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Dear Sheona,

Consultation on licence modifications to enhance the role of the System Operator

This response is on behalf of National Grid Electricity Transmission plc.

We are supportive of the further development of a clear and effective framework for the delivery of an integrated GB transmission system underpinned by appropriate licence conditions for the System Operator and Transmission Owners. We have welcomed the opportunity to engage on the development of the licence conditions and to participate in the licence drafting working groups.

We recognise that Ofgem have taken on board some of the suggestions the working group have made on the licence amendments which are proposed. We also note that the focus of this consultation is on facilitating the enhanced SO role, rather than on the detail of the arrangements that might need to be put in place to enable Licencees to compete for future onshore work. As such the majority of our comments are limited to detailed drafting points on how best to ensure that the Licence facilitates the generic proposed enhanced SO role. We would anticipate that Ofgem's Autumn Consultation on Onshore Competition will contain more detail on specific competition questions and we look forward to considering and responding to that document in due course. We do however have the following key points, which predominantly relate to the proposed new condition to manage conflicts (Special Condition 2O) and are summarised as:

- C27: The Network Options Assessment process and reporting requirements – Our predominant concern on this licence condition is the movement of the publication date of the NOA from 31st March in year 1 to 31st January in year 2. Whilst we recognise that an earlier publication date may be possible in future years due to process efficiencies, this may be challenging to achieve after just one year. As such we would propose a longer transition period of moving the March publication date to January and allow further review of the appropriate enduring publication date.
- 2O: Business separation requirements and compliance obligations, and conduct of the System Operator in performing its Relevant System Planning Activities
 - We have some concerns on the drafting requiring separation of management and operations up to board level between NGET and National Grid's Relevant Other Competitive Businesses (ROCB). Whilst we understand that Ofgem are of the opinion that our current reporting structure is intended to be allowed by this drafting, we propose some amendments to the drafting such that this is clearer.
 - In terms of the director responsible for ensuring that NGET is compliant with the new conflict mitigation measures, we do not agree that there should be a

requirement for this Single Appointed Director to be a member of the board. This is not the case in special condition 2N: EMR and the requirement in the deleted 2D was for the responsible director to be a member of the managerial board (which is a sub-committee of the board of directors).

- We have concerns that as drafted the role of the compliance officer extends to ROCB. The role of the compliance officer is to ensure that NGET (and National Grid overall) is compliant and that the officer will have no interaction with the ROCB board. The compliance office will not have oversight of the operation of the managerial boards of ROCB and will therefore not become aware of any instances relating to any member of such managerial boards as the current drafting envisages.
- We would welcome further more detailed dialogue on the potential application of 20.9 in relation to restrictions around access to premises, equipment, facilities and property used for the management of or operation of the Licensee. However, we do note from previous conversations that these proposals are intended to be applied proportionality and will form the basis for further more detailed consultation in the context of onshore competition in the Autumn. We would expect that any arrangements would be consistent with the arrangements already in place for EMR (Special Condition 2N.)

We provide further detail on the points raised above in our more detailed responses to the questions posed in the consultation in Appendix 1 and our suggestions for the detailed licence drafting modifications in the requested template in Appendix 2.

We look forward to continuing to work with Ofgem and the industry in implementing the ITPR proposals and welcome any comments and ideas interested parties have to ensure that the enhanced SO role delivers maximum benefit.

We are happy to discuss our views contained within this letter and appendices further should that be helpful. For further details, please don't hesitate to contact me. This response is not confidential and we are happy for it to be placed on the Ofgem website and for it to be shared more widely for the purposes of the ITPR project.

Yours sincerely

[By email]

Ben Graff
Transmission Strategy Manager, TNS

Appendix 1: Questions raised within the Consultation on licence modifications to enhance the role of the System Operator

1. What are your views on our proposed licence changes for system planning?

The changes appear fair and reasonable and in line with expectations. There are some points around governance where we have minor concerns. These are covered in our response to question 3. The majority of our comments relate to the detailed drafting and are set out in the template response included in Appendix 2.

2. What are your views on our proposed timing of the NOA report from 2016/17 onwards?

The long term January publication date of the NOA report means that the ETYS and NOA processes will effectively have to run together. Maintaining existing standards of product will not be achievable without additional resource. Given the time it will take to increase the level of resourcing to appropriate levels we believe that there should be a longer period between the requirement to move from a March to a January publication date. While we agree there will be efficiencies to be delivered in the NOA process, this is unlikely to be achieved immediately in the year after the first report, which will be the first year that the full outputs of the enhanced SO role will be delivered. However we agree that a longer term move to a publication date closer to ETYS is sensible. This will bring the benefit that the NOA outputs will be fully consistent with those in ETYS.

