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Contact

Lauren Logan

Dear Margaret,

Statutory consultation to modify the special licence conditions in the electricity transmission licences: Advanced Procurement Mechanism

Following Ofgem's decision on the Advanced Procurement Mechanism in March 2025, we welcome this consultation on the proposed Licence conditions and Governance Document for the Advanced Procurement Mechanism (the Licence Consultation). Securing supply chain capacity ahead of regulatory certainty remains critical to meet Clean Power 2030 and wider net zero targets, and the APM can enable TOs to contract in a more anticipatory and innovative way with our supply chain partners. This will ultimately ensure the best value for GB consumers, stimulating development of our supply chain and promoting economic growth through a clear strong order book for GB.

Supply chain constraints have been widely acknowledged by industry and Ofgem as a major cause of project delays, with the Network Commissioner's review and Transmission Action Plan focussed on addressing supply chain challenges as a top priority. The introduction of the APM is a positive step towards enabling the GB's transmission network to develop at pace, however it must be supported by both reform and agile regulation across all enablers of project delivery. In addition to the implementation of the APM, critical reforms are required to planning and consenting, the connections process, and strategic energy planning, as well as ensuring the design of the RIIO-T3 price control enables TOs to invest at pace and with confidence, whilst ensuring investor confidence is protected in the context of major equity requirements during RIIO-T3.

We welcome many of the positive steps Ofgem has taken during the development of the APM, including recognising the need for services (when 'linked to' equipment) to be eligible under the mechanism following broad stakeholder engagement, and proposing that expenditure caps are applied on an average basis, increasing the TOs flexibility when contracting with their supply chains. We believe the Ofgem team were agile in the final weeks in developing the APM licence and guidance at pace. In addition to these developments, we request the following **targeted changes** are made to Ofgem's draft Licence and Governance Document to ensure the policy intent of the APM is achieved:

1. **The ability to use APM alongside Early Construction Funding whilst ensuring there is no double counting:** The policy shift restricting TOs to access either APM allowances or Early Construction Funding (ECF) for a project, but not both, is new and was not consulted on, and affects several SPT projects under the ASTI framework. This will fundamentally impact the ability for SPT to effectively utilise the APM. Access to both

mechanisms will be critical, applying the broader scope of ECF and the flexibility of the APM, with each mechanism playing a critical role in the delivery of ASTI schemes. For the avoidance of doubt, eligibility for both ECF and APM allowances does not risk doubling funding, and would be easily managed at Project Assessment stage, as required already.

2. **A clear definition of included services with examples:** We welcome the inclusion of services within APM, however the lack of a clear definition for determining whether a service is eligible (including how to show a 'clear and transparent link' to eligible equipment) creates stakeholder uncertainty, and increases TO risk when using the APM. We therefore request a set of example eligible and ineligible services is included within the Governance Document.
3. **Clarity on eligibility criteria by utilising examples:** Limited clarity on how to demonstrate flexibility and fungibility for APM procurement, as well as demonstrating constraints, creates uncertainty for the use of the APM. We request Ofgem's Governance Document sets out example case studies to reduce this uncertainty, setting out a non-exhaustive set of example cases that would be considered APM-eligible. This is regulatory best practice for guidance documents including the RIGs and ASTI. A draft set of examples was previously provided by the TOs on 7th March 2025.
4. **Clarity on Ineligible APM Expenditure:** There is currently limited guidance on the assessment process for '*ineligible expenditure*'. We seek clarification on adjustments for ineligible expenditure, including but not limited to the considerations that Ofgem will take into account, the impact on the overall UIOLI allowance, and the subsequent treatment of ineligible APM costs through business-as-usual regulatory funding routes.
5. **A pragmatic approach to the 20% Average Cap:** We welcome the more flexible application of the average cap, aggregated across the portfolio, but need further detail on its practical operation. Temporary deviations above the 20% cap should not result in ineligible expenditure decisions, and proportionate assessment is required. We therefore request that the 20% cap is assessed on an average basis across each price control period.
6. **Regulatory Cost Assessment:** Ofgem must set out how procurement decisions will be assessed fairly, reflecting the information available at the time of procurement, and without hindsight bias. This is an increasing concern given Ofgem's minded to decision on EGL1's delay event, where hindsight has had considerable impacts.
7. **Further detail on bespoke APM Requests:** Further detail is needed on the evidence required for bespoke re-opener submissions and the treatment of retrospective APM allowances. Commitments from Ofgem on the duration of its re-opener assessment and clear requirements for submissions are essential, given interdependent and constrained procurement timelines.

