

Joseph Cosier
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10th February 2024

Dear Joseph,

Re: Market facilitator policy framework consultation

I am writing on behalf of National Grid Electricity Distribution (South Wales) plc, National Grid Electricity Distribution (South West) plc, National Grid Electricity Distribution (East Midlands) plc and National Grid Electricity Distribution (West Midlands) plc, collectively known as “NGED”, in response to the Market facilitator policy framework consultation, which ran from 10 December 2024 to 11 February 2025.

Thank you for giving us the opportunity to respond to your consultation. This response consists of two sections:

- Section 1: Executive statement and key messages
- Section 2: Response to specific consultation questions

Executive statement and key messages

We welcome the opportunity to continue engaging in the development of the Market Facilitator policy framework. We continue to support the establishment of the Market Facilitator and recognise the case for change, as detailed in our response to the consultations on the Future of Local Energy Institutions and Governance and the Market Facilitator Delivery Body¹.

We believe it is important that stakeholders have the opportunity to contribute to the design of the Market Facilitator framework and appreciate the opportunity to participate in the Ofgem detailed workshops held between August and September 2024 as well as the ongoing Elexon workshops (November 2024 – March 2025). We have also attended a number of bilateral meetings with key parties including Ofgem and Elexon and look forward to continuing engaging through the forthcoming workshops as well as other fora as needed such as ENA Open Networks.

Key message 1: Co-creation and transparency is imperative. The way in which the Market Facilitator (MF) is stood up will promote its long-term success, and a collaborative, transparent approach is essential. Co-creation increases stakeholders' trust and confidence in the MF, which are key prerequisites for the success of the new institution. Creating an open, transparent framework from the onset also increases the chances of stakeholders' continuous engagement with the MF on an enduring basis, which is important given the expected MF role in strategic

¹ [Consultation: Future of local energy institutions and governance](#) (1 March 2023 – 11 May 2023) and [Consultation: Market facilitator delivery body](#) (13 December 2023 – 8 February 2024)

leadership, market coordination, and implementation monitoring. Drawing upon experience and expertise from all parts of the industry leads to better outcomes. Putting stakeholders at the heart of its design will result in a MF capable of meeting society's needs from the start, and co-creation mitigates the risk of stakeholders claiming in the future that the MF design does not address their needs. This, ultimately, leads to a more robust framework. We ask Ofgem to continue to ensure that the process remains open, collaborative and transparent. One area we would highlight is the transition plan between ENA Open Networks and MF is critical. To date, however, a detailed delivery plan for the transition has not yet been defined. We look forward to seeing a draft from the MF, iterating it as needed, and then fulfilling our role in collaboratively implementing the transition.

Key message 2: Innovation is out of scope. Based on paragraphs 3.10 and 3.20 in the consultation, we understand that innovation is out of scope for the MF. We welcome this clarification which means that the MF will not impact network-led innovation. We further recognise that the MF will include innovation – along with policy, regulation, energy markets, international best practice – as part of its horizon scanning activity and where it may see barriers arise, it will inform the relevant party. We believe this is pragmatic and look forward to continually supporting the MF as it grows and matures.

Key message 3: Elexon should input into the Distribution System Operation Output Delivery Incentive (DSO incentive) through existing channels. We do not believe a new process is needed to enable this. We would caution against extraordinary treatment of the market facilitator's input, as this can cause a conflict of interest given that DNOs need to retain their ability to appeal the market facilitator's decisions. To ensure that Elexon's unique insights are captured in the standard DSO incentive process, Ofgem could consider obligating Elexon's participation and defining the objective data required in its submission.

Conclusion

We look forward to supporting the MF as we continue our involvement and dedication in helping shape and deliver coordinated markets for flexibility aimed at ensuring the most affordable route to decarbonisation of the power system and net zero. We are keen to remain engaged with Ofgem on this topic, and please get in touch should you have any questions about the points raised in our consultation response.

