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Dear Mr Jarvis

Market facilitator delivery body

The Flexible Generation Group (FGG) represents the owners of and investors in small scale, flexible generation and storage. These power stations are embedded in distribution networks and provide a variety of vital services to the system operator and the DNOs to help them deliver secure, economic supplies to electricity customers. Our assets compete in a number of energy markets and the capacity market.

FGG welcomes Ofgem's consultation on who should provide the critical role of market facilitator. We have long engaged with Ofgem management, NGESO and the Open Networks project around our concerns that the market for flexibility is being delivered too slowly, is not focussed enough on the parties who provide flexibility services and is being designed behind closed doors. Ofgem seeking further views on the right party to be the new market facilitator recognises the concerns many have expressed about using the FSO as the delivery body and with which we agree.

Having worked with both the DNOs and the ESO to develop market services, and then join those markets, FGG would favour Ofgem appointing Elexon over the FSO. In summary, this is because:

- The ESO has a habit of consulting, but then not responding to concerns, for example of the practicalities of their proposed metering and data storage for new services;
- When as market participants we raise issues with NGESO they do not get resolved or even prioritised for resolution, such as the drafting of the BEGAs or requirement to have faxes, etc.;

- NGESO's operations are not transparent, so FGG members have often found they are not despatched in price order for reasons that have remain unclear, but a third party checking and trying to improve competition would be useful; and
- Elexon have a better track record in delivering IT systems and making market access easier for smaller parties or new entrants, for example championing the role of VLPs.

1. *Do you agree with the proposed market facilitator design principles? If not, what additions or changes do you suggest?*
2. *Do you think some of the design principles are more important than others? If so, which should we attach greater weight to?*

FGG does agree with the principles, but would add that the market facilitator must be seen to be impartial and have the confidence of the market. This is critical in achieving the level playing field between small and large players, FSO and DSOs, and getting market engagement in developing new services and ways of working. At the current time FGG often do not respond to consultation from the network companies, notably NGESO, as we simply do not expect our concerns to be taken onboard.

NGESO has always been part of the Open Networks project. It is therefore difficult to see how it can achieve more, at a faster pace as the FSO. FSO staff will have pensions linked to the performance of both NGET and the NG DNOs. It is unlikely that they will therefore been seen as truly independent. Given its historic performance and the potential ongoing incentives, the FSO will not have the confidence of the market not to serve parties' interests over their own. Even if this is not true, being perceived to be independent can be as important as being independent.

Elexon has never had power to force parties into things, but persistently comes top in the Code Administrators performance surveys, as it has a well-earned reputation for being fair and responsive. Therefore, from a governance point of view, we believe Elexon will deliver greater change at a faster pace for the market as a whole. We believe it will be better able to bring forward changes to meet the needs of the majority and will be able to point out to Ofgem if it believes one party is slowing progress, much as it is doing now of MHHS program.

Market access is also critical and parties find that Elexon helps with market access and NGESO takes months, for example to get BM access. NGESO have also been slow to move with the times, still requiring small parties can send faxes to enter the BM. As NGESO will never actually fax them in an emergency, these types of barriers to market entry are the sort of thing we would not expect Elexon to push for, being more pragmatic and "up to date" on IT than NGESO seems to be.

Standard terms also need to be fair. Changes come forward under the BSC that may create issues for one set of parties in order to facilitate a different set of parties, for example VLPs vs Suppliers. The FSO is the incumbent, like Suppliers were, and the market may therefore

be concerned that the FSO will protect the status quo, where we have real evidence that Elexon has always support changed, both by helping aggregators develop a VLP role, proposing a BSC sandbox, working with DESNZ on implementing policy like Final Consumption Levies, etc.

Parties have concerns over the incredibly slow pace of developing revenue stacking, both within NGESO and between NGESO and the DNOs. There is a need to agree primacy rules and then deliver a system that parties trust to despatch plants in the right order for the right services. Parties have expressed concerns that the any one of the buyers could, if allowed, design systems that deal with their needs over another party's needs. This seems very relevant when designing systems to meet the needs of the ESO vs the DNOs. Again, with no incentive to maximise benefits to one party over another, Elexon is the more obvious choice to balance the interests of the monopolies and the market participants.

FGG understands that Ofgem may have concerns that Elexon does not have as broad a role as the FSO will have in taking a "whole system" view. However, the FSO and the DNOs can feed views into Elexon around what they believe their needs are and Elexon will be able to see the types of parties bringing forward assets, developing new technologies, etc. FGG also notes that NGESO has had a strategic role for a long time, but has still not cracked issues such as getting parties into the BM quickly and easily, getting the Capacity Market to run smoothly and easily for parties, etc.

Finally, we believe that Elexon's impartiality will be critical in achieving the best outcome for the total system and customers. As with all market design, we cannot expect any party to get everything right, but a fresh start with a party in the lead in whom most parties have more confidence than the ESO will be a good start.

3. How important is it for the market facilitator to be able to align transmission and distribution flexibility market arrangements? Why?

The role is critical. The current regime, relying on Open Networks, has not worked and little progress has been seen for the last 5 years. Each DNO continues to do its own thing, with NGESO also working in a silo. While this continues then achieving competitive, transparent and easily accessible markets remains a long way off. There needs to be a stable leader for developments. Some parties have suggested the stability will be more easily achieved under Elexon's leadership as it has had far fewer changes in staff than NGESO. It is not that the staff leave NGESO, but they often move roles once a year. Elexon seems better at keeping experts in their roles, offering greater continuity to the industry.

