

Policy Consultation on Required License Changes for TMO4+ Connections Reform - Energy UK's response

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Energy UK is the trade association for the energy industry with over 100 members - from established FTSE 100 companies through to new, growing suppliers, generators and service providers across energy, transport, heat and technology. Our members deliver nearly 80% of the UK's power generation and over 95% of the energy supply for 28 million UK homes as well as businesses.

The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources. The energy sector supports 700,000 jobs in every corner of the country.

Energy UK plays a key role in ensuring we attract and retain a diverse workforce. In addition to our Young Energy Professionals Forum, which has over 2,000 members representing over 350 organisations, we are a founding member of TIDE, an industry-wide taskforce to tackle Inclusion and Diversity across energy.

Energy UK largely supports the proposed license modifications to enable TMO4+ connections reform.

However, concerns remain regarding the need to for the connection methodologies to be codified at some point in the future, likely when code reform has concluded.

We also stress the need to introduce strong license conditions at the distribution level to submit connection applications on behalf of connecting customers at the next available connection application window.

There are also considerations regarding the need to change license conditions referring to the non-discriminatory treatment of connections. This is essential to limit the risk of legal challenges to connection offers following the implementation of connections reform.

If you would like to discuss this response in further detail with Energy UK and its members, we would welcome further engagement.

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Consultation Response

Question 1: Do you agree that licence changes are necessary to adequately facilitate the policy intent of the reformed Connections Process, if it is approved? Please, provide the reasons for your answers.

Energy UK agrees that license changes are needed to enable a reformed connections process.

The shift from a system that is ‘first-come-first-served’ to one based on readiness and strategic need requires that licenses have adequate deference to and reference to the new Connections Methodologies and the changes to the Connection Use of System Code (CUSC) and The System Operator Transmission Owner Code (STC) through CMP 434, CMP 435 and CM 095 (and CM 096). It is necessary and appropriate to have the new process reflected at the industry code level and embedded in the commitments made by market participants.

The number of ongoing overlapping consultations and policy changes concerning connections reform makes the current regulatory environment a moving target for industry that damages market certainty. This is notably the case regarding project designation and uncertainty over the degree and nature of Ofgem’s involvement in it. Greater consideration of how industry stakeholders understand and react to ongoing policy decisions or proposals is needed from both Ofgem and NESO, especially at such a critical time for the industry.

Question 2: Do you agree with the approach summarised in paragraphs 3.2 to 3.8? Please provide the reasons for your answer.

Energy UK agrees with the approach focussing on aligning license conditions with CMP 434, CMP 435 and CM 096.

The NESO should be responsible for the development and maintenance of the Connections Methodologies.

The proposed E15 (previously E12) condition to enable the offering of two distinct types of Gate 1 and Gate 2 connection offers is acceptable. However, special care needs to be taken with the phrasing of the content of Gate 1 offers. There is a need to ensure the investment confidence of projects, given indicative dates, if they are expected to come forward at a later date to meet emerging gaps in the connection

queue. This may require explanatory phrasing, guidance notes or reference in the amended license conditions.

Question 3: Do you agree that we have considered all relevant areas of the licence which might need modifications, and that we have proposed changes in relation to all relevant matters? If there are areas we need to consider further, please specify. Also, please specify any matters that we have addressed but which you do not think should be relevant. Please, provide the reasons for your answer.

Most of the relevant areas concerning code modifications to licenses have been considered.

As noted in response to question 51, further consideration is needed regarding the license obligations for Distribution Network Operators (DNOs). Namely, there must be a strong obligation for DNOs to submit projects that have met the evidence requirements at the next application window. It is disappointing that Ofgem is not going straight to proposed wording for this, thereby leaving embedded generators unprotected for TMO4+ go-live.

An obligation should also be put forward in the license for DNOs to clearly, and to a minimum expected standard, explain to connecting customers the requirements for a Gate 2 application, including fee requirements. It is concerning that, at present, work on this is being left to the Energy Network Association's (ENA's) Strategic Connections Group (SGC), which has historically suffered from a lack of transparency and engagement with connecting customers.

The licence conditions set out provide for a short consultation period in relation to proposed changes by the NESO and ultimately approval by Ofgem. This new process is a less robust approach compared to the existing code modifications process. We consider that an additional licence condition should be included that requires the NESO to raise a modification to codify the methodologies within a prescribed period, perhaps 2 years from first implementation following the conclusion of the ongoing code reform process.