Please see our detailed responses to the Licence consultation at Appendix 1 below, and the attached Issues Log (Annex 1) provides our comments on the Licence and Guidance drafting itself. We look forward to continuing the collaborative engagement to date on the APM, and please don't hesitate to reach out should you wish to discuss any of the issues raised in this response.

Yours sincerely,



Lauren Logan

Head of Transmission Regulation and Policy

Appendix 1: APM Licence Consultation Response

The below sets out further detail on the targeted changes highlighted in the cover letter. We would welcome further engagement as necessary with Ofgem and clarity on these points ahead of the decision on this Licence consultation.

1. The APM and Early Construction Funding

- 1.1. Ofgem has set out in the draft Licence that TOs can access either APM allowances or Early Construction Funding (ECF) in relation to a project, but not both. This substantial shift in policy was not consulted on as part of the APM consultation. Restricting the use of the APM for ASTI projects also limits the flexibility TOs have to use equipment and services across different projects within their portfolio, therefore increasing the risk of inefficiencies. Even when transferring an asset procured under the APM to an ASTI project may be optimal for consumers, the current proposal would prohibit this, meaning that risk cannot be managed programmatically. The ECF and APM eligibility issue affects four of SPT's projects, each delivered under the ASTI framework. ECF is an early allowance approval that was designed to enable projects under the ASTI framework to progress at pace, covering placement of contracts, early enabling works, and strategic land purchases. This includes key project elements that are outwith the scope of the APM, namely land and early enabling works. We therefore face a decision between the use of Ofgem's innovative APM mechanism to address supply chain constraints, many of which have materialised since the ASTI decision, or to use the existing ECF mechanism, which involves a lengthy application and assessment process before funding can be unlocked, adding time to the regulatory approval process relative to the APM.
- 1.2. To support our ASTI projects to deliver at pace, we request Ofgem update the Governance Document under section 5.6 to ensure access to both the APM and ECF allowances will be enabled for ASTI projects. ECF is required given its wider scope, and APM is required given the frictionless access to advanced procurement allowances that it enables. We also note that some projects may have applied for relatively small ECF allowances, compared to the size of the project, for initial works to be done or land to be secured. It is not appropriate that early use of a portion of the ECF allowance should then preclude a TO from procuring equipment and services under the APM. Furthermore, in no instance would we expect that a TO would receive double funding, and a straightforward true-up at Project Assessment stage would ensure TOs do not receive any unwarranted allowances.

2. Inclusion of Services

- 2.1. We welcome the inclusion of services within the scope of the APM, which will be critical to derisking project delivery timelines, given the substantial constraints faced securing the skilled resources to deliver transmission projects. Ofgem has stated in section 3.20 of its APM Decision document that services will be eligible for inclusion within APM expenditure where they can be "*directly and transparently linked*" to APM procured equipment, regardless of the model of procurement used. We strongly welcome the recognition that different procurement strategies will be used across different equipment and service types. We also agree that the tracking of expenditure on services in the same way as tracking expenditure on equipment provides a transparent and logical reporting route.
- 2.2. From Ofgem's decision, the licence condition, and the guidance, it is not clear which services are in scope of the APM, and which are not. There are many different types of service

contracts, with a spectrum of 'relevance' to a specific equipment purchase. For example, we believe securing expert resources to install an asset procured under the APM is an example of a service that is clearly linked to the asset procurement. Additionally, contractors may require support to operate within our substations to prepare for and install equipment (such as site cabins, access arrangements and transport), where the link to equipment is clear, though perhaps less intuitive. To support TOs to use the APM to secure services as intended, we request that Ofgem sets out a non-exhaustive list of services that Ofgem believe could be eligible under the APM where a link to equipment is demonstrated, as well as example areas where Ofgem would not consider services eligible. We would be happy to work with Ofgem to develop this non-exhaustive list, which we believe would significantly reduce uncertainty for stakeholders regarding the scope of the APM.

