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Reference: Modification of carbon dioxide transport and storage licences development
expenditure: consultation

Dear Joe

I am writing on behalf of NEP in response to your ongoing consultation regarding the proposed modifications to clauses J5 and J15 of the CO₂ T&S licence.

At this stage, we would prefer for our responses to remain confidential. However, should it be helpful to you, we would be open to publication subject to appropriate redactions.

Our response is structured around the four questions set out in the statutory consultation notice. Overall, NEP welcomes these proposed licence modifications, which in part reflect our previous feedback. We see this as a very positive signal that Ofgem is engaging collaboratively and is open to pragmatic refinements to the licence as we progress through the early phases and tranches of the project. Such refinements can deliver better value for network users, through improved efficiency and lower SRAV accrual, leading to lower allowed revenue.

1. Do you agree with the proposed modifications to Licence J5?

NEP supports the proposed modifications to Licence Condition J5, as they offer the potential to reduce determination time between Devex Tranches. This in turn would improve overall project delivery and reduce costs for end users.

As the first T&SCo to complete a Devex Re-opener (for CS006 and CS007 Tranche 2), NEP is uniquely positioned to provide insight into how the licence terms are operationalised in practice. Through that process, NEP identified that the requirement to complete all Stage Check Activities prior to submitting a re-opener application can create artificial pauses in the project programme - forcing delivery teams to effectively “down tools” while awaiting a determination.

Allowing applications to be submitted earlier at a date agreed with the regulator enables a smoother, more continuous transition between tranches of activity. This reduces programme disruption, supports more efficient project execution, and has the potential to lower the total accrual of SRAV. In turn, this could generate cost savings for NEP, HMG, and Network Users.

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While we support the J5 modifications, we would encourage Ofgem to consider some minor drafting amendments:

- In 5.5, we propose it would be fairer for any earlier date of re-opener submission to be *mutually agreed* between the Regulator and Licensee.
- We note a minor drafting issue in 5.7(b) - it is not clear what the Licensee must do in the circumstances of (b).

2. Do you agree with the proposed introduction of a use-it-or-lose-it allowance (UIOLIA) for Early Development Activities?

NEP welcomes the introduction of the UIOLIA for Early Development Activities (EDAs). This represents a logical and pragmatic step that enables the progression of early-stage activities that are in the interests of Users, HMG, and NEP, but fall outside the APDP. By allowing such work to proceed without prior Ofgem determination, it facilitates the timely development of studies and analysis that support changes in project scope, network optimisation, and other key modifications. In addition, it can help fund meaningful customer and stakeholder engagement, and may enable NEP to support DESNZ in the identification and selection of network users.

3. Do you agree with the proposed drafting of new Special Condition J15: Early Development Activities Use-it-or-lose-it Allowance?

NEP is broadly aligned with the drafting of the new Special Condition J15, but would like to flag the following considerations for Ofgem's attention.

- **Improve clarity on recoverable costs:** It would be helpful to provide further and clearer guidance on what is recoverable under the UIOLIA and what is not. Without this, T&SCos may be hesitant to utilise the allowance due to the risk of subsequent cost disallowance. Illustrative scenarios highlighting allowable versus disallowable early development activities would provide useful reassurance.
- **NEP suggest expansion of paragraph 15.5 (Usage Definition) to include further uses:**
 - (j) Engagement with relevant regulators (e.g. Ofgem, NSTA, OPRED, HSE) in relation to EDAs
 - (k) Work in support of carbon storage licensing round submissions.
 - (l) Any other Early Development Activity approved by the Regulator.
- **Expand the definition of a Development Project:** The current licence definition is high-level, and greater clarity would assist in interpretation. Since the use of the UIOLIA sometimes appears to hinge on whether an activity is related to an existing Development Project, it would be helpful if Ofgem could expand on this definition.
- **Include definitions of Prospective Users and Selection Process.** We note that these terms appear to be referencing the CCS Network Code – it may be helpful if the definitions were included in the licence too.
- **Clarify scope for network expansion (e.g. spurs):** NEP would welcome clarification on whether the UIOLIA can encompass development of spur lines to connect additional emitters into infrastructure already approved under the APDP. If so, this would be a valuable use of the allowance to enable future network optimisation and emitter inclusion.
- **Suggest including an appeals process** for circumstances where the licensee considers spend is within the scope of J15, and it is subsequently discounted by the regulator.
- **Consider expanding the Early Development Activities definition to include technology development.** This could enable Joint Industry Programmes (JIPs) to the broader benefit of industry, analogous to programmes that are regularly participated in within the offshore Oil & Gas sector. Currently there is no clear funding mechanism for technology development, and it is unclear where this should be accommodated within the economic framework of the licence.

NEP note Ofgem's advice [REDACTED] that a feasibility study to explore increasing onshore Humber network capacity (beyond the APDP) [REDACTED]

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