The Connection Use of System Code (CUSC) wording regarding 'reasonable endeavours' to submit project progression needs supplementing through license changes.

Furthermore, the NESO's proposed methodologies contain elements where affected parties can appeal or challenge the NESO's decisions. Ofgem should ensure the

condition explicitly requires these elements in the methodologies and provide suitable guardrails for NESO's exercise of its discretion. This should also be revisited in light of industry comments in relation to appeals in Ofgem's separate, ongoing and overlapping End-to-End review of connections. Only the affected party should be able to appeal any NESO decision to prevent other commercial parties appealing to gain advantage or external groups to disrupt individual projects.

Another area to consider concerns the timelines for implementing the proposed license modifications. The network licensees need sufficient time to restudy / recalibrate the contracted background on the basis of the new Gate 2 criteria and Connection Networks Design Methodology (CNDM), as well as time to ensure developers sign up to their revised offer. This must conclude before new projects are allowed to be added into the newly reformed connections pipeline.

The proposed timescales for implementation of TMO4+ to the existing queue currently only allow network companies a few months to conduct the necessary design studies to reissue customer contracts. Clearly, effort is needed on the part of National Energy System Operator (NESO) and the network companies ahead of go-live to plan this workload to de-risk the ambition to convene a window for new applications in 2025. We believe there is significant potential for inefficient network design outcomes for customers should two offer windows substantially overlap, which, in turn, presents a risk to efficient delivery of CP2030 ambitions.

It is also worth considering the implications for these license conditions in light of the NESO [open letter](#) indicating that projects with advanced planning permission, Contracts for Difference (CfD) or Capacity Market (CM) contracts, or cap and floor support for interconnectors and offshore hybrid assets will meet the strategic alignment criteria.

While not directly in scope of the changes proposed in this consultation, NESO or the transmission operators (TOs) will need to, under the proposed license conditions, make changes to the connections queue or their buildout plans (respectively) based on the proposals under TMO4+ and the Connections Methodologies. The obligations NESO and TOs have when parties meet strategic alignment criteria but not the readiness criteria under TMO4+ need serious consideration.

Question 4: Do you agree that the new definitions as set out in paragraphs 3.12 to 3.19 and draft legal text in condition A1, as set out in Annex A, are necessary to and adequately facilitate the policy intent of the reformed Connections

Process? Please provide the reasons and any alternative suggestions if you disagree.

The definitions set out in line with the draft legal text in condition A1 are appropriate for the policy intent.

Question 5: Do you agree that no changes are required to the existing definitions in condition A1, as set out in Annex A, and that the proposed new changes are enough? Please provide the reasons for your answer and identify any changes you consider to be needed.

The other definitions in Annex A require no changes.

However, given the interaction with strategic alignment criteria, a definition for strategic alignment with Clean Power by 2030 (CP30) or the Strategic Spatial Energy Plan (SSEP) may be necessary.

Alternatively, CP30 and the SSEP do not need to be explicitly referenced in the licence but instead they should align with the '*strategic priorities*' definition set out in the Energy Act. Licence conditions should ideally not reference short-term policy requiring the licence to be changed on a regular basis but a more overarching definition that references the government's ongoing intention.

It would be more appropriate, to maximise enduring relevance of the licence text by being consistent with [the Energy Act 165](#). To prepare the licence drafting with reference to "strategic priorities set out in the current strategy and policy statement" which could be defined simply by referring to the Energy Act 165.(4) (which for reference states "the current strategy and policy statement" means the statement for the time being designated under [section 131\(1\) of the Energy Act 2013](#); and "policy outcome" and "strategic priorities" have the same meaning as in Part 5 of the Energy Act 2013 (see section 131(5) of that Act). Or, alternatively, create a definition for "strategic energy plans" which is based on these Energy Act terms.

Question 6: Do you agree this clarification in paragraph 3.21 and proposed text in condition B3, as set out in Annex A, is required? Please provide the reasons for your answer.

Energy UK agrees with the need to clarify the license condition regarding unfair commercial advantage, especially in light of the new power given to NESO, not just

through Project Designation, but also through potential misuse or misapplication of the strategic alignment criteria.