3. What are your views on our proposals for the scope and approvals process for the NOA methodology and the NOA report?

The scope of the methodology and report are suitable and consistent with the drafting of standard condition C11: Production of information about the national electricity transmission system. This allows the methodology and form of the report to evolve as required to meet the market's requirements.

In terms of the approvals process, we have concerns over the length of time Ofgem are proposing to take to approve the methodology and form of the report. The NOA will entail a large organisational functional process which interacts with other similar sized processes such as ETYS and FES. If the process is delayed it could affect the whole business, i.e. if delayed from the proposed approval date we will only be able to conduct limited process development work, our engagement timelines become compressed and the input and outputs to the process will be affected. In our view the approvals process should be tightened to a fixed time for approval similar to that applied in standard condition C11.

4. Do you think our proposals for provision of information by the SO are appropriate?

Yes in principle, but the drafting is quite vague. It is our understanding that information provided to the Authority would be in no more greater detail than the information the SO has in producing the NOA, connection applications or supporting TO regulatory submissions.

5. What are your views on the way we propose to formalise the process used to determine efficient connections?

We have no objections to formalising the CION process for offshore and interconnector connections to the national electricity transmission system and are currently considering in conjunction with stakeholders the options available to do this and which is most appropriate. We have some concerns however with the proposed licence modification to standard licence condition C8: Requirement to offer terms. We understand that Ofgem's intent with the licence drafting is that there is a requirement for the SO to publish the governance arrangements for the processes it uses in assessing and keeping under review options for the most economic and efficient option for connections only for the processes it undertakes. Therefore as the SO currently only leads the optioneering

process for offshore and interconnector connection applications these are the only processes which are required to be published.

On this basis we propose some alternative wording to the licence modification which is included in the table in Appendix 2.

6. What are your views on our proposed licence modifications for conflict mitigation?

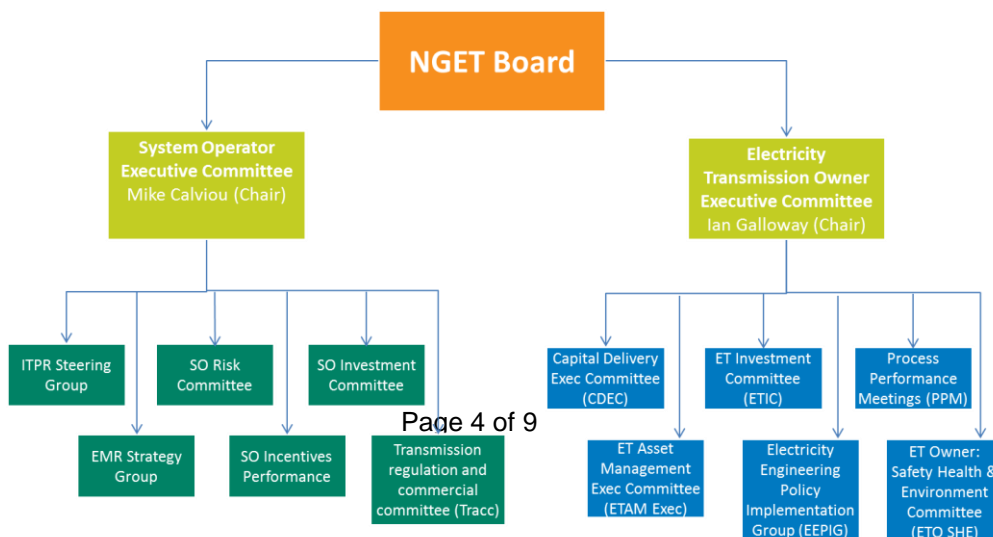
We are broadly in agreement with the proposed modifications for conflict mitigation, although have a few concerns on particular drafting points. These are covered in more detail below, with any proposed amendments to the licence drafting included in the log in Appendix 2.

