

Decentralised Energy Systems Team  
Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU  
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**SSE plc**  
Inveralmond House  
200 Dunkeld Road  
Perth  
PH1 3AQ

[Abiye.martynsyellowe@sse.com](mailto:Abiye.martynsyellowe@sse.com)

Dear Joseph,

**SSE response to Ofgem's Market facilitator policy framework consultation**

This response sets out our views on Ofgem's Market facilitator policy framework consultation<sup>1</sup> and is submitted on behalf of SSE's energy businesses – SSE Thermal, SSE Renewables, SSE Energy Solutions and SSE Energy Markets.

As we have stated in our responses to Ofgem's past consultations<sup>2</sup> on related subject, we support Ofgem's general ambitions to accelerate the growth of distributed flexibility markets and the creation of the Market facilitator. A well-functioning Market facilitator could help realise the Government's Clean Power (CP30) goals relating to demand flexibility.

Ofgem's current proposals for the Market facilitator policy framework are generally sensible and we are pleased they are reflective of the engagement it has had with industry on the topic, through earlier consultations and workshops.

Below we highlight our main feedback on the proposals, while the Appendix to this letter fully answers questions included in the consultation.

- 1. Setting up the Market facilitator needs to be joined-up with other regulatory reforms:** the detailed design and implementation of the Market facilitator should not distract from other ongoing reforms aimed at improving distributed flexibility market, or even complicate / slow down the growth of markets themselves. Accordingly, it would be helpful to see a more joined-up approach from Ofgem across various related reforms which all similarly aim to accelerate the distributed flexibility markets. Related to this point, full consideration needs to be given to how the Market facilitator could complement existing industry obligations or processes, such as those imposed on the DCUSA secretariat to publish a 'Flexibility Market Price Statement.'<sup>3</sup>
- 2. The Market facilitator needs to gather sufficient commercial input and represent the views of market participants to avoid adversely impacting flexibility markets:** There is a need to ensure that the Market facilitator is gathering views from, and representing views of, industry participants to ensure its actions do not have unintended consequences on flexibility markets. To do this, input from market participants should be fully embedded in the Market facilitator's

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<sup>1</sup> [Market facilitator policy framework consultation | Ofgem](#)

<sup>2</sup> [Call for Input: The Future of Distributed Flexibility | Ofgem](#) and [Flexibility Market Asset Registration | Ofgem](#)

<sup>3</sup> [Distribution Connection and Use of System Agreement - Curtailable Connections | DCUSA v16.6.](#)

operations. If the Market facilitator does not do this, there is a risk that the Market facilitator's actions (or strategic advice to DESNZ and Ofgem), whilst well-intentioned, will have unintended consequences, lead to counterproductive outcomes, and not have the support of market participants.

3. **There needs to be strong scrutiny of the Market facilitator by industry parties, with the Stakeholder Advisory Board representing the views of all different parties of the energy industry:** The proposals for Elexon to design and manage their own governance arrangements could minimise the ongoing scrutiny Elexon will face. The Stakeholder Advisory Board as proposed will have a wide-ranging role supporting Elexon in carrying out its role, while also supporting Ofgem's assessment of Elexon's performance – therefore it is vital that the board strongly scrutinises Elexon and represents the views of wider industry (rather than just the board members' individual interests). Accordingly, we believe it would be beneficial to have clarity as to how members will be chosen to sit on this board and there should be a clear expectation for members to gather views from wider stakeholders to inform their positions when on the board.

We are happy to discuss our response further with you or provide any additional information that is required. Our response is not confidential.

Yours sincerely,

**Abiye Martyns-Yellowe**  
Senior Regulation Analyst

## **Appendix: Responses to questions listed within Ofgem consultation: Market facilitator policy framework**

### ***Setting up the market facilitator***

#### **Q1. Do you agree with the proposed forward workplan and roles and responsibilities for setting up the market facilitator?**

We agree with the proposals put forward by Ofgem. We would like to note that it is important for the timelines to be strictly adhered to. The ambitious targets towards 2030 make it even more critical to be mindful of losing any time, and speed more than accuracy should be of importance here.