3. Eligibility Criteria

- 3.1. It is not clear how TOs will be expected to demonstrate the flexibility and fungibility of APM procurement. We fully acknowledge that a restrictive set of contractual criteria would not be helpful, given the different approaches of different TOs, and the need to innovate in the way that we work with our supply chain partners. However, the lack of information relating to Ofgem's assessment of flexible or fungible procurement creates uncertainty for TOs when considering the use of the APM, potentially limiting the use of the APM in situations where it would have benefited consumers and the transmission system. We therefore request that, rather than specific criteria, Ofgem set out a non-exhaustive set of example cases in which a procurement exercise will be considered flexible or fungible, as well as other cases that would not be considered eligible, providing stakeholders with additional clarification, and reducing the uncertainty surrounding Ofgem's application of the APM eligibility criteria. This is regulatory best practice for example in the ASTI guidance and RIGs.
- 3.2. Ofgem has clarified in the Guidance document that APM procurement activities must relate to constrained equipment. For assets procured as part of the non-bespoke UIOLI allowance, we assume that this criterion is satisfied where TOs ensure the equipment and services they procure are aligned to the APM Cost Categories within the APM Register. Please can Ofgem confirm that this is the case? We recognise the importance for bespoke equipment and services of justifying the relevant constraint that the request seeks to address. Whilst we understand Ofgem's rationale for not setting fixed criteria for how a constraint should be demonstrated, we request that Ofgem include additional examples within the Guidance Document of instances in which a constraint would be considered to be sufficiently demonstrated, along with examples of where it would not.
- 3.3. Ofgem has removed investment in gas insulated switchgear (GIS) from the initial APM UIOLI allowance, with GIS procurement expected to use the bespoke re-opener route. Notwithstanding that we do not agree GIS should always be a bespoke procurement activity, we have comments on the specific projects identified as GIS in SPT's APM Information Request Document and the regulatory treatment of those schemes, set out in Annex 1. While we fully support the need for certain equipment to be procured through the bespoke funding route, it is crucial that this option remains agile. As part of this agility, we request additional flexibility in the re-opener application windows. We have proposed that these should be managed on a notification basis, whereby TOs set out their intention to submit a re-opener application, providing Ofgem with a clear lead time and pipeline, e.g., 8 weeks' notice.

3.4. Regulatory agility is essential to ensure the APM's primary goal — to secure scarce capacity slots and mitigate risks in delivering critical national infrastructure — is not compromised by unnecessary bureaucracy. For example, excluding GIS, which can be procured flexibly, from the initial APM UIOLI allowance and limiting the number of projects identified where bespoke funding has been granted (pre-2027) could impact the timely delivery of projects, given the significant lead times currently experienced for GIS. Therefore, maintaining flexibility in procurement is vital to avoid delays and ensure the successful completion of critical infrastructure projects which is ultimately to the benefit of GB consumers and economic growth.

4. Ineligible APM Expenditure

4.1. The draft APM Licence condition sets out the circumstances in which APM expenditure may be considered ineligible, with reference to the eligibility criteria.

4.2. It is not clear why the Licence condition sets a seemingly arbitrary value for assessing whether procured volumes were required and proportionate, focused on instances where *“five years after the spend was first incurred by the licensee, 25% of the procured volumes of equipment and/or services remaining unused by the licensee on a project”*. Ofgem's stated objectives of the APM focus on securing supply chain capacity early, ahead of project need, to benefit consumers. We fully support the APM objectives, however these are undermined by the statement above, whereby Ofgem will consider APM spend to be inefficient based on the speed of allocation to projects. It is feasible that optimal securing of supply chain capacity may entail procuring substantially in advance of allocation to projects, particularly for the most constrained assets with long lead times that are fungible across our portfolio. Not only can this be more efficient for protecting project timelines, but it can also unlock cost efficiencies through bulk purchases and greater flexibility for TOs when contracting with its supply chain. Setting a fixed time horizon reduces the flexibility of the mechanism to address supply chain constraints and reduces the ability of the APM to adapt to future supply chain realities, for instance where innovative or highly specialised equipment requires very long lead times to secure. This will likely result in less ambitious use of the APM, and therefore greater risk of project delays due to supply chain constraints, which TOs would be unable to mitigate against through early contracting given the proposed licence condition inclusion. We therefore request the removal of this requirement from the draft Licence condition.

