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28<sup>th</sup> March 2025

Dear Mr Baillie

**Re: Preliminary Strategic Direction Statement and code governance arrangements**

Thank you for the opportunity to respond to the above noted consultation. Northern Gas Networks (NGN) has been actively involved in workgroups and discussions relating to the Preliminary Strategic Direction Statement and code governance arrangements and appreciate this opportunity to inform your decision. We have set out our responses to the specific consultation questions in Appendix 1 and, highlight below the pertinent points we have made in our response.

As a Gas Transporter, NGN is party to the Retail Energy Code and Smart Energy Code, however, our primary code is the Uniform Network Code (UNC). Therefore we have answered the questions in this consultation in relation to this code and our perspective as a Gas Transporter.

- NGN welcome the development of the Strategic Direction Statement (SDS) and support the development of a framework for prioritisation.
- With the introduction of prioritisation, the SDS must play a crucial role in guiding the direction, while stakeholder bodies must provide adequate details to ensure successful implementation of changes.
- It is crucial to regularly update modification categories to keep pace with shifting policies and ongoing innovation. Decisions in this regard must be flexible and forward-looking to effectively navigate potential changes in direction. Considering the opportunity for hydrogen and the role of gas networks in the future, it is important to take a whole systems approach.
- As decisions regarding the role of gas networks, including potential decommissioning or repurposing, have not yet been finalised, modifications within the "Act Now" stage are premature.
- The framework should ensure that all stakeholders have a clear and fair right to appeal decisions, fostering transparency and inclusivity.
- Prioritisation processes must not create barriers or discourage industry stakeholders from submitting modification requests, as their input is vital for maintaining an adaptive and effective system.

Please contact me on the details provided below should you require any further information in respect of this response.

Yours sincerely,



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the network**

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## Consultation section 2 – Approach to the Strategic Direction Statement

### ***Question 1 – Is the structuring of SDS content into three time horizons (Act now, Think & plan, Listen & wait) helpful?***

Yes, structuring the Strategic Direction Statement (SDS) into three-time horizons—Act Now, Think & Plan, and Listen & Wait—is well-structured and effective. NGN's recognises the need for clear direction, coupled with identifying priority areas, which provides valuable insight into where the regulator perceives a need for progress.

### ***Question 2 – Do you agree with the way modifications have been categorised into these three-time horizons (Act now, Think & plan, Listen & wait)? If not, please specify what changes you suggest and why.***

Yes, the response is divided into two sections: Before the mandate is included in the license, and after.

**Before the Mandate:** Prioritising SDS-identified modifications may encounter challenges due to the absence of a mandate requiring existing code administrators to adhere to this prioritisation. During this phase, it is crucial to carefully balance these priorities with regular business-as-usual requirements, ensuring robust and well-considered development efforts where needed.

**After the Mandate:** From a consolidation perspective, integrating the IGT UNC into the UNC seems to be a practical and achievable option, potentially making it a priority. This includes consideration of how it will be funded, as it appears to be one of the more straightforward actions to undertake. Merging the IGT UNC into the UNC would further streamline the wholesale gas code and could serve as a model for consolidation in the electricity sector.

Additionally, it will be vital to consistently update modification categories to align with evolving policies and advancements in innovation. Any decisions in this area must remain adaptable and forward-thinking to address potential shifts in direction effectively. Given the uncertainties surrounding hydrogen and the future of the gas network, all aspects should be considered comprehensively, ensuring that attention is not disproportionately focused on the electricity sector alone.

### ***Question 3 – On the basis that the SDS should contain a strategic assessment of government policies and developments relating to the energy sector, that will or may require the making of code modifications, do you think there is anything missing from the SDS that you would expect to require code modifications in the next 1-5 years? If so, please specify.***

Given the uncertainty surrounding the opportunity for hydrogen and the gas network, it is crucial to consider all areas comprehensively, ensuring attention is not solely directed towards the electricity sector. The role of hydrogen in industry should be considered further.