This point has also been made to Elexon at the ongoing workshops and we would encourage Ofgem to create an enabling environment and structure for things to stay on schedule.

Ofgem proposes four consultations in Spring and Summer of 2025 and whilst this is achievable, it illustrates how precise the execution of things according to the timeline must be to deliver on schedule. Some consultations have a dependency on others getting completed before they get progressed.

### ***Market facilitator function***

#### **Q2. Do you agree with the proposed scope of the market facilitator, in particular in relation to the Balancing Mechanism? If not, what would you change and why?**

Yes, we generally agree with the proposed scope of the Market facilitator, providing the Market facilitator continues to ensure a level playing field for different participants engaging with the markets.

We believe that there may be benefit from the Balancing Mechanism and Capacity Market also being in scope though. Having all these markets in scope ensures there is an opportunity to open discussions about improvements to markets that existing market operators may not be open to. We agree that the day-to-day operation of markets should be out of scope as proposed by Ofgem, however broadening the scope of the Market facilitator's actions to include the Balancing Mechanism and the Capacity Mechanism could prove beneficial now.

We, do, however note that the scope as proposed is wide and far ranging and any changes made have an impact on significant markets, thus any design and changes brought forward by Elexon should enhance these and actively facilitate and not undermine such market. Smaller assets already have a mechanism to engage with the Balancing Mechanism through an aggregator, so ensuring any further process to engage with the Balancing Mechanism does not provide an unfair market advantage to these assets will be critical in ensuring market stability. We note some distributed flexibility assets, such as EVs, may not be well suited to participate in all flexibility markets, such as those which require a fast response, and the Market Facilitator should ensure its work in flexibility markets does not promote engagement from assets which are not suited to those markets.

**Q3. Do you agree with the proposed enduring roles and responsibilities for Elexon as market facilitator, in particular on working with NESO and inputting in NESO and DNO performance assessment? If not, what would you change and why?**

We agree with the roles as proposed by Ofgem but we make some points which we believe are key for success. The strategic leadership and market coordination responsibilities placed on Elexon mean they will be involved in important and sometimes complex work streams cutting across several areas and it will require industry support to achieve success. There needs to be a joined-up approach to deliver objectives of the various reforms including but not limited to Data Sharing Infrastructure, Flexible Markets Assets Registration, Consumer Consent Solution, Data Best Practice work, and Smart and Secure Electricity System reforms. This will help maintain industry focus and targeted action at aligning distributed flexibility strategies with Government policy objectives.

DNO and NESO roles as proposed come across as logical and we particularly agree with Ofgem assigning a senior person for responsibility to ensure engagement and compliance. Ofgem will need to ensure these parties are given all the support to work suitably together and we call out the risk of senior persons within such organisations potentially having a focus on areas that are not totally in alignment with the Market facilitator's goals. It will primarily be Ofgem's responsibility to harmonise the various areas to work together to achieve its aims.

**Q4. Do you agree with our proposed roles and responsibilities for key actors and on stakeholder and external scrutiny, in particular in relation to including a stakeholder survey, a stakeholder advisory board and an appeals process? If not, what would you change and why?**

We support the proposed roles for external stakeholders and the use of a stakeholder advisory board providing some of the issues flagged below can be fully addressed.

The stakeholder advisory board will be especially important to support quality decision making and help Ofgem to assess performance. However, there needs to be more thought given to the specifics of this group. It is important all stakeholders feel they are part of a process where their voices are heard. The potential for conflict amongst stakeholders was seen in the third market facilitator design workshop Elexon held, as there were parties who wanted direct involvement rather than having their interests represented by others. Therefore, it is vital that the board strongly scrutinises Elexon and represents the views of wider industry (rather than just the board members' individual interests). Accordingly, we believe it would be beneficial to have clarity as to how members will be chosen to sit on this board and there should be a clear expectation for members to gather views from wider stakeholders to inform their positions when on the board. The alternative should be to have an open consultative process where all parties can feed into decisions.

