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FUTURE SYSTEM OPERATOR DRAFT LICENCES E3G SUBMISSION TO THE UK GOVERNMENT'S CONSULTATION

19 October 2023

About E3G

E3G is an independent climate change think tank with a global outlook. We work on the frontier of the climate landscape, tackling the barriers and advancing the solutions to a safe climate. Our goal is to translate climate politics, economics and policies into action.

E3G builds broad-based coalitions to deliver a safe climate, working closely with like-minded partners in government, politics, civil society, science, the media, public interest foundations and elsewhere to leverage change.

Response

Question 1 - 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?

We believe the license does capture the policy intent however, across the piece it is sometimes difficult to understand the underlying reasoning for or outcomes from specific license conditions.

It could be valuable for Government to more explicitly outline how it pictures the new FSO operating and therefore why it has made certain decisions in the license conditions. For example, Section B, Condition B2, Part A, 4 and 5, outlines the requirements FSO must meet to have shareholdings and investments, but it is unclear under which conditions it is envisioned FSO would use these powers. It is difficult to assess whether these license conditions are correct, or whether other areas are missing without understanding how Government believes FSO may/should use these powers.



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Question 2 - 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?

No comment.

Question 3 - Do you have any other views or comments relating to the proposed approach to associated documents?

We support the creation of the ISOP and support the approach taken to creating the license for the ISOP. There are a small number of areas where we would be interested to see further detail or clarity:

1. **Sufficiently Independent Directors** – We believe it is important that the correct non-execs are on the board of the FSO. It is worth considering whether there is a need for there to be specific skills or areas of expertise on the board. For example, would it be valuable to have a mix of industry expertise, a representative of consumers or a representative with a strong knowledge of climate change? This should be considered in the context of what power and influence we envisage the board having on decisions.
2. **How does the Energy Strategy and Policy Statement (Energy SPS) interact with other requirements in the license?** - There is potential for the Energy SPS to come into conflict with other license conditions. In this instance we believe FSO should alert Government to the conflict but that the Energy SPS should ultimately take precedence. Alternatively, the license could be altered to remove areas where it may be unclear what takes precedence, so that the Energy SPS's power is more limited.

An example of where this conflict could occur is with the requirement to 'not give anyone preferential or discriminatory arrangements or cause distortions in competition'. This requirement could limit the ability of the ISOP to boost low-carbon solutions or reduce fossil fuel usage even though there could be priorities requiring this in the Energy SPS.

3. **An approach to transparency** - It would be useful for the license to outline how transparent the ISOP should be with industry. There is a requirement for them to share things with Ofgem and Government if asked but there is little on their transparency with industry and civil society. Improved transparency could boost investor confidence. It will not always be possible or proportionate to have full transparency and this will likely vary by topic (i.e. in system planning vs operational decisions).



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A license condition which outlines in which circumstances this is required would be useful.

4. We support the need for the ISOP to make long term development scenarios. There are several points which we believe should be included within the license condition:
 - **Improved risk and resilience planning** - We outlined our views on the need for a more robust approach to considering risk and resilience with scenario planning in Question 1 of the 'Future System Operator Second Policy Consultation and Project Update'. This could be combined with 'least regrets' analysis to highlight how pathways can be built to be more resilient. We think it would be valuable for this broader approach to managing risk and resilience to be added into the license condition for creating long term development scenarios.
 - **Improved transparency** - It also very important that the scenarios are transparent. This includes not only listing assumptions and methodologies but also understanding and emphasising 'critical assumptions' that have most influence over the nature of their plan.
 - **Explaining how the longer-term scenarios affect shorter-term planning** – there should be a clear pathway between long term and short-term planning and there should be transparency around this process.

Outside of the new license, there are also several areas where we believe it would be valuable for there to be increased clarity moving forwards:

5. It currently isn't clear **how DESNZ and ESO are envisaging the transition to ISOP will be managed** once the Energy Bill is put into place. It would be useful to see a timeline, list of actions which need to happen and general overarching approach. The ISOP is central to industry so understanding this transition will be incredibly useful for industry. In particular, the ISOP will not be able to do everything straight away, so it would be useful to see how changes and the introduction of new obligations will be managed and prioritised.
6. These consultations do not outline **the redress processes** for the FSO if it does not comply with this license, the **processes for dealing with stakeholder concerns** or the **processes for assessing ISOP performance**. These processes may need to differ from those used currently with



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privatised companies, so we would be interested to see current thinking on these areas.

7. **What happens if there are disagreements between Ofgem/Government and the ISOP about the actions the ISOP needs to be taking?** – This is important to consider whilst developing the license conditions and surrounding documents. For example, what processes would be used if the ISOP thinks it needs to take a specific action to meet its primary and secondary duties, but Government/Ofgem do not support the action? Or alternatively what approach would be appropriate if Government is progressing with something which is against the ISOP’s advice?

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

No comment.