
Ofgem Consultation on the NESO Regulatory Framework for the RIIO-2 Business Plan 3 Period 5TH MARCH 2025

Context

On behalf of our mission Empowering Energy Demand, the ADE welcomes the opportunity to respond to Ofgem's consultation on NESO's Regulatory Framework for RIIO-2 Business Plan 3 Period

Our mission is to embrace the value of a decarbonised, demand-led energy system, creating a future where households, businesses and industry are properly rewarded. The current electricity system is creaking under the demands of a rapidly changing system. We must harness the millions of EVs, heat pumps and the immense industrial demand we have right now to lower bills and keep our electricity system operable. Instead, we're fighting against them. Even more than that, industrial energy is decarbonising with long-term consequences for our energy system – creating new infrastructure and unlocking even greater sources of flexibility. The Government, Ofgem, the CCC and others all recognise that households, businesses and industry should play an active role in a decarbonised electricity system. Now is the time to make this a reality.

ADE Response

Despite the updated Licence Expectations including positive changes from the September 2024 Roles Guidance 2023-2025, the level of change within the document is still minimal considering the weight of NESO's new role. Within our recent [Demanding More report](#), we set out that in order for the NESO to achieve what is intended, Ofgem must make changes to the licence to reflect the additionality it is supposed to provide to the legislation and clearer expectations that are needed when reputational incentives are the core regulatory lever. It is positive that a timeline of by the end of April 2026 has been placed on some important changes, such as the requirement to have significantly phased out the procurement of further than day-ahead volumes, the introduction of market-based competitive procurement in most balancing services and only having small barriers to market access, with clear actions for NESO to solve in a collaborative way with industry. Additionally, that there is specific mention of the need to focus on establishing 'technology agnostic performance specifications based on system need and requirements' within the Strategic Energy Planning role. However, the expectations still do not go far enough in enforcing the burden of proof of decision making on the NESO, ensuring that there is legitimate purpose underpinning a measure, that the measure would achieve the legislative purpose and that there was no less onerous alternative.

In order to achieve Clean Power by 2030, alignment across flexibility markets will be vital. The Licence Expectations set out that greater support is needed for Capacity Market participants. However, the recent Call for Evidence and Consultation that attempt to grow consumer-led flexibility participation in the CM do not put in place a strategy to ensure a level playing field between different asset types, which must be mitigated by both EMR Delivery Body processes and DESNZ initiatives. The ambitions set out in the Licence Expectations go further than the recent Market Facilitator consultation also, which includes Ofgem's goal of full alignment of DNO and NESO flexibility services by 2028, not April 2026.

As set out in our previous response to the changes that have been made to the NESO assessment framework, we are concerned a more holistic approach to assessment could reduce overall scrutiny and make the process significantly more subjective. We support the implementation of the Performance Arrangement Governance Document, particularly the introduction of a BP3 Performance Tracker to increase transparency to industry on NESO's progress on Performance Objectives. As per our report recommendations, Ofgem should run a quarterly forum where concerns and the work being undertaken to address them are presented by Ofgem and NESO officials. It is positive that NESO will need to report against performance each month, quarter, six months and annually, yet this process must be entirely clear to industry not only in the form of published reports, but forums and discussion.

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