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Dear Sir or Madam,

Re: Future System Operator draft licences consultation

On behalf of the SSE Group, I welcome the opportunity to share our views on the Future System Operator draft licences consultation.

The SSE Group is a FTSE-30 company headquartered in Perth, Scotland with interests across the UK and Ireland, Europe, North America and Asia Pacific. We are a leading generator of renewable electricity and one of the largest electricity network companies in the UK, developing, owning, and operating low carbon infrastructure to support the low-carbon transition. This includes onshore and offshore wind, hydro power, electricity transmission and distribution grids, and efficient gas-fired generation, where we are at the leading edge of decarbonisation with developments in carbon capture and storage and hydrogen. We also provide energy products and services for businesses.

We welcome the opportunity to provide our views on the proposed draft conditions for the Electricity System Operator (ESO) and Gas System Planner (GSP) licences which are to be held by the Future System Operator (FSO) once designated by the Secretary of State under the forthcoming Energy Bill.

The success of the transition from ESO to FSO is of fundamental importance to the delivery of net zero. We have provided full details of our comments on the proposed conditions in the Annex to this letter. It is worth noting that many of the comments listed are applicable to both the ESO licence and GSP licence. In addition to these detailed comments, we would highlight the following key points:

- Whilst recognising that the full remit of the FSO is still subject to concurrent (and future) consultations, it is essential that the FSO is sufficiently resourced to ensure that it is not overburdened on day 1. Where the proposed roles for the FSO can continue to be fulfilled adequately by existing industry parties, we would encourage Ofgem to maintain this approach until there is clear evidence that the FSO has the capability and capacity to successfully transition into these proposed roles.
- In this context, we need to ensure there are clear and regular updates provided to industry on how the transition is progressing. We welcome the commitment to publish readiness updates “up until

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FSO Day 1”.¹ However, as the role of the FSO is expected to grow, it is important that this commitment to openness and transparency (as, for example, was summarised² on page 21 of the August 2023 Second Policy Consultation & Update) endures beyond FSO Day 1. This includes providing market insights on the data at its disposal, industry insights on the advice that the FSO is being called upon to provide, and how the FSO is using its new information-gathering powers. Consistent with the recommendations of the Energy Digitalisation Taskforce, a licence condition commitment to openness and transparency would ensure the FSO is well-positioned to provide a leadership role on digitalisation culture from the outset.

- Finally, organisational transitions can introduce risk. Whilst the Transitional Services Agreement will provide continuity of services (including IT, finance, legal, etc.), in the short-term, there will need to be a careful upskilling of these functions within the FSO. We welcome and agree with the need for appropriate information ringfencing requirements to be in place throughout the transition period. With the introduction of new information-gathering powers for the FSO, we agree that effective information governance is critical and would expect Ofgem to be notified in the event of any inappropriate disclosures.

If it would be helpful to discuss any aspect of our response, please do not hesitate to get in touch.

Yours faithfully,

Sam Bird

Head of Group Regulation

¹ [Statutory consultation on a proposal to modify the Special Conditions of the Electricity Transmission licence held by National Grid Electricity System Operator Limited – September 2023 | Ofgem](#)

² “The FSO should, alongside ensuring compliance with the ESO’s current special licence condition 2.11 (Digitalisation), lead by example in improving sectoral energy data practices that are integral to the well-coordinated and cost-effective delivery of net zero. This includes upholding the principle of presumed data openness, where the FSO should aim to improve safe data access, with due consideration of data privacy and compliance requirements.”

Annex 1

Q1. Does the draft ESO licence capture the policy intent set out by the joint ‘Proposals for a Future System Operator’ and ‘Future System Operator: second policy consultation and project update’ consultations?

Table 1: Annex B – Electricity System Operator Draft Licence – Marked Up

Licence reference	Feedback / Proposal
Section A Condition A2 Part B Page 6	<p>In setting out the Licensee’s performance of obligations, both the ESO and GSP licences cross-reference the other. Notwithstanding the desire for equivalent requirements to be in the same form and manner, we believe this could and should be addressed more succinctly in the licence. Further, we would suggest that the emphasis on these reports / strategies / plans, etc in each licence should be on setting out the requirements of the respective licensee.</p> <p>As a more general point, we understand that the FSO is the Independent System Operator and Planner (ISOP) and that it will hold both the ESO licence and GSP licence. It may be helpful to move away from the term ‘ESO licence’ and rename this the ‘ESOP licence’ and, for consistency, rename the ‘GSP licence’ the ‘GSOP licence’.</p>
Section B Condition B1 Page 9	<p>It is suggested that the following text, <i>“The Secretary of State’s policy is that the licensee is anticipated to have a high level of operational independence from government”</i> should be revised to <i>“The Secretary of State’s policy is for the licensee to have a high level of operational independence from government”</i>.</p>
Section B Condition B1 Pages 9 - 14	<p>We agree with Ofgem that conditions pertaining to Independence Requirements and compliance obligations are important and should provide the industry with suitable assurances around the FSO’s independence and management of any risk associated with the Transitional Services. Whilst we would welcome a ‘backstop’ date within the licence to ensure there is an identifiable end-date for the Transitional Services, we recognise that this may not be appropriate. Instead, we would welcome the publication of regular updates to ensure industry participants are suitably appraised of the progress being made.</p> <p>It is not clear whether the Independence Statement (Part D) is (and should be) limited to the Transitional Services or whether it also has an enduring function.</p> <p>Further, in terms of the systems, processes, and other governance arrangements that the licensee has in place to maintain the impartiality of its employees and the independence of its ISOP Business, we would suggest that these need to be in place from Day 1 rather than being a plan for the future.</p> <p>Whilst recognising that derogation provisions (Part F) exist in many licences, we would be concerned if these were used in the initial stages of the transition given the importance of transparency to industry.</p>

