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16 October 2025

Dear Joseph

### **Statutory Consultation: Market Facilitator**

Thank you for the opportunity to comment on the above statutory consultation, dated 18 September 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.

We are pleased to see how the drafting of these new obligations has progressed since the informal consultation. Our detailed feedback on the final drafting is set out in the appendix to this letter.

If you have any queries on our response, please contact Paul Measday and Alex Howard in the first instance.

Yours sincerely

James Hope  
Head of Regulation and Regulatory Finance  
UK Power Networks

Copy: Sul Alli, Director of Customer Services, Strategy, Regulation and Technology, UK Power Networks  
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## Appendix

### Amendments to the Standard Condition 55 of the electricity distribution Licence (this is Q2 and Q3 of your consultation)

1. **All of the paragraphs** – the normal format of the licence is for the paragraph to commence on the same line as the paragraph number. This licence condition should be formatted accordingly for consistency.
2. **Order of paragraphs 55.2 and 55.3** – it would be more logical for these two paragraphs to be reordered so that the setting out of the creation of the rules is described before the obligation to comply with them.
3. **Paragraph 55.2** – this would benefit from reordering of the words to match other licence conditions (e.g. SLC10A.2) where the “subject to...” caveat appears at the start of the paragraph rather than at the end. Please note also, for consistency, it should read “paragraph 55.4” not “55.4”.
4. **Paragraph 55.3** – “may” should be added before “amend” to avoid the inference that Exelon must always amend the rules even if an amendment is not required.
5. **Paragraph 55.3** – “an” should be added between “raise” and “appeal”.
6. **Paragraph 55.3** – this paragraph would also benefit from being split into two separate paragraphs as it covers two distinct topics:
  - a. “The Market Facilitator will issue and may amend the Flexibility Market Rules in accordance with the process outlined in the Market Facilitator Governance Framework document.”
  - b. “The licensee may raise an appeal to the Authority upon the issuing or amending of the Flexibility Market Rules in accordance with the process outlined in the Market Facilitator Governance Framework document.”
7. **Paragraph 55.4** – the sub bullets should start on separate lines for ease of reading and consistency with the rest of the licence.
8. **Paragraph 55.5** – the paragraph should start with “Subject to paragraph 55.7” for the same reasons outlined in respect of paragraph 55.2.
9. **Paragraph 55.5** – “and when” in the second line can be deleted as it duplicates “within a reasonable timeframe” from the first sentence.
10. **Paragraph 55.6** – we note changes following feedback to the July informal consultation but believe there is still work required here for the paragraph to be clear and unambiguous:
  - a. Removing “sufficient quality and”, replacing it with “the”; and
  - b. Adding “and use reasonable endeavours to provide accurate Market Facilitator Information” to the end of the sentence – it may be that the information requested is not held by the licensee and it is not possible for the licensee to gather such information.
11. **Paragraph 55.7** – the reference to “Information” should in fact be to “Market Facilitator Information”.
12. **Paragraph 55.7** – “or where the Market Facilitator Information is subject to other duties of confidentiality or is commercially sensitive” needs to be added to the end of the paragraph.

13. **The absolute nature of 55.5** – we note Ofgem’s feedback in paragraph 2.31 of accompanying consultation which states “that the Market Facilitator can only make requests that are capable of being fulfilled by the licensee”. The concern regarding the absolute nature of this obligation remains as with an unlimited budget many requests would be “capable of being fulfilled by the licensee”. We disagree that “reasonable endeavours” introduces “ambiguity and subjectiveness” – this term is already used in the standard conditions of the electricity distribution licence five times and by inference is therefore a concept Ofgem must be comfortable with. There are also four further instances of “all reasonable endeavours” which is a stronger term and might be a suitable middle ground that removes some of Ofgem’s concerns over “ambiguity and subjectiveness” yet provides DNOs protection against the absolute nature of a potentially unfunded obligation.

**Amendments to the Standard Condition 1 of the electricity distribution Licence (this is Q1 of your consultation)**

14. **Flexibility Market Rules** – the definition does not give a scope to the rules i.e. they must relate to the functioning of local and national flexibility markets. As drafted the rules could be in respect to any subject matter.
15. **Flexibility Market Rules** – we believe that replacing “owned” with “published and managed” is more accurate.
16. **Flexibility Market Rules** – the closing line should read “collaboration and consultation”, again to be more precise about how the rules have to be developed.
17. **Market Facilitator Information** – the NESO version of this definition is not required in the distribution licence and the distribution version does not require “(Electricity Distribution Licence)” after the term.

**Other**

18. We have not seen a copy of the NESO-Market Facilitator Ways of Working document and believe that it would improve transparency and be beneficial for all stakeholders to have sight of this to help ensure the smooth operation of the new Flexibility Market Rules.