We agree with the appeals process as set out by Ofgem, however we are concerned about the point made about appeals not stopping budgetary spending while in progress. Whilst we understand the reason for this, there is a chance that where the appeal against a budget related item or activity is upheld, the funds would have been spent already thereby leading to wastage or a loss of financial resources. It could also be interpreted by some as an attempt to prejudge any such appeals, if the spend is not suspended during the process.

There is a lack of detail on the planned appeal mechanism. To be effective, it needs to be legally robust and balanced. Pre-established criteria and thresholds for what successful appeals will be are important so as not to disillusion stakeholders with potentially subjective decisions.

### ***Market facilitator deliverables***

**Q5. Do you agree with our proposals on the market facilitator delivery plan, in particular in relation to the two-year timeframe, adding an annual delivery schedule and Ofgem's role? If not, what would you change and why?**

We agree with the timescales as set out by Ofgem for the delivery plan and addition of the annual delivery schedule. It is important to note that post-transition, the monitoring report, or tracker that has been suggested at implementation stage is as important on an enduring basis.

Elexon should have ongoing dialogue and engagement with industry and as the current working group would have by then come to the end of its remit, perhaps this engagement will be through the stakeholder advisory board, in place to support Elexon in high-level decision making.

**Q6. Do you agree with our proposals on the market facilitator budget, in particular in relation to Ofgem's role and the proposed requirements? If not, what would you change and why?**

Please refer to our answer under Q4.

In addition, and specifically relating to Ofgem not being required to specify a new value for budget amounts as outlined under 3.47 of the consultation document, where an appeal contests a budgetary amount for an area or item, in Ofgem's role as adjudicator where it rules in favour of the appellant, how does Ofgem then rectify the situation if it won't specify an amount? Will that be left to Elexon to correct or will Ofgem rely on the provided value by the party appealing the item?

**Q7. Do you agree with our proposals on the other key market facilitator deliverables? If not, what would you change and why?**

We are broadly in agreement with the proposals.

Importance should be given to the standardisation of the rules in the design and delivery plans Elexon develops as it will allow for ease of operation and accessibility to the services once in operation. The system must be designed in a way that offers a clear overview and visibility of flexibility and ancillary services in the market to facilitate engagement without complexity.

Additionally, consideration needs to be given to how Elexon's role will complement existing industry obligations or processes that are in place for flexibility markets. As an example, under Ofgem's Access SCR reforms, the "Exceeded Curtailment Price" for the Curtailable Connection arrangements is tethered to the market prices for flexibility, and the DCUSA secretariat currently has an obligation under schedule 2D

of the DCUSA to regularly publish a 'Flexibility Market Price Statement.'<sup>4</sup> We question whether actions like this should be picked up by the Market Facilitator in the future, rather than the DCUSA secretariat?

### ***Market facilitator performance arrangements***

**Q8. Do you agree with our proposal not to include financial incentives and instead require Elexon to link its senior management performance related remuneration policy with our performance assessment? If not, what would you change and why?**

We agree that there is no financial link to Elexon's performance as market facilitator. Reputational incentives come across as suitable, but it is important for industry stakeholders to have a participatory role in the process of setting these.

**Q9. Do you agree with our proposals on performance assessment, in particular do you have views on the quantitative metrics we should consider? If not, what would you change and why?**

We agree with the proposals.

It will be useful to have Elexon provide metrics on anticipated performance in specific areas which it can be assessed against when the review is conducted.

**Q10. Do you agree with our proposals on performance expectations, in particular in relation to our proposed 2028 objective? If not, what would you change and why?**

Whilst we support the 2028 objective which Ofgem expects Elexon to have delivered by the end of 2027, we consider the potential for flexibility demand to be improved through ToU tariffs which when half-hourly settlement become an enduring feature of the sector, become easier to operate and manage.

Could this be a less expensive and simpler solution to offer end users without the extra cost of designing, operating, and managing newer flexibility services and thus used to support a fewer suite of streamlined flex services.

We appreciate the urgency due to the CP2030 goals and mention this as it could be an area to explore which might provide equivalent benefit in the long term.

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<sup>4</sup> [Distribution Connection and Use of System Agreement - Curtailable Connections | DCUSA v16.6.](#)