Licence reference	Feedback / Proposal
Section C Condition C1 Part A Page 28	<p>We would welcome further clarity on what standing the “<i>guidance, information, and analysis</i>” under Part A, 4(u) will have on the recipients of this guidance. If the intention is that recipients must have regard for such advice, we would expect this to be set out clearly within other licence holders’ licences. We note that this is not currently highlighted in the consultation document as a consequential impact on other licences.</p> <p>Further, we would welcome clarity on whether the ISOP will be obligated to publish any guidance, information, or analysis (where appropriate to do so) under Part A, 4(u), noting that this requirement is present in the GSP licence drafting.</p>
Section C Condition C2 Part A Page 31	<p>We welcome the direction offered by the Strategy and Policy Statement (SPS) for Energy Policy on the expected role of the FSO. However, we note that references to the roles and responsibilities of the FSO have been kept to a high level and that government “...<i>plan to reflect how best to cover the FSO in its substantive role once it is established</i>”.³ From an industry perspective, being clear on the roles and responsibilities of the FSO (and therefore those of other parties) as early as possible will be key.</p> <p>We note that this C2(2) appears to be in the past tense, i.e. the licensee must explain how it <i>has acted</i> in respect of the strategy. We would expect that the licensee should set out in advance <i>how it plans to meet</i> the strategy within its Business Plan. Additionally, we note that C2(3) proposes that the FSO must demonstrate how it has regard to the SPS “<i>where requested</i>” by Ofgem. We would expect this to be a more mandatory requirement with more detailed consideration of this as part of regular performance reviews by Ofgem to ensure views from industry stakeholders can be considered.</p>
Section C Condition C6 Pages 37-38	<p>Noting that the new function on the ISOP pertaining to critical national infrastructure is currently subject to a separate consultation process, we would welcome a clearer commitment within the licence that the ISOP will undertake this role with close engagement with industry to inform its understanding as has been noted in the ‘Future System Operator - Second Policy Consultation and Update’.</p>
Section C Condition C7 Pages 38-40	<p>Parts A and C-E require the ISOP to provide information to the Authority and Secretary of State on its assessment of various risks.</p> <p>We note that there is no expectation set around how Ofgem will respond to information shared with it under Part A or Part B, or whether the ISOP would be required to engage with potentially affected parties. We would welcome a commitment from Ofgem to publish a summary of the risks identified by the FSO and the actions or mitigations taken in response. This might also include any ‘lessons learned’. In addition, we would welcome a similar obligation on the ISOP as in Parts C, D and E to engage with relevant licensees or other such parties that the ISOP considers materially affected by the energy risks/threats identified at the point of initial discovery or any post-event analysis. This commitment to an open and</p>

³ [Strategy and Policy Statement for Energy Policy in Great Britain: consultation \(publishing.service.gov.uk\)](https://consulting.service.gov.uk/energy-policy-in-great-britain)

Licence reference	Feedback / Proposal
	transparent approach will best ensure that the industry is able to benefit from and act on any learnings and analysis compiled by the ISOP.
Section D Condition D1 and D2 Pages 75 - 77	<p>We recognise the purpose of these conditions is to set out, in licence, the FSO's new duty to provide information and/or advice and its new power to request information from industry participants.</p> <p>We would welcome the periodic publication of summaries setting out the quantity and nature of requests subject to these conditions. We consider that offering full transparency to the industry on how these powers are being used will provide useful insight into how the FSO is meeting its primary and secondary duties, and ensure the industry is aligned on the challenges the FSO is seeking to address. With that in mind, we welcome the commitment that the ISOP will be required to consult on the Information Request Statement that will define the process to be followed. This is a crucial step given that this function will enable licensees subject to such information requests to provide feedback. A clear understanding of any obligations placed on other licensees in this regard is crucial.</p>
Section D Condition D4 Pages 79-84	We would suggest that the language around the ISOP supporting the 'needs case for a strategic wider works output' is updated to reflect that Strategic Wider Works is no longer an uncertainty mechanism in the current price control period.
Section D Condition D5 Page 85	As a general point, we note that the licence is silent on how long the ISOP should maintain the information that it is party to.