It is crucial to regularly update modification categories to keep pace with shifting government policy and ongoing innovation. Decisions in this regard must be flexible and forward-looking to effectively navigate potential changes in direction. Considering the opportunity for hydrogen and associated uncertainty regarding the role of a methane gas network in the future, it is important to take a whole systems approach, ensuring that focus is not overly concentrated on the electricity sector at the expense of other areas.

### ***Question 4 – Did you find the SDS easy to understand and do you think that the level of detail included is sufficient to allow you to begin raising and implementing code changes?***

Yes, given that this document is intended solely for strategic direction, the SDS provides sufficient context to understand the energy landscape. However, more specific and detailed guidance would be required to implement code modifications. To aid industry in further understanding the SDS in relation to modification proposals, the SDS should remain a high level document but with a more detailed supporting document to be created by code managers and NESO.

With the phased rollout of the Code Managers, there may be gaps in direction and detail necessary for developing these sections. Several areas identified under the “Act Now” category are currently governed by a license obligation, which would need to be resolved before any code modifications can proceed. NGN need to ensure that we effectively demonstrate compliance. One example of this would be “7.1: Recover the cost of the existing gas network”. Progressing this change without the necessary authority in place before the

appointment of the code managers may be premature as powers required for change in the license obligation are not within the administrators remit. Additionally we ask that this title is amended to reflect that this is to potentially recover costs over an accelerated timeline; as there already exists a defined process for the setting, and recovery, of network charges.

The implementation timeline will also need to take into account the ability for industry to make necessary changes and allow for a fair and clear tendering process. Lessons should be learnt around the implementation of Retail Energy Code (REC), relating to code consolidation as to what was successful, and what areas could be more effective, including earlier effective engagement from the whole of industry.

Consideration is needed to ensure that the impact on large scale strategic innovation projects, e.g. hydrogen trials and enduring market, are not adversely impacted by changes to codes and governance. NGN led the way by introducing the concept of derogation into the UNC to allow for trials to take place and for the enduring future code & system related impacts to be considered at an earlier stage. Ensuring in flight net zero projects are not disrupted by changes to code governance is critical to ensure that government net zero targets and hydrogen strategy are achievable.

Decisions regarding the future of a methane gas network, including its repurposing and decommissioning, have not yet been finalised. As a result, certain areas within the "Act Now" category may not be practical until a clear direction has been established.

***Question 5 - If you are a code administrator or code panel what action do you intend to take, if any, to implement the SDS following publication?***

NGN is not a code administrator, however, the Gas Transporters have the licence and financial obligations for the Uniform Network Code (UNC). Aligned with this we also comply with the Joint Governance Arrangements Agreement (JGAA). The Joint Office of Gas Transporters will be replying to this consultation separately.

Additionally, as a Gas Transporter we note that the timing of the move of ownership of code from current licensee to the new code manager will need to be carefully managed in line changes to, or removal of Gas Transporter licence conditions: Standard Special Condition A11 Network Code and Uniform Network Code, and Standard Special Condition A12 Joint Office Governance Arrangements. Additionally further consideration will be needed regarding Standard Special Condition A15 Central Data Service Provider depending on direction in relation to Central Data Services.

***Question 6 - Do you have any suggestions about the best way to implement the SDS in the context of budget setting, delivery planning and the introduction of a harmonised prioritisation process? Please note we will be doing stakeholder engagement in early 2025 to discuss this further.***

Yes, we look forward to the stakeholder engagement as mentioned, to be able to further discuss our views. The information below is based on the information within this current SDS consultation.

As previously raised in prior consultations, NGN ask that, where possible, it is a consideration for the proposed changes to the licencing of code managers to be made in alignment with the next Revenue = Incentives + Innovation + Outputs Gas Distribution 3 (RIIO GD3) price control. This should benefit easier implementation of consequential licence changes, including any funding models, to Gas Transporters and other impacted parties.