4.3. It is not fully clear from the Licence and Guidance what adjustments will be made in instances of ineligible APM expenditure relating to a project. If project cancelled, we request that an assessment of efficiency at the point of APM expenditure is required, ensuring only inefficient costs are clawed back. We also ask that Ofgem reviews in the round the set of regulatory mechanisms and potential penalties (including the APM, ODIs, Licence enforcement, and PCDs) that may come into effect when a project is cancelled.

4.4. The impact of ineligible APM expenditure on the total value of the replenishing UIOLI allowance is also unclear, but it is important that the overall pot available is not reduced, given the need for investment in future projects. This principle should be clarified in the Governance Document in the context of ineligible expenditure.

4.5. Finally, it should be clarified within the Governance Document that just because a cost may have been identified as inefficient APM expenditure, that does not preclude it from being funded as usual through the Project Assessment or other regulatory funding route for that project; a decision on inefficient APM expenditure would remove only the TO's access to the

early allowance for that cost. We request this is clarified in the guidance document, which requires a new section titled 'Ineligible APM Expenditure' that captures the issues above.

5. A pragmatic approach to the 20% Average Cap

5.1. Ofgem has set out in its decision that TOs will be able to recover costs under the APM of up to 20% of the estimated final contract value, where the 20% cap is applied as an average across all APM Cost Categories, rather than on a project-by-project basis. We welcome this change, which we believe will increase the flexibility with which the APM can be used by TOs, however we request further detail on how this cap will operate in practice. An average cap implies that some procurement exercises will secure capacity at a cost below 20% of estimated final contract value, whilst others will be above 20%. As a result, it is likely that the total average position at any given moment may deviate somewhat above or below the 20% value, with the actual value changing as further contracts are placed. Given that TOs may therefore be temporarily over the 20% cap depending on the timing of signing contracts, we request that both the Licence and Governance Document are updated to allow temporary periods where the total average commitment is over 20% to not result in considerations of ineligible APM expenditure. This will be critical to ensuring an average 20% cap can unlock meaningful flexibility for the APM. We propose that a TO should be considered to be breaching the 20% cap if their APM portfolio is on average above the 20% cap across the period of a price control, assessed at the end of the period. This ensures a pragmatic way to assess whether the TOs are meeting the 20% cap limit on APM expenditure, without penalising TOs for proactive use of the mechanism around the margin. This also avoids the need for Ofgem to conduct constant checks on the precise percentage of spend and avoids this consideration having a material impact on the timing of placing tenders, which should be driven by commercial decisions.

5.2. TOs may also need to spend significantly more than 20% in some instances to secure capacity. The APM allowance provides additional confidence for TOs to make capacity reservation or full procurement decisions ahead of confirmed need, ensuring a portion of the investment is provided through the APM allowance. However, TOs should be free to make the commercial decision to spend greater proportions of project costs, taking on risk where appropriate, without this impacting the position relative to the 20% cap. To illustrate this, if a TO decides to spend £50m to secure a £100m contract, it should be able to determine the amount of that investment that it will fund using the APM (e.g., 20%). The Licence and reporting mechanisms need to ensure this situation does not inadvertently result in TOs appearing to have breached the APM cap, when they may in fact be taking on additional commercial risk to de-risk delivery timelines. We therefore request an additional column is added to the APM Register, relating to the value of expenditure the TO is requesting funding for as part of the APM. Further detail is set out in the 'APM Register Template' tab of Annex 1.

6. Regulatory Cost Assessment

6.1. When equipment or services procured under the APM are allocated to a project at Project Assessment (or equivalent) stage, the project will no longer be funded via APM allowances and will instead be funded through the relevant regulatory mechanism. For larger projects, this will likely be via the Load Related Re-opener and CSNP-F Re-opener. When preparing Project Assessment submissions related to our investments, we follow Ofgem's relevant guidance, which will need to be updated to include how TOs should reflect APM expenditure within Project Assessment submissions.