There is also a concern that the FSO will already have a significant amount of work to do with its broader obligations, and the role of market facilitator will not get the attention that it needs, but get lost in other IT projects and new market developments. In recent years a lot of IT projects have been developed by the ESO and Elexon, but the ESO has seen far more delayed delivery than Elexon. While there is always a need to make sure that new

systems are robust and delivered in a managed way, it is frustrating for parties if the implementation dates move, if systems are launched and then withdrawn, etc.

Many parties deal with the DNOs and ESO, but the ESO has less experience in accommodating smaller parties than the DNOs do. Elexon strikes a better balance of understanding both sets of view points and business needs.

4. How important is ease of implementation and enabling a smooth transition when considering the market facilitator delivery body? Why?

Very important, but we are not sure this translates into FSO needing to be the market facilitator. Either party would need some additional team members, to set out and consult on a strategy, create collaborative way of working with all impacted parties, Ofgem and DESNZ. There is a need to better understand some of the details of the role Ofgem envisages, but FGG do not feel the transition would necessarily be the biggest concern compared to say independence and transparency.

As noted above, NGESO does not have a great track record on implementing new ways of working. They take a long time to develop new services, etc., most often starting internally rather than with the wider market. Their IT systems also remain an ongoing concern, with the new Capacity Market Portal being 2 years late (and looking unworkable and insecure). The ESO implements IT systems and then pulls part of them, such as the storage element of OBP.

5. Do you agree with our assessment of Elexon's suitability for the market facilitator role? If not, why not?

Ofgem makes many good points about the attributes of Elexon. However, we think it underplays the flexibility Elexon shows, for example working with parties to get through urgent rule changes, but also planning changes to manage parties' risks, such as regular IT systems releases.

FGG does not share the concerns about holding Ofgem to account. The ability of parties to feed into the BSCCo Board and the BSC Panel has actually made it far more responsive than NGEN is. Ofgem has directly regulated NGEN and the DNOs for years, but has struggled to get any progress from them on key issues such as establishing markets for flexibility between the DNOs and TO systems. The pace of change has been limited by the monopolies often hiding behind their licences, need to talk to Ofgem, lack of agreement, etc. We therefore feel the role of Elexon's regulatory status is over played.

Elexon has done a good job in their other roles, such as the ongoing MHSS, which seems to be progressing well. Elexon will need to take on more staff to carry out the market facilitator function, but already has reasonable capability and told the BSC Panel they were planning on c15 staff. We note at the same meeting NGEN did not know what they

needed. Delivering any project like this will not be easy, but we believe Elexon, unlike the new FSO, will have the fundamental organisational stability to move faster to start to make progress.

Elexon also has ongoing relationships with all the parties who need to be involved in progressing market access. However, their role has no commercial competition with any party, instead being able to take on the “honest broker”, which is something the FGG really believes is needed.

Ofgem and DESNZ’s Code Governance Review also does envisage some direct regulation of Elexon, at least in its Code Admin role. Though the FGG still do not support the licencing, it would appear to address the concerns that Ofgem have raised about regulation.

6. *Do you agree with our assessment of the FSO's suitability for the market facilitator role? If not, why not?*

FGG can see why the FSO can be seen as a suitable party. However, we still do not feel it would be the best party, nor the most responsive or most likely to develop markets in the interests of the whole market. There is also some concern that they will achieve change by bullying the DSOs to do what they want, rather than working to better balance the roles and responsibilities between the FSO, DSOs and other parties.

Ultimately the FSO will end up being the counterparty for the services being developed. This will mean their lawyers draft to benefit of them over the counter-parties. They see data that the wider market does not see. They drive down prices to the point services can no longer be sustained and then have to result to longer term contracting. All of these actions make them not a good market facilitator, but more an actor within the markets, as we think they should be.

FGG has not seen NGESO really build a better relationship with new market entrants at the pace it should have down and we are not convinced a new job title will help. For example, they have been working on getting very small assets into the BM without first addressing the issues that larger assets (49-5MW) assets already face. It is therefore not focusing on the low hanging fruit to the benefit of customers. A good example of this has been how slow they have been to develop the market rules to be suitable for storage.

The FGG has also been very concerned by NGESO promoting its own policies. For example, it has been promoting LMP which to most market players should not be a priority compared to fixing the market problems of today. There is a role for the FSO to work with Government and Ofgem on the bigger policy questions. However, that should not be confused with the role of a market facilitator. The FSO has a lot to do in terms of strategic thinking, but they do not seem keen to bring parties into some of those discussions. For example, FGG has been raising concerns about network congestion for years, but has been

told the capacity can be better managed not just more capacity added. Sometimes we need more than one solution and NGESO is not often open to others' ideas.

Elexon could also be a 'critical friend' to the FSO and the DSOs, a role that is likely to make market development better. Elexon has no axe to grind and hopefully will not end up with any overly complex price control in the way NGESO has. Having financial incentives to act in a certain way may well be distracting NGESO from working to the wider good.

7. *Do you believe Elexon or the FSO is better suited to take on the market facilitator role when considering the design principles and wider considerations?*

FGG generally believe that there are quite strong arguments for Elexon to take on this new role. At the very least let's give someone else a go!

We would be happy to discuss this with you further if that would be helpful.

Yours sincerely



pp Mark Draper
Chairman