NGN support consolidation of IGT UNC into the UNC, as this should reduce duplication between codes, and provide easier navigation of the code landscape in relation to wholesale gas as well as clearer standardisation for consumers regardless of whether a customer of a Distribution Network or Independent Gas Transporter. We consider that this would be better facilitated once the Joint Office of Gas Transporters has changed from a code administrator to a code manager, which is has appropriate funding by the relevant parties to the code. This should allow the merger of the IGT UNC into the UNC to be managed, and funded, by the code manager. The consolidation of these codes, prior to the appointment of the Code Manager, will need to have the financing arrangements carefully considered.

***Question 7 - Do you have any other feedback?***

Ofgem's role and oversight are crucial to ensuring that this framework delivers the desired outcomes effectively. Clear and decisive mechanisms, along with well-defined terms of reference for decision-making, must be established to provide structure and direction. Furthermore, the responsibilities of the regulator under the Gas Act and Ofgem's role under the Energy Act need to be explicitly clarified.

Ofgem, NESO, and the Code Manager will each have a responsibility to cascade detailed information regarding the SDS framework. This means they need to ensure that the level of detail provided is appropriately tailored to suit the needs and relevance of each individual tier or level within their respective structures. Essentially, they must distribute this information in a way that is both clear and meaningful for the specific audience or stakeholders at each level. This process ensures alignment and understanding across all tiers involved.

### **Consultation section 3 – Code governance arrangements**

#### **Prioritisation of code modifications**

***Question 8 – Do you agree with our proposed prioritisation process, including the requirements that:***

***(a) a proposer of a modification proposal should be required to include an assessment of their proposal against the prioritisation criteria***

***(b) that the code panel should then be responsible for determining the prioritisation category of the modification proposal***

***(c) that code panels should reassess the prioritisation category of modification proposals on a quarterly basis***

***(d) that all codes contain a requirement for a code modification register, that also includes whether a modification is urgent and the prioritisation category***

***If not, please specify what changes you suggest and why.***

Yes, it is essential to establish clear and transparent criteria to guide decision-making processes, ensuring fairness and consistency.

- (a) Proposers should be required to include their assessment, as this will go to demonstrate that they have considered these elements, and help Panels to have discussions, and come to decisions, in relation to whether this meets the criteria as stated. This is similar to how the Relevant Objectives are currently treated.
- (b) Whilst the Code Panel would, on the surface, appear to be best placed to determine prioritisation, there are a number of additional factors that need to be considered to enable this to take place.
  - a. A clear appeal mechanism should proposers not agree with the prioritisation category.
  - b. A clear maximum timeline for proposals to be in the low category, before they are recategorised and progress, this includes ensuring that smaller organisations are adequately represented and have a meaningful voice in the process, preventing their interests from being overshadowed by larger entities.
- (c) NGN also agree modifications are reassessed; however, we believe this review should take place annually to ensure alignment with the updated SDS and allow sufficient time for progression of modifications already in flight. Conducting quarterly reviews would place an unnecessary burden on both panel administrators, and panel members.
- (d) It is considered good practice for all codes to include a requirement for a code modification register. This register should specify whether a modification is deemed urgent and indicate its prioritisation category. The UNC, whilst not obligated to, already maintains and published a register with modifications falling under the urgent criteria clearly identified. The addition of a prioritisation category should be simple for the code administrator to add.

Additionally, an appeal mechanism directed to Ofgem should be incorporated, allowing stakeholders to challenge decisions if they consider the established criteria or processes have not been adhered to. This

would promote accountability and trust while ensuring that all parties have an opportunity to raise concerns and seek resolution.

