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By email to FSO@ofgem.gov.uk

Dear Sirs

Future System Operator Draft Licences Consultation

Thank you for giving stakeholders the opportunity to comment on the licence drafting at this early stage. It is to be welcomed that Ofgem is open to comment at a suitably early point that the licences can be drafted to establish the necessarily different relationship between a statutory Independent System Operator and Planner (ISOP) and the Gas and Electricity Markets Authority (GEMA).

The ISOP is intended, especially in regard to the strategic planning and development of the infrastructure needed to meet net zero, to be an independent expert advisor to both Government and GEMA. This should be a different relationship to that of a traditional regulator and network licensee, where the scope of activities and guidance is primarily driven by, and approved by, the regulator. With this perspective, some elements of the draft licences should be reconsidered.

The approach of using general duties and regulatory guidance to allow greater flexibility is most likely a sound approach, but the licence should be clear on the scope of that guidance compared to the duties given to the ISOP in the legislation.

The comments below are pertinent to the draft Electricity System Operator Licence assuming it must cover all the ISOP duties, especially those related to integrated planning of the energy system.

A general comment would be that the conditions require approval of GEMA for many functions, for example Condition C4 on the restoration standard, rightly defines what is required to achieve the duty imposed by the Secretary of State's direction, but requires that GEMA approve this. This is illustrative of the current regulator – licensee relationship that should be reconsidered as part of defining the relationship between GEMA and the ISOP, where the ISOP has a more strategic role defining future needs. It would be appropriate for GEMA to comment on ISOP proposals, but also for an independent ISOP to maintain its position on needs having considered these comments.

Comments on specific drafting, particularly around role of Guidance and the Provision of Information about the National Electricity Transmission System are included below.

We would be more than willing to clarify any questions you may have on the comments below.

Regards



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Draft ESO Licence Clean: Section C1 Part A ISOP Roles

The ISOP has two functions that are combined in Section C of the draft licence.

The System Operator function is a clear replication of the activities necessary to operate the system today and should in the first instance be a replication of the existing licence conditions that apply to the duties it must carry out to fulfil this essential activity.

The Strategic Planning functions, currently represented by the Electricity Ten Year Statement, but likely to be replaced or enhanced with a Spatial Energy Plan as envisaged in the Electricity Network Commissioner.

Ofgem should consider separating these functions in Section C1 as they are likely to require different funding and relationships with the Regulator.

A general comment would be that the conditions require approval of GEMA for many functions, for example approval of the

Draft ESO Licence Clean: Section C1 Part B ISOP Roles Guidance

The ISOP is intended to be an independent body that can undertake the necessary actions, especially regarding planning of the system.

As an independent body it would seem reasonable that it should be for the ISOP to define how it intends to discharge these duties and for GEMA to be consulted and agree with these as it will be responsible for the funding and oversight of the delivery. The current drafting (C1, Part B clause 5 page 25) would give GEMA authority over the ISOP as to how it carries out its duties, potentially undermining its independence. It would be better

if the duty was on the ISOP to maintain similar guidance, consulted on and if necessary, agreed by the Authority. It would be appropriate for the ISOP to agree its methods with Stakeholders, especially GEMA, given that GEMA will be expected to agree funding and oversee delivery by the relevant network licence holders.

It might be appropriate for different approaches to be taken with respect to System Operation and Strategic Planning, with Regulatory Guidance being more appropriate for System Operation where GEMA may have, particularly in regard to the functioning of markets under its supervision.

Draft ESO Licence Clean: Section C12 Production of information about the National Electricity Transmission System

The licence as drafted has a specific requirement in C12 to produce a **ten year** statement is clearly derived from the current licence. This is too specific a requirement for the ISOP and is in many ways outdated.

This should be replaced by a requirement to produce long term development plans for the energy system of at least ten years rather than specifically referring to the existing documents. It should at least encompass the Centralised Strategic Network Plan and Holistic Network Design activities.

Ideally there should be a condition that refers to production of information about the energy system as a whole. This condition should then encompass the Electricity Commissioners proposed Spatial Energy Plan and regional energy development plans in the longer term. There may be a need to clarify this alongside the licence conditions of the Gas Planner licence, but at least one condition should encompass the integrated planning of the whole energy system.

The scope and methodology should be proposed by the FSO, consulted on and agreed by Ofgem and Stakeholders, rather than being driven by regulatory guidance. Condition C12 Part A 3(f) appears to put the control of scope into Ofgem's remit where the intent of the FSO as detailed in the legislation should put the onus on the ISOP to define what it thinks is necessary. If this is not the intent then the scope of regulatory guidance should be clarified.

It is clearly necessary and appropriate for Ofgem to approve the methodology of the long-term strategic plan, but the intent should not be for Ofgem to 'approve' its outputs (C12 Part B). The ISOP should be required to consult on the strategic and long-term development plans, where the economic regulator would have the duty to comment on the costs, deliverability and impact on consumers.