It is essential that the wording proposing to amend the conduct provisions to include *“a commercial advantage is not unfair where it results from a project designation by the ISOP pursuant to the Connections Methodologies”* is given careful thought. Energy UK is concerned about establishing a precedent where licences can declare outcomes in this way.

The strict following of a process by NESO does not in itself guarantee that an outcome is fair. We agree that it is important that the connection reform process is robust, and we recognise, given the scale of the connections queue, that implementation of these reforms is likely to have material consequences for parties, but it is not clear that a declaration of this nature is appropriate. We would welcome further information from Ofgem on the legal underpinnings of its proposed text and the rationale for the specific form of words provided. Indeed, this section of the consultation is very light.

Question 7: Do you agree with the policy intent behind the changes we are proposing that these types of “full” offers will only be made to the “non-gated” applications or “Gate 2” applications? Please provide reasons for your answer.

Energy UK believes it is appropriate for changes to be made to the license to reflect that only non-gates offers or Gate 2 offers need to specify enabling works.

Question 8: Do you agree that the proposed text in condition C11, as set out in Annex A, gives appropriate effect to the policy intent? Please provide reasons for your answer.

The proposed text is appropriate.

Question 9: Do you agree with the policy intent behind the changes we are proposing in paragraphs 3.28 and 3.29? Please provide the reasons for your answer.

It is appropriate for changes to be made to the license to reflect the fact that only non-gated offers or Gate 2 offers need to specify site-specific details.

Question 10: Do you agree that the proposed text in condition E2, as set out in Annex A, gives appropriate effect to the policy intent? Do you think any further changes would be appropriate? Please provide the reasons for your answer.

The proposed text is appropriate.

Question 11: Do you agree with the proposal for the Licensee to create and maintain the Connections Criteria Methodology as in paragraphs 3.30 to 3.34? Please provide the reasons for your answer.

Energy UK overall agrees with the proposed condition to deliver and maintain a Connections Criteria Methodology.

We reiterate, as in our answer to question 3, the need for the connection methodologies to be codified 2 years following introduction following the conclusion of code reform and for the proposed license conditions to obligate this.

A condition for the publication to be easily accessible and intelligible should be added to the proposed conditions regarding publication.

Question 12: Do you agree with the objectives and scope of the Connection Criteria Methodology as in paragraphs 3.32 and 3.33, respectively? Please provide the reasons for your answer.

Energy UK agrees with the objectives and scope of the Connection Criteria Methodology.

Another potential objective would be to account for consumer interests and, at every step, balance the cost to the consumer with the other objectives.

Question 13: Do you agree that the proposed text in new condition E12, as set out in Annex A, provides the right level of governance and industry engagement to ensure that the Connections Criteria Methodology is developed and modified in a robust manner? Please provide the reasons for your answer.

The proposed text is appropriate.

Question 14: Do you agree with the objectives of the Connections Network Design Methodology as in paragraph 3.38? Please provide the reasons for your answer.

Energy UK agrees with the proposed objectives of the CNDM.

Question 15: Do you agree with the scope of the Connections Network Design Methodology as set out in paragraph 3.35 and 3.37 is aligned with the TMO4+ connection reform process? Please provide the reasons for your answer.

Energy UK agrees with the outlined scope s as it adequately enables the appropriate license conditions needed in line with TMO4+.

Question 16: We have kept the licence change broad for ‘preparing offers’ as in paragraph 3.37. Should we be more specific with the scope to include further description in the licence that it will determine the queue order, study applications and assess the infrastructure required to enable/prepare offers to enter into a “Gate 2” agreement? Please provide the reasons for your answer.

Given the importance of the areas covered when NESO is preparing an offer, and the need for clear information to be given to connecting customer, we would favour more specific conditions for NESO to meet when preparing offers.

Question 17: Do you agree that the proposed legal text in conditions E13, as per Annex A, and in this section provides the right level of governance and industry engagement to ensure that the Connections Network Design Methodology is developed and modified in a robust manner? Please provide the reasons for your answer.

The proposed text is appropriate but, as noted in answer to the previous question, more specific expectations are needed in the text regarding expectations when NESO is preparing an offer.

Question 18: Do you believe the NESO should be able to designate projects for prioritisation in the circumstances as specified in paragraph 3.42? Please provide the reasons for your answer.

Energy UK agrees that NESO should have the power to designate projects in line with the criteria outlined.