There may be a need for additional clarification regarding the interactions between the licence and code. The licence requires compliance with the SDS following the appointment of the relevant code manager; however, the proposed drafting related to code panels and prioritisation of modifications suggests that the SDS is one of the criteria that should be considered. Based on the consultation and the workshops, it appears that the SDS will apply only to designated codes, which will align with the appointment of their code managers. If this is the intention it is currently not clear; therefore further clarification, regarding the code panel interaction with the SDS, is required to accurately reflect this aspect.

***Question 9 – Do you agree with our proposed prioritisation criteria and prioritisation categories? If not, please specify what changes you suggest and why.***

Yes, NGN agree with the principle of prioritisation; however, there may be a need to introduce a third category for lower-priority items where there is potential for future impact. Additionally, it is important to ensure that not everything is classified as high priority, so all modifications receive the necessary review and attention but in accordance with the criteria.

The implementation of Prioritisation involves several important considerations to ensure its success and alignment with strategic goals.

**Prioritisation and Appeal Mechanisms:** The prioritisation process must be guided by clear and unambiguous criteria, supported by robust appeal mechanisms. It is vital to ensure fairness and prevent the process from disproportionately favouring larger parties, giving smaller stakeholders an equal platform.

**Merging of Codes:** When merging various codes, the potential impacts must be carefully assessed, including the establishment of clear and sustainable funding arrangements.

**Efficiency and Governance:** A focus on efficient and well-governed processes is critical, with clearly defined criteria for prioritisation. Ambiguity in these criteria must be avoided, and mechanisms must be in place to ensure smaller voices are represented and heard.

**Impact on Licence Obligations:** The merging of codes and the introduction of new governance models should align with existing licence obligations and avoid creating new risks. Ensuring a seamless transition within the framework of current obligations is essential.

**Role of Ofgem:** Ofgem's responsibilities and powers must be clearly articulated. Communication should clarify actions taken under specific legislation, such as the Gas Act and the Energy Act, to eliminate confusion and ensure a smooth, transparent process.

**Appeal Processes:** Existing appeal mechanisms should be reviewed and reinforced to ensure inclusivity and balance. Smaller stakeholders must have clear avenues to raise concerns, and the process should avoid undue influence by larger parties.

Additionally, it is important to consider:

The prioritisation process must be designed in a way that does not hinder or discourage industry stakeholders from requesting modifications. It is essential to strike a balance that facilitates industry participation while managing the process effectively to maintain efficiency and fairness.

**Differences between Gas and Electricity:** A holistic view is necessary to address the distinctions between these sectors, rather than treating them in isolation.

**NESO and Ofgem Dynamics:** Attention should also be given to potential conflicts or overlaps between NESO and Ofgem, ensuring that roles and responsibilities are well-defined and coordinated.

There is also additional clarity needed regarding interactions between licence and code, and we refer you to our response at the end of question 8.

***Question 10 – Do you agree with our proposed legal drafting of code modification prioritisation procedure included in Annex A? If not, please specify what changes you suggest and why.***

Yes, NGN agree with the proposed legal drafting of the code modification prioritisation procedure outlined in Annex A. The approach is along the right lines and provides a solid foundation for establishing a structured and effective prioritisation process. However, there are several areas where further refinements could strengthen the proposal:

- **Missing Elements:** While the drafting captures key aspects, some critical elements are not fully addressed. For example, ensuring clear criteria for prioritisation and providing a framework to manage potential conflicts or overlaps between codes could enhance the robustness of the procedure.
- **Impact if Agreement is Not Reached:** It is important to detail the potential implications if consensus cannot be achieved. This should include the impact on progress, timelines, and the ability to address urgent or high-priority modifications effectively. Highlighting these risks will help stakeholders appreciate the importance of alignment.
- **Appeal Process:** A clearly defined and accessible appeal mechanism is essential to ensure fairness and inclusivity. This should allow all parties, especially smaller stakeholders, to raise concerns and challenge decisions where they feel the process has not been applied equitably.
- **Level of Detail:** The drafting should ensure it provides sufficient detail to enable consistent implementation across all relevant parties. Ambiguity in the procedure could lead to inconsistent application, undermining the prioritisation process.
- **Consistency Across Codes:** It is crucial to ensure that the drafting promotes consistency across different codes, avoiding a fragmented approach. This will help streamline the prioritisation process and ensure a cohesive framework that supports broader strategic objectives.