Q2. Does the draft GSP licence capture the policy intent set out by the joint 'Proposals for a Future System Operator' and 'Future System Operator: second policy consultation and project update' consultations?

Table 1: Annex C – Gas System Planner Draft Licence – Clean

Licence reference	Feedback / Proposal
Section A Condition A2 Part B Page 5	<p>In setting out the Licensee's performance of obligations, both the ESO and GSP licences cross-reference the other. Notwithstanding the desire for equivalent requirements to be in the same form and manner, we believe this could and should be addressed more succinctly in the licence. Further, we would suggest that the emphasis on these reports / strategies / plans, etc in each licence should be on setting out the requirements of the respective licensee.</p> <p>As a more general point, we understand that the FSO is the Independent System Operator and Planner (ISOP) and that it will hold both the ESO licence and GSP</p>

Licence reference	Feedback / Proposal
	licence. It may be helpful to move away from the term 'ESO licence' and rename this the 'ESOP licence' and, for consistency, rename the 'GSP licence' the 'GSOP licence'.
Section B Condition B1 Page 8	It is suggested that the following text, <i>"The Secretary of State's policy is that the licensee is anticipated to have a high level of operational independence from government"</i> should be revised to <i>"The Secretary of State's policy is for the licensee to have a high level of operational independence from government"</i> .
Section B Condition B1 Pages 8-14	<p>We agree with Ofgem that conditions pertaining to Independence Requirements and compliance obligations are important and should provide the industry with suitable assurances around the FSO's independence and management of any risk associated with the Transitional Services. Whilst we would welcome a 'backstop' date within the licence to ensure there is an identifiable end-date for the Transitional Services, we recognise that this may not be appropriate. Instead, we would welcome the publication of regular updates to ensure industry participants are suitably apprised of the progress being made.</p> <p>It is not clear whether the Independence Statement (Part D) is (and should be) limited to the Transitional Services or whether it also has an enduring function.</p> <p>Further, in terms of the systems, processes, and other governance arrangements that the licensee has in place to maintain the impartiality of its employees and the independence of its ISOP Business, we would suggest that these need to be in place from Day 1 rather than being a plan for the future.</p> <p>Whilst recognising that derogation provisions (Part F) exist in many licences, we would be concerned if these were used in the initial stages of the transition given the importance of transparency to industry.</p>
Section B Condition B2 Part A Page 14	Suggest ESO licence text needs to be amended to be made more relevant to the GSP licence.
Section C Condition C1 Part A Page 20	We would welcome further clarity on what standing the <i>"guidance, information, and analysis"</i> under Part A, 4(e) will have on the recipients of this guidance. If the intention is that recipients must have regard for such advice, we would expect this to be set out clearly within other licence holders' licences.
Section C Condition C2 Part A Page 22	We welcome the direction offered by the Strategy and Policy Statement (SPS) for Energy Policy on the expected role of the FSO. However, we note that references to the roles and responsibilities of the FSO have been kept to a high level and that government <i>"...plan to reflect how best to cover the FSO in its substantive role once it is established"</i> . ⁴ From an industry perspective, being clear on the roles and responsibilities of the FSO (and therefore those of other parties) as early as possible will be key.

⁴ [Strategy and Policy Statement for Energy Policy in Great Britain: consultation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/strategy-and-policy-statement-for-energy-policy-in-great-britain)

Licence reference	Feedback / Proposal
	We note that this C2(2) appears to be in the past tense, i.e. the licensee must explain how it <i>has acted</i> in respect of the strategy. We would expect that the licensee should set out in advance <i>how it plans to meet</i> the strategy within its Business Plan. Additionally, we note that C2(3) proposes that the FSO must demonstrate how it has regard to the SPS “ <i>where requested</i> ” by Ofgem. We would expect this to be a more mandatory requirement with more detailed consideration of this as part of regular performance reviews by Ofgem to ensure views from industry stakeholders can be considered.
Section C Condition C6 Part E Page 28	Suggest ESO (ISOP) licence text needs to be amended to be made more relevant to the GSP licence.
Section C Condition C6 Part F Page 28	We are not convinced that there should be derogation provisions within the licence from the licensee’s reporting requirements.

Q3. Do you have any other views or comments relating to the proposed approach to associated documents?

Not at this time.

Q4. Have we correctly identified the major consequential impacts of the FSO licence proposals on other licences? Any further comments are welcome.

Noting that further consultation is expected on the full FSO licence, we would welcome more detail on other licence holders’ obligations under the new information-gathering powers included in this consultation. Guidance from Ofgem for affected parties on the appropriate treatment of industry advice published by the FSO would also be beneficial.

We broadly agree with changes proposed in this consultation but, given that policy development may cause these draft licence conditions to change, we will continue to keep this under review and respond as appropriate to future consultation(s).