There remains a need for further clarity on what qualifies as a project that 'materially' reduces the need for constraint management. Similarly, clarity is needed on what innovative 'novel-sub types' of technologies infers. A more solid definition is needed for projects that could be designated under this definition but are outside the scope of technologies referred to in CP30.

These existing definitions appear open-ended and could lead to various projects seeking designation and pushing back the connection time of non-designated projects with little order or standardisation of approach. The NESO's indicated desire to use Project Designation sparingly is welcome, but additional and definitive provisions are required to ensure a level playing field with other developers and to ensure the mechanism is not used excessively.

The new process for designation involves multiple steps and ultimate approval by Ofgem. Further input from Ofgem would be welcome on the scope of its role here regarding how Ofgem will consider the NESO's decisions in light of different statutory duties, whether decisions will be appealable and under which scheme, and whether Ofgem be able to over-turn negative designation decisions by NESO. The NESO intends to run the first designation process before the first 'gate 2 to whole queue exercise' in 2025. Ofgem must guarantee that all steps will be resolved before the first Gate 2 window opens. Ofgem must also reconsider whether it needs a defined role if the NESO's process is sufficiently robust and contains appropriate appeal rights.

Question 19: Do you agree that the NESO should only be able to designate projects after a period of consultation as in paragraph 3.43, for existing agreements also in the first application window? If not, please explain your reasoning, along with alternative suggestions if appropriate.

Energy UK agrees that the NESO should only be able to designate projects after a period of consultation.

Question 20: Do you agree that the proposed legal text in condition E14, as set out in Annex A, provide the right level of governance and industry engagement

to ensure that the Project Designation Methodology is developed and modified in a robust manner? Please provide the reasons for your answer.

The proposed text is appropriate but, as noted in the answer above, more detail is needed on what constitutes the various use cases for Project Designation. This needs outlining in the license condition or the final Project Designation Methodology.

Question 21: Do you agree with the requirements that an application window as in paragraph 3.56 is practical and sufficient? Please provide the reasons for your answer. What is the right maximum and/or minimum period for how long an application window should be open? Is the minimum requirement of there being at least one application window every year sufficient? Please provide the reasons for your answer.

The proposal to have application windows last a minimum of two weeks and a maximum of four weeks is insufficient, especially given the complexity of the new arrangements and the knock-on consequences for commercial viability from even minor potential amendments.

Based on the draft timetables NESO has produced in previous publications and other existing Ofgem processes, application windows would need to run for at least six weeks and a maximum of eight weeks to allow time for applicants less aware of the exact timings of the Gate timelines to have time to apply, thus allowing the maximum number of applicants to enable effective competition for each regional technology bucket.

Shortening the maximum length of the application window may be needed in 2025 to ensure most applicants receive their new connection dates by the end of that year. However, this can still be done while allowing more time for the maximum number of potential applicants to apply for a connection.

Question 22: Do you agree that 6 months as mentioned in paragraph 3.59 to provide an offer once the application window closes is adequate? Do you agree with our proposed option regarding timing for the NESO to make offers, or do you prefer any of the alternative options set out in paragraph 3.60? Are there any other options we should be considering? Please provide the reasons for your answer and suggest alternative.

Given the importance of the first windows in 2025 and the need for investor certainty, Energy UK supports the second option presented in paragraph 3.60: That is that specific clauses be outlined in the license for the first window, “Gate 2” to whole queue and strategic energy plans, and then clear timescales for enduring Gates be clearly outlined in the license.

Six months would be an appropriate period for the enduring Gates and should be clearly outlined in the license.

Question 23: Do you agree with our proposed approach of specifying which type of applications get which type of offers as in paragraphs 3.52 to 3.55? Does this cover all type of applications? Please provide the reason for your answer and mention if any type of applications is not captured in here.

It is appropriate to outline the differing kind of offers for Gate 1 offers, Gate 2 offers and offers that do not need to go through the Gate process. The proposed text achieves this.

Question 24: Do you agree that the proposed legal text in condition E15, as set out in Annex A, meets the policy intent above? Please provide the reasons for your answer.

The proposed text is appropriate but, as noted in the answer above, amendments should be made considering the timescales of the Gate windows. This should be reflected in the text.

Question 25: Do you agree with our approach mentioned above in paragraphs 4.1 to 4.3? Please provide the reasons for your answer.

Energy UK agrees with the policy intent and rationale behind the proposed modifications as it adequately enables the appropriate license conditions needed in line with TMO4+.