Yours sincerely,

Cathy McClay

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Response to specific questions

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

We welcome the progress made to date by Ofgem and Elexon on the detailed design, implementation, and transition workstreams in enabling the market facilitator to become functional by the end of 2025. We agree with the transitional roles and responsibilities articulated in Chapter 2 of the consultation. We also support Ofgem's ambition to establish the Market Facilitator (MF) at pace. While Ofgem has outlined progress achieved to date, principles-level information for transitional roles and responsibilities, and future milestones – all of which is a useful starting point – it is not clear how the threads relate to each other nor is it clear how delivery is achieved. It would be helpful if Ofgem could provide additional detail.

Roadmap: A Gantt chart mapping work streams and an associated detailed matrix of responsible owners, deliverables, decisions, and respective dependencies would be helpful to visualising and guiding stakeholders on how the MF will be stood up. This could also usefully delineate between transition and permanent states.

Escalation: The consultation does not appear to account for governance and escalation procedures during the development phase. It is not clear, therefore, how Ofgem and Elexon will manage challenge to MF proposals nor is it clear how challenge might impact delivery timelines.

Transparency: The transition plan between ENA ON and MF is critical. However, there is no clarity regarding how stakeholders will feed into this transition. Also unknown are how activities that do not transition to MF be resourced and monitored. Network operators contribute significantly to ON, but given the lack of information on the transition, there is a risk that there will be a lower level of co-creation, as well as a chaotic transition.

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 tentatively agree with the proposed scope, with the caveat that further clarification is necessary, particularly in relation to the Balancing Mechanism. The consultation proposes that “the Balancing Mechanism is within scope, excluding operations, which would remain wholly NESO's responsibility” (paragraph 3.7).

Our interpretation of this proposal is that the MF would review the processes and rules relating to how providers enter into and participate in the Balancing Mechanism. Consistent with Ofgem's expectations that the MF will input into NESO's market design framework and service design process (para. 3.23), the MF would then identify and suggest improvements to:

- Maximise and streamline providers' access to the Balancing Market;
- Tackle any barriers to entry;
- Identify and mitigate conflicts across DNO and NESO market participation, in particular relating to primacy and stacking;
- Ensure a level playing field, meaning all bids and offers are assessed on their merits and there is no undue discrimination; and
- Enhance the overall transparency and clarity of rules of the Balancing Market framework.

Decisions on which bids or offers into the Balancing Mechanism to accept as well as balancing instructions to market participants constitute “operations” (para 3.7) which would sit outside the MF’s scope. We ask Ofgem to confirm if this interpretation is consistent with its expectations.

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 enduring roles, but we would like to highlight the following improvements.

We believe that the MF should have more influence over NESO, both in terms of market design and particularly around the implementation of MF outputs. There is a risk that that NESO’s licence conditions could impact its ability to implement MF outputs within the same timescales as DNOs. NESO is currently required to consult annually with stakeholders on market changes. A coordinated approach is required to ensure that the separate MF and NESO consultations take place in an efficient manner, while avoiding contradictions which could confuse stakeholders or delay the implementation of MF outputs.

Regarding Elexon feeding into DNO performance assessment, we do not believe a new process is needed to enable this. We would caution against extraordinary treatment of the market facilitator’s input, as this can cause a conflict of interest given that DNOs need to retain their ability to appeal the market facilitator’s decisions. To ensure that Elexon’s unique insights are captured in the standard DSO incentive process, Ofgem could consider obligating Elexon’s participation and defining the objective data required in its submission.

Without a detailed proposal, we are concerned that Ofgem may be considering giving the Market Facilitator a special forum into which to provide feedback and give such feedback heavier weighting than other stakeholders participating in the standard process. We are further concerned that Ofgem may not have considered impartiality and symmetrical treatment principles along with the risks posed toward network companies. Regarding impartiality, if networks believed that the MF could limit their incentive reward or dampen their reputation, then networks might be less forthcoming in challenging the MF – both in the immediate term during MF formation and in the long term with appealing MF decisions – leading to a less robust institution overall. Regarding symmetrical treatment, it is not clear that networks and NESO will have the same opportunity to assess the MF’s performance and if even if it did, the impact to the MF’s financial reward and reputation would not be like-for-like. DSOs stand to gain/lose based on an incentive while the MF’s budget would not be impacted. Considering these risks and uncertainties, our view at this time is for the MF to feed into the DSO survey as any other stakeholder would.

