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By email only to: connections@ofgem.gov.uk

18 September 2025

Dear Steve

Statutory Consultation: TMO4+ Costs

Thank you for the opportunity to comment on the above statutory consultation, dated 21 August 2025. This response should be regarded as a consolidated response on behalf of UK Power Networks' affected distribution licence holding companies: Eastern Power Networks plc; London Power Networks plc; and South Eastern Power Networks plc.

Overall, we support the proposed changes and thank Ofgem for its engagement over the last few months as the licence conditions and Governance Document were developed.

We have provided specific detailed feedback on the statutory consultation document and associated annexes in the appendix to this letter. In particular we draw your attention to point number one (relating to the definition of "Connections Reform Costs") and points 4 to 7 (relating to paragraph 2.4 of the governance document).

If you have any queries on our response, please contact me or James Hope.

Yours sincerely

Sul Alli
Director of Customer Service, Strategy, Regulation & Technology
UK Power Networks



Appendix

Amendments to the Special Conditions of the Electricity Distribution Licence

1. **Definition of “Connections Reform Costs”** – the inclusion of “(d) Are not funded by any other means” should be redrafted to make it clear that “other means” refers to other regulatory allowances. This point also needs amending in paragraphs 1.3 and 2.1 of the Governance Document.
2. **Definition of “TMO4+ Decision”** – the listed items in the TMO4+ decision would benefit from the addition of bullets to aid readability.

Connections Reform Costs Governance Document

3. **Paragraph 2.2, line 2** – the reference to “£[X]m” should be removed to align with the wording of the definition of Connections Reform Costs Materiality Threshold in the licence condition.
4. **Paragraph 2.4** – this paragraph warrants further attention as the exact nature of what is recoverable is confusing. The first sentence states that legal costs “attributable to the Licensee’s role in the implementation of G2tWQ” are recoverable as Connections Reform Costs. Taken at face value, this means that the legal costs associated with preparation for the implementation of TMO4+ are recoverable rather than simply the costs associated with defending litigation claims received in relation to TMO4+. This interpretation is supported by the definition of “Connections Reform Costs” in the draft Licence Condition. However, the final sentence of paragraph 2.4 is inconsistent with this interpretation as it seems to carve-out as unrecoverable certain types of legal cost that should be recoverable (please see the next paragraph).
5. **Paragraph 2.4** – we disagree with the exclusions from recoverable costs introduced by the final sentence starting “Other legal costs...”. Costs associated with Ofgem determinations in respect of TMO4+ should be recoverable in the same way as litigation and the costs of Alternative Dispute Resolution ADR. Determination is simply a different mechanism for legal challenge – indeed, under the Electricity Act 1989 (as amended) determination is the correct forum for resolution of disputes relating to Section 16 Connection Offers. Furthermore, there is no justification for excluding legal and other costs relating to the management of complaints relating to TMO4+. A complaint is often a precursor to a formal dispute resolution process such as determination or litigation. If issues can be resolved at the complaint stage, it will save both parties (and therefore, customers) the considerable legal and other costs associated with a more formal resolution process. It is not reasonable that such costs should not be recoverable. The final sentence of paragraph 2.4 also contradicts footnote 7 of the Governance Document which suggests that such pre-action costs are, in fact, recoverable. The Governance Document should make it clear that the costs of seeking general legal advice concerning the implementation of TMO4+ are also recoverable.
6. **Paragraph 2.4** – should be amended to make it clear that a licensee can recover its costs where it is not a party to a specific dispute but needs to intervene as an interested party in that dispute – for example, if there is a determination or test case where the defendant is a different DNO.
7. **Paragraph 2.4** – an additional paragraph should be added to clarify that where “Connections Reform Costs” are described in the rest of this document, they include all types of costs noted in paragraph 2.4 (as amended in line with the above) and its associated footnotes.
8. **Footnotes 9 and 12** – these will benefit from being brought up to be a paragraph in the main body of the text as they raise important points that merit prominence.

