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Date

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Dear FSO Team and Electricity Systems Team,

Future System Operator (FSO) Second Policy Consultation and Project Update, and FSO Draft Licences Consultation

This letter is from SP Energy Networks (SPEN), representing licensees: SP Transmission, SP Distribution and SP Manweb. We welcome the opportunity to respond to the Future System Operator Second (FSO) Policy Consultation and Project Update and Ofgem's FSO draft licences consultation.

SP Transmission is the Transmission Owner (TO) for Central and South Scotland and we work closely on a day-to-day basis with the current Electricity System Operator (ESO). This includes coordination on facilitating transmission connections, the Holistic Network Design (HND) and HND Follow-Up Exercise. The latter has represented a step-change in network planning and investment, made possible through the collaboration of TOs and the ESO. We are supportive of the FSO building capabilities to strategically coordinate the enduring Central Strategic Network Plan (CSNP). A deliverable CSNP, which aims to eventually cover other energy vectors, is dependent on collaboration with stakeholders utilising the expertise of existing parties, including TOs. Using the Central Design Group, with clear roles and responsibilities and governance, resulted in successful publication of the HND and was recommended for the future by the Offshore Transmission Network Review (OTNR).¹

This response relates to two concurrent consultations:

- (1) Ofgem's non-statutory consultation on the FSO Draft Licences, and

¹ Pg 17/18 of the [OTNR recommendations](#)

(2) Ofgem and the Department for Energy Security and Net Zero's (DESNZ) joint FSO Second Policy Consultation and Project Update.

Our detailed comments on the proposed Licence drafting are set out at **Appendix 1** of this response.

FSO Policy Development and Deliverables

We have currently observed a relatively piecemeal approach, with limited transparency, to the policy development of the FSO's roles and responsibilities, rather than an overarching consultative policy development process. As outlined in our response to the Strategic Policy Statement (SPS) and CSNP consultation² (Annex 1). We have a concern that the potentially wide scope of the FSO's role could have an impact in relation to network operators' obligations under the Electricity Act 1989 to maintain an economical, efficient, and coordinated network. We're continuing to engage with Ofgem in relation to these concerns and to establish clear roles and responsibilities between the TOs and FSO.

Despite this consultation proposing a new licence and governance around the FSO we still have concern that **overall FSO roles and responsibilities remain unclear**. The scope of the FSO's role appears to be being developed through multiple, concurrent consultations. For example, these consultations on FSO licence drafting and the Second Policy Consultation and Project Update are being conducted alongside another Licence consultation to modify the Special Conditions of the Electricity Transmission Licence held by National Grid Electricity System Operator Limited³, with policy also being developed via the CSNP consultation mentioned previously. Ofgem is also currently developing the Regional System Planner role, which they propose would be delivered by the FSO.

Again, we would urge the Government and Ofgem to consider the existing roles, responsibilities, and **expertise** of network companies when developing the FSO and how best the FSO and network companies can collaborate to deliver the **best outcomes for GB consumers**, building on the recommended approach used for the HND⁴. A collaborative approach between network companies and the FSO with transparent roles, responsibilities and governance will deliver the best value for consumers and will ensure the FSO is not too thinly stretched and resourced whilst it is building its capabilities in this new role. **We consider it is essential that an impact assessment of transferring network companies' existing roles and responsibilities to the FSO is undertaken, including a consumer value impact assessment.** Expanding the FSO role too widely and too quickly without a robust impact assessment also risks the timely delivery of infrastructure at a critical time for the electricity system in delivering net zero.

Proposed FSO Security and Resilience Roles

We support a whole system and strategic coordination and analysis role for the FSO and recognise Government's intention to set Day 1 roles for the FSO in relation to system security and resilience. However, it will be critical to ensure that this role is undertaken in **collaboration** with the existing network licensees, given their role in monitoring, planning, and investing in the resilience of their networks, leveraging extensive knowledge and experience of its design and operational characteristics.

We note the FSO will be responsible for understanding and planning system resilience across the generation, transmission, and distribution sectors. We would urge caution in relation to expansion of FSO responsibility for transmission and distribution system security beyond the whole system and strategic coordination role, given that the ESO does not currently have detailed knowledge or

² Centralised Strategic Network Plan: Consultation on framework for identifying and assessing transmission investment options dated 25 August 2023.