We also ask for clarity as the consultation uses inconsistent wording. Question 3 of the consultation references the “DNO performance assessment,” while paragraphs 3.25 and 3.26 reference the “DSO incentive process.” For the purposes of this consultation response, we take Ofgem to mean the Distribution System Operation Output Delivery Incentive (DSO incentive) and its associated process rather than any other DNO performance assessment that may occur within the broader RIIO framework. Please confirm or correct our understanding.

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 agree with Ofgem's proposed approach, particularly the emphasis on robust governance and the inclusion of a stakeholder advisory board to ensure diverse input. The addition of a stakeholder survey is a welcomed measure to promote transparency and gather broad feedback.

While the proposal effectively outlines mechanisms for scrutiny, we note a lack of emphasis on co-creation as a foundational element of the market facilitator's operation. We would emphasise that effective collaboration and co-creation during the early stages is crucial. Drawing from the success of ENA Open Networks, we suggest a more explicit focus on collaborative engagement to pre-emptively address potential areas of contention and foster trust among stakeholders. This would help mitigate the likelihood of challenges escalating to the appeals process proposed for technical outputs, ensuring its processes are proactive and inclusive rather than reactive and dependent on formal appeals.

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 largely agree with the proposals save for one aspect. The consultation proposes that the market facilitator delivery plans cover calendar years (1 January – 31 December). However, budgets will be set over a financial year period (i.e. April to March). This means that each delivery plan period will span two different budgets. This disconnect between delivery plan year and budget year can give rise to practical challenges. We propose that MF delivery plans are set on a financial year basis to align with budget years and with the first financial year prorated as needed. This will have the benefit of simplicity and more streamlined governance. We also note that this would keep with stakeholders' expectations, as key organisations in the sector already set their annual priorities on a financial year basis; we refer, for instance, to Ofgem's annual Forward Work Programme publication² and to NESO's annual Business Plan publication³, both of which are set on a financial year basis (April – March). We also suggest, based on our experience in Open Networks, that work plans are developed to take each area to a logical conclusion in comparison to aligning with a set calendar cycle.

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?

We largely agree with Ofgem's proposals regarding the market facilitator's budget. While we appreciate Ofgem's endeavour to be comprehensive, one area where we'd encourage the regulator to articulate the needs case and to carefully consider is if an appeal mechanism for the budget is proportionate. The consultation has not explained why the existing processes are insufficient, and in light of the expected low materiality – year 1 MF budget is expected to be £1.6m or ~1.3% of Elexon's 2024-25 annual budget⁴ – we are not certain that an appeal mechanism is necessary. Designing an appeal mechanism would be a time- and resource-intensive process, which could divert Ofgem and industry attention away from other areas linked to potentially larger benefits for consumers and market participants.

Furthermore, if an appeal mechanism is implemented, this would create a dual governance regime

² [Forward Work Programme | Ofgem](#)

³ [Our RIIO-2 Business Plan | National Energy System Operator](#)

⁴ Elexon budgets £1.6 million for MF activities in FY 2025/26. See slide 7: [MF workshop 2 presentation slides](#)

⁵ Financial Year 2024/2025 budget was set at £119m. See [FY 2024/25 Final Business Plans](#)

in relation to Elexon's overall budget-setting process. The market facilitator budget would be subject to an appeals process, whereas other items of Elexon's budget, totalling significantly higher costs, would be subject to non-binding resolutions raised by parties.⁶ In this case, Ofgem should consider whether this different treatment is justified and whether there would be merit in aligning the two sets of rules to ensure scrutiny and recourse are available where needed and in the best interest of consumers.

To remain consistent with Ofgem's decision to reject P416 in 2021 and to avoid a dual governance regime, we propose that Market Facilitator budgetary assurance could be achieved through other processes. Two avenues to leverage might be the business planning cycle and Ofgem's annual public performance assessment.