9. **Paragraph 2.6** – there is duplication between paragraph 2.6 (a) and (b) concerning the costs being “reasonably and efficiently incurred” and “reasonable in amount”. Paragraph 2.6(b) should be deleted and paragraph 2.6(a) should be clarified to avoid the risk of potentially high costs for a low value test case being seen to be unreasonable, when in fact the high cost is reasonable as it may set a precedent and avoid future costs. The same clarification point applies in respect of the use of “proportionality” in paragraph 2.7(d) and its associated footnote.
10. **Paragraph 2.6(d)** – after “G2tWQ” we believe that this would benefit from adding “(including but not limited to where the licensee is not a named party to a dispute but intervenes or contemplates intervening)”.
11. **Paragraph 2.10** – due to the various caveats it contains, this paragraph would be easier to understand if it was broken down into bullet points.
12. **Paragraph 3.1** – is the only place where (apart from the cover page) where the term “DNO” is used – this should be replaced with “licensee” and the reference on the cover to “DNOs” should be removed.
13. **General point on reporting** – the level of detail that Ofgem is proposing for licensees would place a considerable amount of information potentially in scope of a Freedom of Information Act request. Such information could potentially negatively impact on the licensee’s defence of any claim and may also distort the connections market and a mechanism to prevent any risk of distortion should be explored.
14. **Paragraph 3.3** – this paragraph would benefit from more clarity including:
 - a. What does a “full itemised breakdown of all individual costs...” mean? For example, if a third party legal team is involved does it require names of staff, hours worked and on what connection offer they were working? This level of detail is not proportionate but is one interpretation that could be drawn from “full itemised breakdown”. This bullet would be better drafted to say “a breakdown of the costs”.
 - b. **Sub-paragraph (a)** – what does the “category of connection reform costs” described mean? This is the only reference to “category”. We believe this bullet should be deleted.
 - c. **Sub-paragraph (b)** – how does a “description” as required in this sub-paragraph differ from a “category” referred to in sub-paragraph (a)? The proposed removal of the category line (see above) would also resolve this point.
 - d. **Sub-paragraphs (c) and (d)** – these would benefit from clarification as there may be overlap between the requirements of (c) and (d). For example, is (c) simply asking for costs incurred to date or the expected total costs? It should be reworded to clarify if licensees should report spend in the relevant period (or total spend to date) or whether it is forecast spend (and over what time period).
 - e. **Sub-paragraph (e)** – what level of justification is Ofgem expecting under sub-paragraph (e)? The justification is inherent in the likely population of the earlier data – for example, the description being “external legal costs for defending a claim in respect of a TMO4+ decision”. The fact that no costs have been allowed for this in the RIIO-ED2 settlement and are not costs recoverable under any other means is inherent in the claim being made. We are unclear as to what this requirement adds to the reporting and believe it can be removed.
15. **Paragraph 3.3(d) and 3.4** – these two paragraphs are in respect of the need to forecast costs for the upcoming quarter and the requirements when the out turn spend is outside a specified percentage of that forecast. Costs relating to litigation, ADR etc. are inherently hard to predict when we have limited or no visibility of who is going to commence a case against us, or how a case will proceed. We therefore do not see the benefit of providing a forecast due to its uncertainty. Note also that Ofgem will be getting quarterly reporting of actuals so the spend data will not have a long lag.

16. **Paragraph 3.4, line 1** – what forecast costs are being referred to? Are these the costs in paragraph 3.3(d)?
17. **Paragraph 3.5, line 1** – what obligation is being referred to when it states “this”? Is it the requirement to justify changes in actuals from forecasts in paragraph 3.4 or the overall reporting requirements set out in this chapter?
18. **Paragraph 3.6** – the first reporting is currently stated to be due on 1 December 2025 – there is a chance that this may fall before the 56-day standstill period for this licence modification ends. We therefore believe that a revised submission date is required. Please note that if Ofgem update this date, then there are likely to be consequential impacts on either the dates in table proposed below or the reference to “Following the first submission...this reporting requirement will recur every three months”, the latter specifically if Ofgem want to stick to the remainder of the submission dates.
19. **Paragraph 3.6** – as the reporting is only timebound for just under two years (see paragraph 3.6) it would be clearer for all parties to set out all the reporting dates and relevant periods in a table – this will ensure a consistent interpretation by Ofgem and licensees. Subject to our comments in the paragraph above, we believe the table should be as follows:

Period covered by the reporting (inclusive)	Submission date
27 November 2024 to 30 September 2025	1 December 2025
1 October 2025 to 31 December 2025	1 March 2026
1 January 2026 to 31 March 2026	1 June 2026
1 April 2026 to 30 June 2026	1 September 2026
1 July 2026 to 30 September 2026	1 December 2026
1 October 2026 to 31 December 2026	1 March 2027
1 January 2027 to 31 March 2027	1 June 2027