- 6.2. Given that a Project Assessment enables Ofgem's review of the scope, design, cost and all other elements of a project, this will naturally include a consideration of the procurement activity that has secured the equipment and services for the project. Whilst we welcome this assessment of contracts that may have been secured using the APM, Ofgem must clarify how it will ensure that procurement decisions are not unfairly assessed with the benefit of hindsight and reflect an assessment of the information that was available to TOs at the time. Advanced procurement carries some inherent risk, given that future supply chain conditions cannot be known with certainty. We therefore expect that, across the portfolio of transmission projects, some early contracts will be found to have secured prices below what would have been available in the future, whilst some prices will be above what would otherwise have been secured. In either case, however, capacity would have been secured to enable project delivery and protect consumers from additional project delays, most significantly through avoided constraint costs, which is precisely the objective of the APM. Similarly, each TO has its own commercially sensitive procurement process, with independent relationships with each of their supply chain partners. It is therefore not necessarily appropriate to compare the outcomes of one TO with another, particularly in hindsight. Regarding this assessment, either (i) Ofgem need to either clearly set out up front (through general principles or examples) what an efficient procurement process looks like and/or the requirements which it must meet; or (ii) Ofgem need to accept that they do not mandate TOs' commercial procurement models and should not be cross benchmarking the outcomes of competitive (and commercially sensitive) tenders. This is a particular concern given Ofgem's recent minded to decision to reject the EGL1 delay event citing the procurement strategy used.
- 6.3. We therefore request that Ofgem clarify what information will be relevant in its PA decisions relating to expenditure incurred under the APM, ensuring that only information that was reasonably within the knowledge of the TO at the time of the procurement activity should be considered when assessing the efficiency of the procurement decision at a later date, and to avoid Ofgem reviewing TOs' decision making with hindsight bias. Clear guidance on how APM spend should be presented in PA submissions will also enable a more streamlined assessment process, where timely Ofgem decisions will be critical to managing the fast-moving supply chain environment, and increasingly short price validity periods.
- 6.4. We also request clarity for projects that will not go through a Project Assessment process, including volume driver projects. Can Ofgem confirm at what stage in the project development and delivery process APM expenditure will be considered 'allocated' to, for example, a volume driver project, given that these do not go through an equivalent regulatory decision process?

7. Bespoke APM Requests

- 7.1. Ofgem has set out in the guidance the requirements that a bespoke re-opener request must meet in order to be approved where procurement may not be flexible or fungible. It is not currently clear what evidence is required to justify a bespoke APM Re-opener submission, and therefore it is difficult to assess the additional flexibility that this may enable TOs to access for more bespoke projects. One critical component that we expect to require the bespoke APM Re-opener is HVDC equipment, given the highly innovative technology and more bespoke nature of the equipment. The Deloitte HVDC Market Insights Report, shared with Ofgem in March 2025, predicts a persistent global supply-demand gap for HVDC cable over the next 15 years with manufacturing capacity unlikely to keep pace with the unprecedented growth in demand as countries rapidly expand their grid infrastructure. This analysis reflects previous HVDC supply chain assessments and is indicative of the increasingly volatile and competitive

market in which GB TOs operate. The ability to place contracts using the APM at pace will be critical to managing this substantial and prolonged supply chain constraint for HVDC equipment and services.

- 7.2. To ensure TOs can access this bespoke funding in an agile way, we request the guidance includes commitments from Ofgem regarding the duration of its assessment of bespoke APM Re-opener applications as well as additional detail in the licence on the type of information that TOs should submit to support a bespoke submission, and the considerations that Ofgem will make when assessing re-opener submissions. Currently, there is very limited guidance on bespoke submissions, which makes it difficult to understand and comment on the process.
- 7.3. We also request that Ofgem clarifies the treatment of retrospective APM allowances for both bespoke and non-bespoke equipment and services within the Governance Document. Where APM expenditure has been incurred on equipment that we expect to be eligible for the APM Re-opener, we understand that TOs can submit APM requests following Licence implementation to recover the costs associated with that investment, up to 20% of the expected final contract value.