Incorporating these refinements will not only enhance the clarity and effectiveness of the procedure but also ensure that it aligns with the needs of all stakeholders while maintaining fairness and transparency.

There is also additional clarity needed regarding interactions between licence and code, and we refer you to our response at the end of question 8.

***Question 11 – Do you agree with our proposed definitions to form future guidance on Code Modification Prioritisation included in Annex B? If not, please specify what changes you suggest and why.***

Yes, NGN agree with the document. We note that there may be a need to introduce an additional category for modifications that have the potential to add value in the future. Including this would ensure a more comprehensive prioritisation framework and allow for a structured approach to addressing all types of modifications.

***Question 12 – Do you have views on whether this proposed prioritisation process should apply to all live modifications that exist at the date that the proposed code changes take effect, as well as newly proposed modifications from this date onwards?***

NGN consider that the proposed prioritisation process should primarily apply to newly proposed modifications from the date the code changes take effect. Existing live modifications should remain under the current framework unless the requester opts to resubmit their modification under the new prioritisation scheme.

This approach respects the progress already made on live modifications and avoids disrupting ongoing processes. It also provides flexibility for requesters who believe their modification could benefit from the updated prioritisation structure, ensuring a balance between continuity and the effective implementation of the new process.

## Role of stakeholders

### ***Question 13 – Do you agree with our proposed drafting of a new principles-based standard condition, for cooperation with code modifications related to SDS, for all gas and electricity licences, included in Annex C?***

Yes, NGN agree with the proposed drafting of a new principles-based standard condition for cooperation with code modifications related to the SDS, as outlined in Annex C. The drafting appears fair and provides a solid foundation. We note a few areas that would benefit from further clarity:

- **Disclosure to Code Managers:** The requirement for disclosure to code managers focuses on implementation rather than the development of changes. It would be helpful to clarify how this approach factors into the overall alignment with the SDS, ensuring that the disclosure process supports the intended outcomes.
- **Future Role of Code Managers:** Considering the legal implications of the future role of code managers, it is important to outline how they will interact with the SDS-related modifications and the governance structure supporting these efforts.

We request that the interpretation elements of the drafting are capitalised as defined terms to avoid any ambiguity and to align with the existing drafting style of our licence.

### ***Question 14 – Do you agree with the proposed criteria the code manager should consider prior to issuing a request for cooperation?***

Yes, NGN support the proposed criteria and considerations for the code manager before issuing a request for cooperation. Below are the key points:

- **Use of Information Requests:** Information requests, workgroup attendance, and bilateral discussions should be effectively and appropriately utilised to gather insights and drive progress. These should be explored, and this demonstrated, before a request is issued to parties under the new licence condition. As with the existing obligations under licence to provide information to The Authority, these requests must formally state the licence condition.
- **Timing:** The code manager must carefully consider the stage at which cooperation is requested. Seeking cooperation early in the process can help address potential issues and reduce the need for extensive engagement later. The timeline for the provision of data should also take into account resourcing requirements and ease of availability of the data. Requests should be specific and not open ended (eg not asking for long term or continuous reporting of particular data items)
- **Impact on Code Parties:** Resource implications for code parties should be taken into account. It is important to ensure that only relevant code parties are included in the request to maintain efficiency.
- **Volume of Requests:** The number of requests needs to be managed to prevent duplication and the risk of unnecessary burden on code parties. Identifying similarities among requests can help streamline the process and reduce unnecessary burdens.

Parties should be able to challenge any request for data based on whether or not it meets the criteria, as well as if there is any conflict with any other governance in their providing the information.