Question 26: Do you agree that we have considered all the areas of the licence which might need modifications? Please provide the reasons for your answer and specify if you think we have missed some areas.

It is sufficient within the scope of aligning the license conditions to focus on enabling TMO4+ for now through modification of connection offer and the Transmission Owner Construction Offer (TOCO) conditions.

It is also appropriate to focus on the aid TOs must play in the development and maintenance of the CNDM.

Question 27: Do you think any other modifications to definitions are required for the transmission licence in addition to the ones proposed for the System Operator Licence in paragraphs 3.12 to 3.19? Please provide a reason for your answer

The definitions put forward are sufficient for the needed modifications.

Question 28: Do you agree that the proposed text in SLC D1, as set out in Annex B, meets the policy intent? Please provide a reason for your answer.

Energy UK agrees with the policy intent and rationale behind the proposed modifications as it adequately enables the appropriate license conditions needed in line with TMO4+.

Question 29: Would you suggest any changes to the new and existing definitions in SLC D1 that are pertinent to Connections Reform? Please provide a reason for your answer.

Given the interaction with strategic alignment criteria, a definition for strategic alignment with Clean Power 2030 (CP30) or the Strategic Spatial Energy Plan (SSEP) may be necessary within SLC D1 to add greater clarity to investors.

Question 30: Do you agree with the policy intent and the rationale described in the paragraphs 4.6 to 4.10, in respect of the changes to SLC D4A.1? Please provide a reason for your answer.

Energy UK agrees with the policy intent and rationale behind the proposed modifications as it adequately enables the appropriate license conditions needed in line with TMO4+.

Question 31: Do you agree with the proposed changes to the text of SLC D4A.1, as set out in Annex B? If you disagree or partially agree, please provide a reason for your answer.

The proposed phrasing overall adequately reflects the policy intent.

For the sake of clarity for connecting customers, some reference in the license to the definition of strategic alignment with CP30 or the SSEP may be necessary.

Question 32: Do you agree with the policy intent and the rationale for the proposed changes described in the paragraphs 4.11 to 4.13, in respect of the changes to SLC D4A.2? Please provide a reason for your answer.

Energy UK agrees with the policy intent and rationale behind the proposed modifications as it adequately enables the appropriate license conditions needed in line with TMO4+.

Question 33: Do you agree that the proposed changes to the text of the new paragraph 2 of SLC D4A, as set out in Annex B, effectively facilitate the policy intent? Please provide a reason for your answer.

Energy UK agrees with the proposed phrasing overall as it adequately reflects the policy intent.

Question 34: Do you agree with the policy intent described in paragraph 4.17, in respect of the changes suggested in paragraphs 2, 3, 4 and 5, now amended to become paragraph 3, 4, 5 and 6, of SLC D4A? Please provide a reason for your answer.

Energy UK agrees with the policy intent and rationale behind the proposed modifications as it adequately enables the appropriate license conditions needed in line with TMO4+.

Question 35: Do you agree that the proposed changes to the text of the amended paragraph 3, 4, 5 and 6 of SLC D4A, as set out in Annex B, effectively facilitate the policy intent? Please provide a reason for your answer.

Energy UK agrees with the proposed phrasing overall as it adequately reflects the policy intent.

Question 36: Do you agree with the policy intent and the rationale in respect of the proposed changes to SLC D16 as described in paragraphs 4.19 to 4.23? Please provide a reason for your answer.

Energy UK agrees with the policy intent and rationale behind the proposed modifications as it adequately enables the appropriate license conditions needed in line with TMO4+.

Question 37: Do you agree that the proposed changes to the text of SLC D16, as set out in Annex B, effectively facilitate the policy intent? Please provide a reason for your answer.

Energy UK agrees with the proposed phrasing overall as it adequately reflects the policy intent.

Question 38: Do you agree with the policy intent behind the proposed new licence condition as explained in paragraphs 4.24 to 4.26, in respect to the proposed SLC D18? Please provide a reason for your answer.

Energy UK agrees with the policy intent overall of the proposed license condition.

Some greater clarity regarding the limits on information TOs must provide the NESO to facilitate the CNDM may be required in order to ensure commercially sensitive information is protected as well as legally binding data protection requirements.