³ <https://www.ofgem.gov.uk/publications/statutory-consultation-proposal-modify-special-conditions-electricity-transmission-licence-held-national-grid-electricity-system-operator-limited-september-2023>

⁴ Pg 17/18 of the OTNR recommendations

experience at an electricity transmission or distribution level, nor established ways of working with local stakeholders, both of which will be critical to successfully managing system security and resilience. It will be critical to clarify how the FSO role in system security and resilience interacts with existing TO and DNO roles in the same space in order to ensure efficiency and system security for GB consumer and ensuring there is no duplication of roles or transferring roles to a party which does not have the required knowledge and expertise.

The 'prepare for emergencies' and 'learn from emergencies' roles are already broadly within the remit of the current ESO, for example through the Winter Outlook publications, and we support the continuation of this role with collaboration with network owners.

New Power for the Secretary of State to Direct the FSO in relation to National Security

We recognise that there may be scenarios in which the Secretary of State may be required to intervene in the roles of the FSO where concerns relate to national security, and we therefore support the inclusion of the provision set out at Condition B4 of the draft FSO Licence. We note the provision for the Secretary of State to relieve the FSO of its obligations under its Licence where the obligation conflicts with the direction. We also note that directions for the FSO from the Secretary of State could impact the ability of electricity network licensees to comply with their Licences, so similar provisions to relieve Licence obligations on network licensees should be consulted on in the Licences of both transmission and distribution licensees on Day 1 of the FSO.

The FSO Draft Licence

We welcome sight of the initial proposed Licence conditions for the FSO. However, given the lack of policy maturity regarding the FSO's funding arrangements, CSNP, network competition proposals, and wider FSO roles and responsibilities, there are a number of gaps in the draft Licence which relate to matters that will have significant impacts on SPEN as a transmission licensee. Notwithstanding, we have provided initial comments at Appendix 1 on the Licence conditions currently available, and look forward to engaging with Ofgem, the ESO and wider industry on further policy and licence drafting in the near future.

FSO Roles Update

We welcome the early sight of Ofgem and DESNZ's thinking on new or enhanced roles of the FSO. As outlined above in FSO Policy Development and Deliverables we would welcome clarity on these future roles and the impact they will have on existing roles and responsibilities. We note these roles will require assessment once the government has published their Action Plan following the Electricity Networks Commissioner's recommendations⁵ and will require their own consultation process. Our initial feedback on the new roles which impact SPEN is outlined below:

1. **Spatial Planning:** As outlined in pg. 4 our response to the CSNP consultation the roles and responsibilities of any strategic spatial plan should be aligned with the party that has the existing expertise to support this, which currently sits with the TOs.
2. **Future System Network Regulation:** As outlined in our response to the CSNP and SPS, we welcome accelerating decision making in Transmission investment and need, however we would urge caution against regulatory decisions being moved from Ofgem to the FSO. In particular, we have seen the roles and responsibilities of the FSO becoming expanded in the CSNP, to a point they are carrying out analysis at a transmission node level, a role which currently sits within the TO and putting forward high-level options for system reinforcement

⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1175647/electricity-networks-commissioner-companion-report.pdf

without TO input. Expanding the FSO's role to cover aspects of the CSNP process which TOs currently have the skills, expertise and experience for is not efficient and removes the valuable role provided by TOs. In addition, it risks removing the independent evolution role of the ESO which provides valuable checks and balances. We believe this role is over and above the policy intended in the Energy Bill drafting which focuses on whole system and strategic coordination.

3. **Regional System Planner (RSP):** We support the joint DNO response set out in the ENA letter (Attached as Annex 2 - dated 18 October 2023) to Ofgem. The RSP model needs to maintain clear accountability for delivering key customer outputs such as safety and reliability and needs to ensure associated risks are appropriately allocated. However, as outlined in our response to Ofgem's consultation on Future of local energy institutions and governance consultation⁶, we do not agree with Ofgem's designation of the FSO's remit as its lead option to take on this role. Extending the FSO remit to include an RSP role would duplicate planning entities and add layers of uncertainty. The drafting in the Energy Bill also does not currently provide for the FSO taking on this strategic role at a distribution level
4. **Whole energy system security and resilience:** As outlined above in Proposed FSO Security and Resilience Roles any additional roles in this area should follow an impact assessment in relation to transferring the TOs' existing roles, responsibilities, and expertise to ensure there is no duplication and to allow for a collaborative approach with network owners.

