedback is taken on board in a consistent and appropriate way which informs and improves how the FSO does business. In order to fulfil this industry stakeholders and external parties need good information including:

- High quality data – This should be underpinned by reliable data systems ensuring there is consistent measurement and targeting across the FSO and over time.
- Clear and readily available information – Industry stakeholders and external parties need up to date performance information in a format they can easily interpret.
- Timely information - allowing performance problems to be identified and resolved early.

The FSO will need to be held accountable to ensure it is adhering to the principles of good stakeholder engagement – effective, inclusive, transparent and well-governed stakeholder engagement activities. It should be the FSO's responsibility to clearly demonstrate that stakeholders are able to both participate in and effectively influence business decisions.

Q4) Do you have any views on our approach to implementing changes?

We agree that that a phased approach would minimise delivery risk and is more likely to help Ofgem to more effectively achieve its long-term objectives for the enduring FSO regulatory model.