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To: Connections
Subject: Response to the approach to disputes and determinations from the G2TWQ exercise

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Good Morning,

Please see below response to the current Ofgem consultation on proposed dispute resolution for the gate 2 to whole queue connections reform.

The Ofgem consultation on managing disputes arising from the "Gate 2 to Whole Queue" (G2tWQ) connections reform, part of the "Target Model Option 4" (TMO4+) package, which was approved in April 2025. The reform in theory should prioritise projects in the gate 2 queue based on readiness and alignment with the CP30 Action Plan, while others are sent off to a gate 1 queue. However, the evidence submission process and associated problems and issues clearly demonstrated major problems with both the IT systems used and the QA processes within NESO/NGET/DNO's to the extent that the market has lost confidence in NESO processes and information QA processes

Whilst Ofgem acknowledges that in rationalising the connections queue to deprioritise projects which do not meet gate 2 criteria, outcomes from the G2tWQ reordering process will create the potential for disputes especially in light of the evidence submission fiasco. Accordingly, Ofgem states in the consultation that the proposed supplemental guidance on the determination of disputes will be bespoke to the G2tWQ exercise and supplemental to Ofgem's existing dispute resolution framework. However, Ofgem have not indicated how or whether they are prepared to address systemic industry issues. Instead Ofgem wants to look at each dispute in isolation rather than address any fundamental industry issue

The guidance focuses on disputes with electricity distribution network operators (DNOs) and with the National Energy System Operator (NESO) that concern operational decisions taken as part of the G2tWQ exercise. The consultation is being undertaken to test with stakeholders that the proposed guidance is clear on Ofgem's approach to those determinations and the procedures for raising a determination ahead of the publication of the final guidance.

Ofgem's position is that since NESO has discretion as to the issuance of gate 2 offers, "parties will not be able to request a determination if they disagree with NESO's decision". Provided TMO4+ rules have been properly implemented, Ofgem will not make individual determinations that are inconsistent with the wider reforms package. Accordingly, Ofgem will only provide a determination if a party can demonstrate that

NESO or the DNO has failed to follow the implemented TMO4+ reforms; the assumption is that the terms offered are reasonable and the process has been correctly followed. This approach totally ignores a major area of dispute which relates to whether the required system reinforcement basis being used is justified and delivers the required Licence Obligation for the development of a efficient and economical network

The proposed guidance on the determination of disputes for the G2tWQ focuses on three aspects: Ofgem's determination functions and G2tWQ and the determination approach and procedure.

Functions and G2tWQ

The guidance clarifies the circumstances when disputes can be referred to Ofgem, with the regulator stressing that these circumstances are deliberately narrow and limited to specific routes under the Electricity Act 1989, NESO's licence and the distribution licences held by the distribution network operators. This totally ignores the provisions of existing Licence obligation placed on the respective parties

Ofgem notes that its determination functions relate to the adjudication of disputes about the terms of connection agreements. This means that parties, even if the dispute does fall within the narrow range of matters Ofgem can determine, will not be able to seek a determination until after the new disputed agreement has been issued. The proposals also ignore disputes relating to industry methodology and/or base technical assumptions

Determination approach

The guidance states that before seeking an Ofgem determination, parties must have exhausted the relevant alternative dispute resolution (ADR) process available for resolving disputes with DNOs or NESO. This can be through informal engagement, internal complaints, and formal dispute mechanisms under the Connection and Use of System Code. It fails to recognise that for example with Distribution connections the major constraint has always been transmission related and there is no direct mechanism for transmission constrained Distribution connection to dispute matters directly with either NESO or the T.O's

Only after exhausting ADR routes can parties approach Ofgem for determinations, which will only be considered in exceptional cases such as regulatory breaches or unresolved errors. Ofgem for simplicity presumes that new contract terms are reasonable unless objective evidence proves process errors or failures in following approved procedures.

Determination procedure

To raise a determination request related to G2tWQ, the party must complete a pro forma verifying their identity and submit evidence of the dispute with NESO or DNO, including the connection offer, complaint details, and proof of exhausting ADR paths, like deadlock letters.

The request must be submitted through a centralised determinations gateway;

submissions elsewhere will be rejected. If ADR fails, the determination request must be made within 30 days, will be handled based on written evidence, oral hearings held rarely, and Ofgem may recover costs related to delays or procedural problems.

In conclusion the proposed TM04+ Disputes process seeks to totally ignore the existing industry Licence provision and well established CUSC provisions. In addition the dispute proposals do not allow Distribution connected customers to directly dispute aspects associated with Transmission constraints which will be the majority of the Grid Reform revised queue connections Ofgem have also totally ignored the fact that the Evidence Submission process which they signed off was a total shambles and has resulted in many investors losing confidence in the competence of NESO and the process.

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