

SSEN Transmission

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Dear Joe,

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

This response is prepared on behalf of SSEN Transmission, part of the SSE Group, responsible for the electricity transmission network in the north of Scotland. Following Ofgem's decision on the Advanced Procurement Mechanism (APM) in March 2025, we welcome this consultation on the proposed Licence conditions and Governance Document for the Advanced Procurement Mechanism.

We welcome the constructive and collaborative engagement with Ofgem to date on the development of the APM. We recognise that the RIIO-T3 period will be shaped by unprecedented growth in the transmission and energy sectors. Large-scale investments, both in the UK and internationally, have created a market where demand significantly exceeds supply when it comes to procurement of equipment and services, leading to increasing lead times for key network assets.

We are supportive of Ofgem's proposal to tackle this risk to delivery of critical network infrastructure through the introduction of the APM and the intent to design a regulatory framework that allows TOs to engage the supply chain in a manner that attracts as much interest as possible. This needs to be part of wider initiatives to support timely delivery of the net zero network. Enabling TOs to secure the supply chain at an early stage and procure at a scale is essential. It also needs to be coupled with longer-term visibility and confidence of the pipeline of work that both TOs and the supply chain are being asked to deliver. Ongoing reforms to planning and consenting, the connections process, and strategic energy planning, as well as the design of the wider RIIO-T3 price control remain critical to enable TOs to invest at pace and with confidence.

We welcome many of the positive steps Ofgem has taken during the development of the APM, to introduce flexibility. However, we believe that further targeted changes to the licence and governance document are required to provide greater clarity on how Ofgem intend the APM to operate, as current drafting creates uncertainty for TOs when considering the use of the APM.

Our detailed response in Appendix 1 provides further detail of the APM policy or implementation that we consider need to be clarified and/or rectified by Ofgem through this statutory consultation. We have also provided specific feedback on the licence and governance document in the form of an issue log alongside

this response. We look forward to continuing the strong collaboration with Ofgem and the other TOs to ensure the APM mechanism is implemented effectively to deliver its intended outcome.

Yours sincerely,

Lois Paton
Head of Regulation

Appendix 1

1. APM Eligibility & Treatment of Ineligible Expenditure

APM Eligibility

It is not clear how TOs will be expected to demonstrate the flexibility and fungibility of APM procurement.

This creates uncertainty when considering the use of the APM, potentially limiting the use of the APM where it would have benefited consumers. Given the differing procurement approaches across the TOs, we acknowledge the challenges with creating a set of criteria that may be restrictive in using APM. Therefore, we ask that the governance document sets out a collection of worked example cases, in which different procurement approaches would be considered flexible or fungible, alongside examples of procurement that would not be considered eligible. This would provide TOs and wider stakeholders (supply chain) with additional certainty on whether a procurement activity can be progressed under APM, reducing the uncertainty around interpreting Ofgem's high level APM eligibility criteria. We are happy to work with Ofgem and the other TOs to produce these examples.

Further clarity is required to understand Ofgem's position on the definition of a "deposit". Paragraph 2.4 of the APM Governance Document states that the APM must not be used for cancellation clauses. We consider that this conflicts with the idea of a deposit, which is in effect a cancellation payment, and will restrict the TOs use of the APM.

Treatment of ineligible expenditure

There is currently limited guidance on the assessment process for ineligible expenditure.

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 (i.e. in the event that spend is deemed as ineligible for recovery under APM, the value sought by the TO is 'reinserted' into the TOs overall pot for use on an alternative activity). Our interpretation of the Licence Condition algebra is that this would be dealt with as a negative adjustment to the APMt which would increase the pot value, but clarification would be helpful.

We also need clarity that even though expenditure is deemed ineligible through APM that this does not prevent it being recovered through other regulatory mechanisms such as project assessments, Load UIOLI or the connection delivery mechanism.

It is not clear why Paragraph 1.1.25 (c) within the licence sets out that 5 years after the first expenditure has been incurred this spend could be treated as ineligible expenditure if the asset remains unused on a project. This conflicts with the principle of APM by securing supply chain capacity early, ahead of project need. For example, some lead times are close to the 5 years and allocation to projects may be beyond

this time period and are at risk of being classed as ineligible based on the respective lead time and allocation to a project.

While we have concerns about the timescales set out in the licence of 5 years for APM expenditure becoming ineligible, we do believe it is important for the governance document (and perhaps even in licence) to set out what type of activity Ofgem would define as 'misuse'. We acknowledge not Ofgem cannot fetter their discretion by explicitly defining misuse. Acknowledging that Ofgem recognises there is an assumption of a certain level of risk or waste with the APM and that this has been accounted for in the Impact Assessment, we remain very concerned that Ofgem hasn't given itself suitable cover to claw back allowances or reduce UIOLI caps due to misuse (which is separate to the risk of unintended waste).

2. Inclusion of services under APM

We are supportive the decision to include services within the scope APM. This is critical to derisking project timelines, given the challenges in securing the skilled workforce to deliver the investments required on the network. We welcome Ofgem's acknowledgement that different procurement and delivery approaches will be used to secure assets and that services will be eligible under APM where they can be "directly and transparently linked to APM equipment".

