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19 January 2024

Sent by email to: FSO@ofgem.gov.uk

Dear FSO team

ENWL response to draft amendments to other impacted licences consultation

We welcome the opportunity to respond to the published consultation covering the potential changes to licence conditions as a consequence of the creation of the FSO.

We are supportive of early transparency on changes to impacted licences, but equally note that these are not all of the changes that Ofgem envisage may be required and it would be helpful to see a roadmap of consultations and decision points in order to fully understand when a complete set of changes to the licence will be visible to licensees and stakeholders.

A sub-set of changes means that our, and others, comments are not able to be made fully cognisant of the other relevant and connected changes. As such please accept this response as our early comments to help shape the changes, rather than final comments which we will provide as part of the fuller consultation process to take place in due course.

As a DNO we have limited our comments solely to the licence changes for the Electricity Distribution sector and the standard licence conditions and special licence conditions for each.

Licence principles

We note that appendix 3 of the consultation shares the licence drafting principles for the FSO and states that these build on the principles used for RIIO-2 drafting. One notable change from RIIO-2 for the FSO principles is A3.15 where the start-point for level of effort on new obligations is intended to be 'best endeavours'. This differs from the RIIO-2 principles and is a material change. We agree with Ofgem that there will be a cost implication in increasing requirements from 'reasonable' to 'best'. This may not always be in customers interests. We do not agree with the premise that 'best endeavours' should be the start point as this should be considered on a case by case basis, without pre-judgement of what is most appropriate. In particular, licence drafting is often done after business plan submissions and Ofgem determinations on price control allowances. Adopting such a presumption of best endeavours principle infers that business plans and requests for funding should always be developed based on best endeavours. This is a significant change, which if adopted, should be clearly signalled to companies and stakeholders so that the overall cost or additional onboarding of company risk impacts can be clearly understood by stakeholders in the context of potentially increasing bill costs.



We consider that the RIIO-2 principle is more appropriate and should be used going forwards. If Ofgem views particular circumstances pertain to the FSO that it should default best endeavour then this should be set out.

Standard Licence Conditions

Our comments on the changes proposed for the standard licence conditions as follows:

- The reasons and effects document advises there are changes to A2 'Addition of Electricity System Operator' licence to interpretations, however, there is no such condition in the SLCs and the markup does not show any change. We ask Ofgem to advise what this change is intended to cover.
- The markup version includes SLC1.4 though there are no obvious changes, we ask Ofgem to advise if any change is intended for this section and what these are.
- SLC37 (specifically SLC37.3c) has had the words 'or the ISOP' added in. We think this is based on the standardised approach in the drafting to include 'or the ISOP' in any places where 'a Transmission Licensee' appears in the licence. However, in this case, we are not aware of any data transfers that are expected to be between a DNO and the ISOP and request that this is checked and removed. Alternatively, if there are such data transfers expected, Ofgem should advise what these will be.

Special Licence Conditions

Our comments on the changes proposed for the special licence conditions are as follows:

- The defined term 'Transmission Connection Point Charges' has the words 'or the ISOP' added in. We note that presently the charges are levied by the ESO on behalf of the TO's and therefore suggest that the appropriate change is as follows:
means the sum of:
(a) *charges payable by the licensee that are levied by a ~~Transmission Licensee~~ or the ISOP as Connection Charges by direct reference to the number or nature of connections between the licensee's Distribution System and the GB Transmission System, and includes any associated Transmission Network Use of System Charges and any Remote Transmission Asset rentals payable by the licensee;*
and
(b) *charges payable by the licensee to another Electricity Distributor in respect of units transported from that Electricity Distributor's Distribution System, less any charges under (a) or (b) that meet the definition of New Transmission Capacity Charges.*
- SpC3.2 Part D is the Electricity System Restoration Re-opener. The revision proposed for 3.2.23 (d) replaces the GB System Operator with the ISOP. However, the current timing of the re-opener window is 24 June 2024 to 28 June 2024. Depending on the timing of these licence changes coming into effect and the time of any re-opener submissions there is a risk this change inadvertently places an obligation on a licensee to engage with the ISOP when they are either not yet in force or are newly created.

This brings up a wider point of ensuring that the licence still operates as intended once these changes are put into place. There are many obligations within the special licence conditions that require co-operation, engagement, or transactional items with the GB System Operator and it is important to ensure that with the change to the ISOP it does not place an unreasonable obligation on the licensee, or equally inadvertently removes an obligation. One solution could be to either reference both the GB System Operator and the ISOP, or consider the defined term of the ISOP to reflect that it could be the GB System Operator (up to the point of FSO creation) and the ISOP thereafter. We suggest further thought is needed to ensure the licence remains operable in these circumstances. Re-opener applications are

the most likely place where such risks lie, however, we consider the SIF licence conditions need similar considerations.

- SpC7.10 relates to the Network Innovation Competition. Again, our comment relates to timing, and our understanding that much of the legacy of NIC would be transacted through the GB System Operator rather than the ISOP. Thought is needed to this drafting to ensure it has no unintended consequences and the Network Innovation Competition can still operate as intended.
- SpC9.9 SIF and the relevant defined terms rely heavily on the inclusion of the defined term ISOP. As with the other comments, it is important to ensure that there is clarity in the licence that this includes the GB System Operator up to the point as the ISOP is designated.

Version control

For the Electricity Distribution sector, there are two consultations¹² that have closed in the last few months relating to licence modifications which are awaiting final decision from Ofgem. It is critical that any changes made as a result of these closed modification consultations are considered together so that there are no inadvertent version control issues.

We trust our response is clear though should you have any queries or wish to discuss any of our points further then do not hesitate to contact either myself or Alison Scott (alison.scott@enwl.co.uk) in the first instance.

Yours sincerely

Paul Auckland
Head of Economic Regulation

¹ [Statutory consultation to modify Standard Licence Condition 31F of the Electricity Distribution Licence | Ofgem](#)

² [Statutory Consultation on Modifications to the Standard and Special Conditions of the Electricity Distribution Licence | Ofgem](#)