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Future System Operation
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Statutory Consultation on National Energy System Operator (NESO) Licences and Other Impacted Licences

Dear DESNZ Electricity Systems Team and Ofgem Future System Operation Team,

SP Energy Networks (SPEN) represents the distribution licensees of SP Distribution plc (SPD) and SP Manweb plc (SPM) and the transmission licensee, SP Transmission plc (SPT). This response is provided on behalf of each of SPD, SPM and SPT. We welcome the opportunity to respond to the Statutory Consultation on National Energy System Operator (NESO) Licences and Other Impacted Licences (the NESO Licence Consultation), following the second FSO Policy and Licence Consultation, and the non-statutory consultation on draft ESO and GSP licence conditions. We have set out our feedback below in relation to both the policy positions set out in the consultation document, and the draft Licence conditions.

Strategic Context and Conflict Mitigation

We welcome the set out goals of the NESO to secure energy security, net zero and affordability. This will however not be possible without consistent, transparent and continuous engagement with stakeholders including network licensees. The independence of the NESO will be critical, given the vast role that they will be expected to undertake. We have reservations about the practicality and plausibility of the NESO being completely independent in their decision making within their own roles and responsibilities. For example, the NESO will be responsible for market reform activities whilst potentially setting the strategic direction of Energy Industry Codes, this could result in the NESO having the power to implement potentially radical change with little consultation. We urge Ofgem and the DESNZ to ensure that the appropriate safeguards are in place and to mandate that the NESO must undertake appropriate formal consultation before any industry reform to mitigate any unintended consequences that could arise from conflicting priorities that the NESO may face.

Secretary of State Powers

In relation to the proposed power for the Secretary of State to direct the NESO in instances of national security risks, we previously provided feedback that this power will potentially have significant consequential impacts on network Licensees, and requested that there should be clear provisions in SPEN's Licences to address any potential conflict between existing obligations and any Secretary of State directions.

The NESO Licence Consultation neither notes nor responds to this feedback in the discussion of stakeholder responses, and no changes have been made to address this issue within the Transmission Licence published. As SPEN takes issues of Licence compliance very seriously, we reiterate the importance of managing potential conflicts of obligations within network licences, and request that the Secretary of State power should be accompanied by clear processes for managing interactions with existing Licence conditions and obligations for other parties, beyond a sole focus on the NESO.

NESO Incentivisation and Enforcement

We broadly agree with the proposed incentive structure for the NESO, given that strong financial incentives are less relevant for a public body. However, the transition to the NESO provides an opportunity to create a robust set of incentives focused on outcomes expected by stakeholders, customers and consumers. In particular, the NESO will continue to have a significant role in the management of the connections process and its many customer relationships. We see this as a key area where high performance is critical to meet customer needs, and where we would expect to see direct reputational incentives for the NESO in relation to connections, with strong links to staff remuneration. This should not be treated as part of a broader performance incentive across the NESOs range of activities, which weakens the specific incentive to deliver for connection customers, and strongly reduces the transparency of NESO incentivisation.

We request further clarity from Ofgem and DESNZ on the role of Licence obligations in regulating the NESO. Typically, Licence enforcement action can result in substantial financial penalties for Licence holders. With a publicly-owned NESO, it is not clear how NESO will be strongly and transparently held to account for meeting its full set of Licence obligations, and what actions Ofgem envisage taking to address instances of non-compliance.

Stakeholder Views in the NESO's Advisory Role

We note the NESO's advisory role to Government and Ofgem, established within the Energy Act 2023. We agree with the need for advice from expert bodies, and therefore recommend that the advisory role should have clear processes established for representing the views of industry stakeholders, including network Licensees. TOs and DNOs have detailed network-specific knowledge, experience and expertise and should be involved through formal processes in supporting the NESO in its advisory role to Government and Ofgem where advice relates to electricity networks. Without this engagement, there is a risk that advice is provided that does not accurately or fully reflect network issues.

Consequential Licence Changes

We support the consequential housekeeping changes made to SPT's Licence to facilitate the transition to the NESO. However, as set out above, we believe wider changes are required to reflect the potential impacts of the new powers of the Secretary of State.

Please don't hesitate to reach out should you wish to discuss any of the issues raised in this letter.

Yours sincerely,



Joe Jordan
Transmission Regulation Manager