Question 39: Do you agree that the proposed text gives appropriate effect to the specific policy intent, as detailed in Annex B? Please provide a reason for your answer

Energy UK agrees with the proposed phrasing overall as it adequately reflects the policy intent. However, as noted above, greater definition of the limits on what data TOs might be expected to provide the NESO to facilitate the CNDM is needed.

Question 40: Do you agree with the policy intent and rationale in respect of the changes proposed to SLC E17, in paragraphs 4.28 to 4.34? Please provide a reason for your answer.

Energy UK agrees with the policy intent overall of the proposed license modifications detailed in paragraphs 4.28 and 4.34.

However, though there is no question asked regarding the modifications proposed in paragraph 4.33 regarding the condition that Competitively Awarded Transmission Operators (CATOs) be offered terms 'as soon as reasonably practicable', we believe this is worth commenting on.

While we believe it appropriate to keep this phrasing with respect to Gate 1 offers, CATOs that have met Gate 2 criteria or are not part of the Gate process should have offers granted within the Gate window they applied in as will be the case with other applicants. This is essential to ensuring the Gate process works on an equitable basis for all market participants.

Question 41: Do you agree that the proposed changes to the text in SLC E17, as set out in Annex B, effectively facilitate the policy intent? Please provide a reason for your answer.

Energy UK agrees with the proposed phrasing overall as it adequately reflects the policy intent. However, as noted above we believe that CATOs applying and successfully meeting Gate 2 criteria should be offered terms within the window they applied in. Phrasing in the condition should reflect this.

Question 42: Do you agree with the policy intent behind the proposed new licence condition as explained in paragraph 4.35, in respect of the SLC E25? Please provide a reason for your answer

Energy UK agrees with the policy intent overall of the proposed license condition. However, some greater clarity regarding the limits on information CATOs must provide the NESO to facilitate the CNDM may be required in order to ensure commercially sensitive information is protected as well as legally binding data protection requirements.

Question 43: Do you agree that the proposed text of the new condition, as detailed in Annex B, gives effect to the policy intent? Please provide a reason for your answer.

Energy UK agrees with the proposed phrasing overall as it adequately reflects the policy intent. However, as noted above, greater definition of the limits on what data CATOs might be expected to provide the NESO to facilitate the CNDM is needed.

Question 44: Do you agree that changes are likely be required to some of the definitions within licence condition 1? Please provide any information / evidence you can provide to support your response.

Definitions pertaining to the areas highlighted in the consultation would need defining within the license conditions.

For the sake of clarity to connecting customers, some reference in the license to the definition of strategic alignment with CP30 or the SSEP may be necessary.

Question 45: Do you consider any modifications to licence condition 4 are required?

Should DNOs be made responsible for assessing the strategic alignment of projects when progressing them to Gate 2, serious consideration would need to be given to the license conditions they hold to ensure restrictions, disruptions or distortions to competition are not produced.

This would mean producing text in the distribution licence conditions clear reference to a definition for strategic alignment with CP30 and the SSEP and how that alignment interacts with the CNDM that DNOs can refer to when producing connection offers and progressing connections.

The potential for legal challenge of discriminatory offers is significant and so every legal consideration to limit the chance of such disruptive legal challenges needs consideration.

Question 46: Do you agree with the policy intent to modify licence conditions 12.1 and 12.4 under both scenarios? Please provide a reason for your answer.

Energy UK agrees with the policy intent and rationale behind the proposed modifications as it adequately enables the appropriate license conditions needed in line with TMO4+.

Question 47: Do you agree with our view that no changes to licence condition 19 are necessary under any of the two scenarios? If you disagree or partially agree, please provide a reason for your answer.

Given that the license condition explicitly disallows discriminatory behaviour when offering connections and yet the overall connection reform process enabling alignment with CP30 and SSEP is explicitly discriminatory, changes to this license condition or at least clear references to caveats under the CNDM and its interaction with strategic alignment will be needed.

The risk of legal challenge from discriminatory behaviour following connections reform must not be underestimated. While primary legislation is expected to be put in front of parliament for approval to enable network operators to make connection offers in what amounts to a discriminatory manner so long as it meets the needs of CP30 and the SSEP, the timelines and effectiveness of this primary legislation remain uncertain. Therefore, every effort to limit the risk of legal challenge from those that lose queue positions must be made.

Question 48: If you disagree, what kind of change to the licence condition 19 do you believe is necessary?