There are various services that are required for the successful delivery of a project with a differing degree of direct relevance to an APM asset. Whilst the installation of an asset procured via APM is clearly a service linked to an asset, there are additional services that are still directly associated with the installation of an asset, but the link is less apparent and can be procured for various assets on a project basis.

For example, where a TO secures an asset via a Principal Contractor rather than directly with the OEM, they may be required to secure that Principal Contractor for additional services associated with the installation of the asset and ultimately delivery of the associated project. This could include design and preparatory works directly linked to the delivery and installation of the asset at a specific location. These services are project specific so do not meet Ofgem's current definition of flexible or fungible. If these additional costs are deemed ineligible for recovery under APM this will restrict our use of the APM to just those assets which we can directly procure via the OEMs which is very limiting.

3. Interaction with the regulatory framework

The APM must interact efficiently alongside other regulatory mechanisms, reporting and the Price Control Financial Model (PCFM) and cost assessment.

APM and Early Construction Funding (ECF)

We understand Ofgem's position in relation to the interaction of APM with ECF. We understand this may, however, be unnecessarily restrictive. We don't believe the risk that Ofgem is mitigating is one of double funding, but one of the level of advanced funding that a TO should be eligible for before planning consents and total project costs have been secured (therefore the level of funding 'at risk'). The 20% ECF

threshold was set as the level of allowance a TO can recover in the event that a project doesn't reach PA (i.e. the risk Ofgem has allowed the GB consumer to bear in the event of a project not going ahead), so to allow a TO to still be able to recover up to 20% for non-supply chain related activity, plus up to 20% of equipment cost through APM, would be a change in policy and would benefit those TOs who are able to now use APM for their ASTI projects. As an alternative Ofgem should consider establishing a process that ensures that any APM allowance spent offsets the ECF % available to the TO (i.e. reduces the ECF available). In doing so, however, Ofgem should remain cognisant of the fact that the 20% ECF value for each TO is based on total project forecast costs as set at the time when the licence was enacted whereas the 20% threshold for APM will be based on forecast contract costs at the point of use.

Project/Cost Assessment

When assets procured under APM are allocated to projects and go through the regulatory cost assessment process (e.g. Load Related Reopener or CSNP-F) these will be funded through the specific regulatory mechanism potentially years after the asset has been secured under APM. Therefore, it would be helpful for Ofgem to clarify how the cost assessment process will ensure that costs incurred via APM are not assessed with the benefit of hindsight. These need to be assessed in the context of the information and market conditions at the time of entering agreements through advance procurement. We anticipate that across the assets secured under APM, some contracts will have secured prices lower than those available in the future, while others will have prices higher than what would have been secured otherwise given the fact that market constraints may or may not change over time. Regardless, the assets would have been secured to facilitate project delivery and protect consumers from additional delays based on the best information available based on current market conditions, and at best value to consumers.

Further guidance on what information will be relevant to the Project Assessment from an APM perspective needs to be set out within the respective guidance documents for the uncertainty mechanism in which APM will apply to ensure there is clear process in the treatment of these costs are not subject to assessment with hindsight.

Interaction with PCFM

The APM Governance document and associated templates outline the proposed reporting requirements on APM expenditure within the RRP and the corresponding tracking of expenditure against allowances via the APM register. At this stage it is not explicitly clear as to how the associated reporting requirements surrounding APM values and performance data are to be addressed in the PCFM during the Annual Iteration Process.

It would be helpful for Ofgem to set out guidance on how the RRP reporting interacts with financial reporting elsewhere, including the BPDTs and PCFM. It would also be valuable for Ofgem to include the mechanics of the proposed APM license within the working PCFM.

4. Clarity on the 20% Average Cap

We welcome Ofgem's decision that APM allowances will be recovered on the basis of 20% of the estimated final contract value, and whereby the 20% cap is applied as an average across all APM Cost Categories, instead of on an asset-by-asset basis. This approach will provide greater flexibility with how the APM can be used by the TOs to secure the supply chain. However, the licence and governance document does not provide the detail of how this average cap will operate in practice.

This approach will mean that there will be asset categories above and below the 20% at any given time. There is a potential scenario where the portfolio may temporarily (a regulatory year) be above the 20% if project assessment decisions are delayed and the reconciliation of allowances within year have not happened as expected and the average is higher than forecast. We need clarity within the guidance for how this would be treated under APM.

5. Flexibility in Bespoke APM Requests

We fully support the need for certain equipment to be procured through the bespoke funding route. However, it is key that this option remains flexible and agile to react to changes in requirements for assets. This is essential to ensure the APM's objective of securing constrained capacity and mitigating risks in delivering critical national infrastructure to meet government targets. This objective should not be compromised by unnecessary regulatory burden or barriers to an agile funding route which could ultimately delay the achievement of the governments Clean Power Action Plan.

As an example, we note that Ofgem has rejected all FACTS devices from the scope of the APM, regardless of asset type or need driver. This is despite evidence of constraint and long lead time being provided by the TOs, and without consultation.

The potential for significant delays through delivery through the Stability Market, alongside the significant supply chain constraints means that FACTS devices must be included within the scope of the APM.