

# Statutory consultation on the temporary facilitative licence condition to support the implementation of the Independent System Operator and Planner – Reasons and effect

*National Grid plc response*

This response to Ofgem's "*Statutory consultation on the temporary facilitative licence condition to support the implementation of the Independent System Operator and Planner – Reasons and effect*" dated 12 April 2024 (the consultation) is from National Grid (NG), on behalf of our transmission business, National Grid Electricity Transmission (NGET), our electricity interconnector business, National Grid Ventures (NGV) and our electricity distribution business, National Grid Electricity Distribution (NGED). It does not cover the separate National Grid Electricity System Operator business.

The National Energy System Operator (NESO), once established, will sit at the heart of the energy system and has the potential to drive the transformation of our energy system at pace to achieve ambitious decarbonisation goals. We recognise Ofgem's commitment, through the proposed facilitative licence condition, to ensure that the transition from the ESO to the NESO is completed in such a way that allows delivery to continue at pace and to implement the new roles and responsibilities in a timely fashion so as to realise the benefits of bringing together previously separate processes.

Below are our answers to the questions posed in the consultation.

## **Q1–Are there any foreseeable impacts from the implementation of the temporary licence condition which we should consider?**

Although the condition is limited in scope by its reference to the ISOP Implementation Objectives and the ISOP Change Programme, it is unclear exactly what these will cover. Where the facilitative licence condition results in amendments to a business process or system to facilitate the establishment of the ISOP, this could have costs implications. We welcome the commitment to consult on the ISOP Change Programme document, but it is currently unclear whether these sorts of changes might fall within the scope of the ISOP Change Programme.

As such, we would welcome further clarity on the scope of the ISOP Change Programme and, where this has the potential to result in costs, whether a cost recovery mechanism will be established. For example, in the past NGV has been able to recover costs incurred in responding to industry change such as in establishing new markets/trading mechanisms as part of the EU's internal energy market.

## **Q2 – Does the text of the temporary licence condition capture the policy intent as set out in this consultation document?**

The text of the licence condition as drafted is aligned with the policy intent to temporarily require that listed licensees support the timely implementation of the ISOP.

We would like to propose an amendment to Part C of the temporary facilitative licence condition as follows:

*"Without prejudice to any public or administrative law right, or statutory right or contractual right that the licensee may have, including to bring any claim against any public body or person, the licensee must not knowingly or intentionally take any step, or exercise any right, which is intended to hinder or frustrate meeting the ISOP Implementation Objectives or the giving of full and timely effect to any ISOP Change Programme."*

These proposed amendments are intended to reflect the Transitional Service Agreements (TSAs) in place between the NESO and National Grid and to ensure that the risk of any delay to achieving milestones within those TSAs could not be construed as frustrating the implementation of the NESO, where National Grid has complied with the terms of such agreements.

**Q3 – Do you have any other views or comments relating to the temporary licence condition?**

Like many other licence conditions, it is suggested that the proposed temporary licence condition may benefit from an introduction section ahead of Part A setting out the purpose of the condition along the following lines:

“The objective of this licence condition is to require the licensee to take certain steps and do certain things which are within its power and which are or may be necessary or expedient for the purposes of facilitating the transition to ISOP.”