Implementation

We note that DESNZ and Ofgem intend to make temporary modifications to industry licences and codes which will impact the wider industry, including network owners. We would urge for clear roles and responsibilities, evidenced by an impact assessment as outlined above, to be established prior to any modifications or changes. Modifications and/or changes should be carried out transparently and consistently taking into account the potential disruption which replicating or replacing existing network operator roles with the FSO will have on the industry, while also taking into account that the industry is already experiencing a significant skills shortage⁷. Additionally, we welcome further information on and engagement with the Industry Readiness Group (IRG) mentioned in the DESNZ and Ofgem consultation. However, we note that the IRG will not be seeking input from a policy perspective on the roles and design of the FSO, and therefore clarity on the roles and design of the FSO is required urgently prior to the IRG commencing

Please do not hesitate to reach out to me should you wish to discuss any of the points raised in this letter.

Yours sincerely,



Stephanie Anderson

Head of Networks Regulation & Policy

⁶ Available here <https://www.ofgem.gov.uk/publications/consultation-future-local-energy-institutions-and-governance>

⁷ ENC recommendations (July 2023) Recommendation 5

Appendix 1 – Comments on the draft FSO Licences

Condition B1

We note the provisions set out at Condition B1.3-B1.5, which set out Independence Requirements for the FSO. Whilst we fully recognise the need for clear governance and operational independence, as per the existing arrangements of the ESO, this must not create an undue barrier to collaboration and efficient ways of working between the network licensees and the system operator. Network licensees and the ESO work closely in partnership across many projects, as outlined in STC procedures, but also through business-as-usual engagement, such as engagement as part of the connections process, network planning processes, system security and operability, and wider ad-hoc issues. This effective engagement should not be unduly restricted by the independence requirements. We therefore propose that the provision for the FSO to engage in partnership projects at Condition B1.5 should be extended to clarify this would also cover wider day-to-day engagement with TOs.

Condition B8

Licence Condition B8 sets out Information Ringfencing Requirements on the FSO in relation to confidential data, including data or information relating to national security and Critical National Infrastructure. We fully support clear and effective governance processes around the treatment of confidential data; however, this should not create undue barriers to ESO-TO information sharing, which will remain critical both in the conditions set out in this Licence, and in policy areas still under development such as competition and the CSNP. To fully understand the impacts of this requirement, it would be helpful to have further information on what would be considered as confidential information.

Condition C7

Licence Condition C7 sets out the FSO's obligations regarding energy resilience and resilience reporting, including providing risk analysis, proposed mitigations, and the Energy Resilience Assessment Report. The FSO is required to share these insights with Ofgem and the Secretary of State, however this information should also be shared in its final format on a confidential basis with the transmission licensees and, where appropriate, the distribution licensees. Transmission licensees will typically be closely involved in the preparation of such information, per Condition C7.8, and should have sight of the final outcomes, given the critical relevance of risk and resilience to the network owners.

Condition D2

The proposed new ISOP Information Request Statement will set out a framework for the FSO to request information from industry parties, as provided for in the Energy Act 2023. As a TO and a DNO, we regularly provide feedback and responses to the ESO in relation to specific queries, and hence may be significantly impacted by a change to the SO's approach to requesting information. It is not possible to comment at this stage on the drafting, given that the ISOP Information Request Statement has not yet been developed, however any request process must set reasonable requirements and timelines, reflecting the potential complexity of the inquiries and associated workload, potentially at the same time as other queries, feasibility studies, connections applications, competition assessments and other ongoing TO-ESO engagement. We propose that the ISOP Information Request Statement should be drafted by the FSO in coordination with Ofgem and the TOs before it is consulted upon, per Condition D2.8. Given the close and regular engagement between the ESO/FSO and the TOs, it may be appropriate to use a different process for FSO-TO information requests in comparison to wider industry stakeholders. We would welcome further engagement with Ofgem and the ESO/FSO on the most appropriate approach for these requests.

Condition E8

Part B is redundant, as the Final Incentive Reports have been submitted.