One solution would be a caveat regarding projects being advanced or not in line with the requirements of the CNDM and its interaction with the CP30 or the SSEP would be necessary.

Alternatively, conditions regarding discrimination would be focussed to specifically work as a subservient condition to connection offers in line with connections reform and strategic alignment.

Either of these solutions would require a definition of strategic alignment to be clarified in the license condition.

A sufficient degree of flexibility in these definitions would also be needed to ensure that the license conditions adapt in the event of Government plans change in the future.

Question 49: Do you see any risk related to introducing an obligation for DCUSA licensees to comply with the Clean Power 2030 Action Plan and SSEP?

The principal risk Energy UK envisions is if a clear definition of strategic alignment with CP30 and the SSEP and how that alignment interacts with the CNDM is not produced if DCUSA licensees are to comply with these plans.

A sufficient degree of flexibility in these definitions would also be needed to ensure that the license conditions adapt in the event of Government plans change in the future.

Question 50: Do you agree with the changes suggested to licence condition 20? If you disagree or partially agree, please provide a reason for your answer.

Energy UK agrees that a license condition modification to enable alignment with CP30 and the SSEP, subject to strict definitions within the license, is needed.

Question 51: Do you agree with the proposal to define a new licence condition 12A.1 – requirement to perform “Gate 2” checks in line with the NESO methodology?

Energy UK agrees with the proposal to ensure license conditions for DNOs are aligned to connections reform. The intention to create explicit language to ensure that Gate 2 checks and submission to NESO for application is done in a timely manner is also appreciated. There must be a strong obligation for DNOs to perform Gate 2 checks and submit projects that have met the evidence requirements at the next Gate application window.

It is disappointing that Ofgem is not going straight to proposed wording for this at this stage, thereby leaving embedded generators unprotected from TMO4+ go-live from DNO poor performance. There is a need for greater certainty at this stage regarding DNO obligations on progression connection requests.

An obligation should also be put forward in the license for DNOs to clearly, and to a minimum expected standard, explain to connecting customers the requirements for a Gate 2 application, including fee requirements. It is concerning that, at present, work on this is simply being left to the Energy Network Association's (ENA's) Strategic

Connections Group (SGC) which has historically suffered from a lack of transparency and engagement with connecting customers.

The current proposed wording within the CUSC modifications on either “reasonable endeavours” to submit an application (or an absolute obligation if it goes with the alternative option) need supplementing by licence changes. It should not and doesn’t need to be an either or. Both a change to the CUSC and license changes complement each other.

Question 52: Do you agree with the proposal to define a new licence condition 12A.2 – requirement to perform “Gate 2” checks in a timely manner? If so, do you consider the approach to the condition should be principles-based or prescriptive?

Given the clear role that license conditions play in dominating the incentives of DNOs with regards to connections, we believe a prescriptive license condition to perform Gate 2 checks and notify the connecting customer is needed.

This timescale for this notification must be done in line with timescales applied at the transmission level to ensure a level playing field at both the transmission and distribution level.

Question 53: Do you agree with the proposal to define new licence conditions 12A.3 and 12A.4 - this would introduce a requirement to submit projects for transmission assessment within a timely manner?

Energy UK agrees with the intention of the two proposed modifications to the license conditions.

Stronger wording is needed to ensure DNOs are incentivised to submit projects applications or modification requests at the next available Gate application window upon submitting all the needed criteria to DNOs.

Wording the condition in terms of ‘all reasonable steps’ still leaves too much room for DNOs to delay submitting requests to an application window at a time when the industry can little afford such delays.

Question 54: Do you think any Electricity Transmission Special Licence Conditions changes are required? If you think that changes are required, please provide a reason in your answer.

Energy UK agrees that no changes to the Electricity Transmission Special Licence Conditions should be required to enable connections reform.

Question 55: Do you think any Electricity Distribution Special Licence Conditions changes are required? If you think that changes are required, please provide a reason in your answer.

Energy UK agrees that no changes to the Electricity Distribution Special Licence Conditions should be required to enable connections reform.

Question 56: Do you think any Electricity Interconnector Standard Licence Conditions changes are required?

Energy UK agrees that no changes to the Electricity Interconnector Standard Licence Conditions should be required to enable connections reform.

Question 57: Do you think any Electricity Generation Standard Licence Conditions changes are required?

Energy UK agrees that no changes to the Electricity Generator Standard Licence Conditions should be required to enable connections reform.