1. MF scope of work should drive the budget. This, in turn, will be determined through the delivery plan whose development cycle must include stakeholder consultation. Ofgem might consider obligating MF to take on board stakeholder feedback or provide sound justification for declining feedback. The rationale is that the budget is commensurate with the scope of work which is openly and transparently agreed.
2. We agree with paragraph 4.11 of the consultation which proposes that the budget itself must also be open for consultation and stakeholder feedback.
3. Ofgem's annual performance review is another opportunity for budgetary checks and controls. Ofgem proposes evaluating the MF's plan for ambition of delivery. We build on this and suggest that it would be a natural extension and worthwhile for Ofgem, leveraging its capabilities as an economic regulator, also to evaluate if Elexon achieved value for money given its budget, spend and outputs. While we hope that Ofgem will always find that Elexon performed well, should Ofgem find to the contrary, then we would suggest that Ofgem determines the root cause and issues a course correction for the following year. Should Ofgem continually find that Elexon is underperforming, then other remedial procedures and measures should come into effect. In the case of NESO, Ofgem has set out its expectations that a combination of tools can safeguard against serious poor NESO performance. These tools include: NESO's Business Plan determination, open letters, enforcement, maintaining public investigations, ensuring appropriate links to senior staff remuneration, and having clear backstop consequences for senior staff in the event of very serious failure.⁷ Given Elexon operates under very different governance arrangements⁸, we appreciate that some of the tools mentioned above will not be applicable. Having said that, there is value in monitoring ongoing developments of NESO's performance assessment framework, as some of the questions that have arisen therein are similar to those discussed in the MF framework development.

We encourage Ofgem to explore these options.

⁶ In November 2021, Ofgem rejected P416, which proposed to introduce an appeals mechanism that BSC Parties could use to challenge items in Elexon's Annual Budget. Among other reasons, Ofgem expressed concerns that the option of an appeal "may result in missed opportunities to resolve potential issues earlier in the Budget process, leading to inefficiencies". See: [P416 Introducing a route of appeal for the Annual Budget in line with the proposals for the Retail Energy Code - Elexon BSC](#)

⁷ See paras. 2.26 – 2.31 [Decision on NESO's performance incentives framework for BP3 | Ofgem](#)

⁸ See [Governance - Elexon](#)

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

We broadly agree with the proposals outlined for the market facilitator's deliverables and support the ambition to provide clarity and alignment across the flexibility market landscape. However, we note that the level of detail provided in the consultation is relatively limited, particularly concerning some of the more complex deliverables.

Furthermore, there is ambiguity around whether the market facilitator's role will extend to the delivery of the Flexibility Market Asset Registration platform. This is a critical element for enabling effective coordination across distribution and transmission markets, and greater clarity on its scope, ownership, and timeline would help build stakeholder confidence in the framework.

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 with Ofgem's proposal for no budget at risk nor financial incentives.

Regarding a policy linking senior management performance related remuneration to Ofgem's annual performance assessment of Elexon, we would support this in principle, and we are keen to continue engaging with Ofgem on Ofgem's specific proposals, as further detail is needed before we are able to give constructive feedback. Notwithstanding, we understand that there will be a senior staff remuneration policy in place for NESO, during the Business Plan period commencing 1 April 2025 and ending 31 March 2026 (BP3), linking senior staff remuneration with Ofgem's performance assessments.⁹ There may be shared lessons to be learned in designing the policy for each MF and NESO and areas of relevant cross-alignment. We will keep this in mind going forward, and request that Ofgem does the same.

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 Ofgem's three-part approach to performance assessment where Ofgem will evaluate Plan ambition and delivery, Metric performance, and Stakeholder evidence. We look forward to commenting on each of these as-and-when additional details become available. As stated in our response to question 6, we believe Ofgem should also evaluate Elexon value for money against its performance and deliverables/outputs. This is a quantitative measure we suggest adding.

We have no comments at this time with respect to Plan ambition and delivery. With respect to the quantitative measures suggested in the consultation, we are keen to reflect on lessons learnt when developing and applying quantitative performance metrics. The consultation states that performance measures and targets could relate to "the amount of flexibility dispatched, procured or tendered for instance, or the savings associated with flexibility procurement." While these are relevant to the marketplace in which the MF will work, they are indirect functions of a high-performing MF that relies on other actors rather than areas in the MF's direct control and remit. While these measures gauge how well the market is working, it is not possible to attribute market

⁹ See paragraph 2.19, [Decision on NESO's performance incentives framework for BP3 | Ofgem](#)

success to a single actor. In addition, the proposed performance measures are inherently difficult to measure. For these reasons, we do not believe these are appropriate. We reflect on each in turn below.

- Amount of flexibility dispatched: This is wholly out of the MF's control and at the discretion of networks. Also of note, the landscape of how networks will use flex will change. In RIIO-ED2, networks deploy a flex first approach to deferring capital investment. However, in RIIO-ED3, Ofgem has indicated a desire to evolve the use of flexibility¹⁰. Therefore, we do not believe this would be a good measure to evaluate MF performance.
- Amount of Flexibility procured or tendered: Both, like flexibility dispatched, are out of the MF's control. Procurement and contractual arrangements reside between networks/NESO and the flexibility service provider; the MF is not a party. Tendering is carried out by networks/NESO, and while the MF will carry out market coordination, it has not been proposed nor envisaged in this consultation nor previous Ofgem consultations and decisions that the MF will conduct tenders¹¹. As such, we do not believe this would be a good measure to evaluate MF performance.
- Savings associated with flexibility procurement: This is also outside the MF's operational and functional remit. What's more, it is in a similar vein to the Flexibility Reinforcement Deferral Outturn Performance Metric of the DSO Incentive. This metric was designed to measure savings through deferred capital investment. However, in its RIIO-ED2 Final Determinations, Ofgem decided against implementing this and all other DSO incentive outturn performance metrics in year 1 of RIIO-ED2, is currently consulting on new measures and formally removing the performance metrics from the DSO incentive.

We believe it is worth considering more appropriate quantitative measures aligned to the MF's function in Market Coordination. We propose three quantitative measures which we believe, at this time, would impart the biggest impact for stakeholders:

1. MF work on aligning processes and tackling barriers to entry should reduce market entry friction. We suggest that Ofgem establishes a quantification of MF's impact in this area, possibly looking at the time it takes for FSPs to offer their flex to market or a one-stop-shop approach to registration.
2. To date, primacy and revenue stacking do not exist, but we are aware that this will be tackled by the MF. As such, we suggest that the growth of FSPs offering their flex simultaneously into multiple markets could be a quantitative indicator of MF performance.
3. As mentioned, we suggest that Ofgem evaluates Elexon value for money through its annual performance process.

We look forward to engaging more with Ofgem and Elexon in developing suitable, tangible quantitative measures focusing on success within Elexon's control and deliverability as well as evolving them over time to ensure they continually reflect the needs and priorities of stakeholders.

¹⁰ Paragraph 1.11 and Chapter 6, [ED3 Framework Consultation](#)

¹¹ Table 1, [Market facilitator delivery body consultation](#); Table 2, [Future of local energy institutions and governance decision](#)

Finally, with respect to stakeholder evidence, we suggest that learnings and practices from the Distribution System Operation (DSO) Output Delivery Incentive (ODI) could provide some useful guidance regarding how this could work. We look forward to additional detailed proposals from Ofgem and would be happy to share our experience from this area at the appropriate time.

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?

We broadly agree with the proposed performance expectations and the ambition to achieve the 2028 objective. Setting clear and measurable targets is essential for driving progress and ensuring accountability. We welcome the focus on creating a market framework that delivers tangible outcomes for decarbonisation, system flexibility, and consumer benefit.

However, we would encourage Ofgem to provide additional detail on the specific metrics and evaluation methodologies that will be used to assess performance against the 2028 objective. A balanced approach that combines both quantitative and qualitative metrics will be crucial to capturing the full scope of progress made by the Market Facilitator and other stakeholders.