- We have some concerns on the drafting requiring separation of management and operations up to board level between NGET and National Grid’s Relevant Other Competitive Businesses (ROCB). We understand that this is not aimed at preventing current senior management reporting lines, which we have discussed with Ofgem, but we feel it can be construed as such. Accordingly we would request that this drafting is amended in order to be consistent with that contained in Special Condition 2N.4(c). This ensures that senior management engaged in the management and operation of the licensee is not simultaneously engaged in ROCB but does not undermine existing NG group reporting lines. Further clarity and appropriate assurance can be given in the compliance statement as required.
- We have concerns that as drafted the role of the compliance officer extends to ROCB. The compliance officer does not have oversight of the operation of the managerial boards of the ROCB and will therefore not become aware of any instances relating to any member of such managerial boards. Therefore we believe that the drafting should be amended to remove reference to the ROCB.

7. Do you think there could be any unintended consequences from our proposal to remove special conditions (SpCs) 2D and 2E?

We welcome the tidy up of the licence and in principle have no objection to the removal of special conditions 2D and 2E provided their intent is adequately represented in the new special licence condition 2O. In this regard to retain the same level of obligation as was included in special condition 2D there should not be a requirement for the Single Appointed Director to be a member of the board of the licensee. There is no such requirement in respect of the Single Responsible Director in 2N and the requirement in the deleted 2D was for the responsible director to be a member of the managerial board of the SO (i.e. the SO Executive Committee) which is distinct from the licensee’s board). The SO executive Committee is a sub-committee of the licensee’s board of directors, please see Figure 1 illustration of NGET’s board and associated committees. The Single Appointed Director for the purposes of 2O will be a member of the SO executive Committee.

Figure 1: NGET board and associated sub committees



Appendix 2 – Detail Licence drafting comments

Respondent details		[Insert your contact details]			
No.	Condition number	Condition name	Page/Paragraph Ref	Comments	Suggested alternative drafting (please use tracked changes wherever possible)
	C1	Interpretation of Section C	General	Drafting convention	Defined terms in standard conditions are not currently capitalised. This also impacts on the newly introduced terms that are subsequently used throughout Section C
	C1	Interpretation of Section C	General	Embedding definitions	Query whether some terms that might only be used in one condition (e.g. NDAOWW?) should be embedded in the condition (as per C25) rather than be set out in C1
	C8	Requirement to offer terms	C8.3(c)	Line 6	Delete “as” in line 6
	C8	Requirement to offer terms	C8.5A	Re ordering	Where in making offers to enter into a bilateral agreement and/or construction agreement under this condition, the licensee undertakes to assess and keep under review in order to identify the overall efficient co-ordinated and economical options for such offers. The licensee must have in place and publish such processes
	C8	Requirement to offer terms	C8.9A	Drafting in final paragraph	In line 1 add “within 28 days following receipt of such notice” after “must” and delete “within 28 days” in line 3. Insert “paragraph” after “of” in line 4.
	C11	Production of Information about the NETS	C11 (a) (and else where) C11.3(e) and C11.13(aa)	“best view” “value for GB consumers”	Whilst we note that “best view” is a term that is already used elsewhere in the Licence, we would welcome further clarity as to its precise meaning in this particular context. Suggest that this term is amended to read “value for money for electricity consumers in Great Britain” as per concept used in Special Condition 4K.
	C25	Provision of Information....	C25.16	Line 6	Insert “construction” in place of “connection”
	C25	Provision of Information...	C25.18	“Commissioned”	This term is defined in CUSC Section 11 rather than Schedule 2, Exhibit 3 to the CUSC
	C25	Provision of Information...	C25.18	“Developer”	Query whether this definition is required as the term does not appear to be used save within the context of the term “Developer- Associated Offshore Wider Works” which has its own definition within C1 which suggests that the “developer” is the person seeking connection

C27	NOA	C27.5	Requirement for consultation to be published on the website – this is inconsistent with ETYS where other forms are allowed, e.g. seminars. Experience on ETYS consultations is that responses are richer, more informative and greater in number than website consultations that have taken place. We can publish details of the consultations which will occur on our website.	Propose to remove “must be published on the licensee’s website and be”
C27	NOA	C27.6(b)	Date for subsequent years of methodology approval is August – this links with comment on timing of report. If a March publication date is to be for a longer or enduring period, the n suggest this is by 1 st October	Align methodology submission date with publication date.(i.e. if March, the October)
C27	NOA	C27.1 and 8(c)(ii)	References to “interconnection”	“interconnection” is currently defined in A1 in terms that are not appropriate here. Suggest these references are replaced with “interconnector” as defined in C1
C27	NOA	C27.10	Line 1	Insert “NOA” in front of “methodology”
C27	NOA	C27.10 and 12	Regarding the time for the Authority to approve the methodology and form of the report. This does not consider the potential impact on the licensees other processes and obligations should the NOA report be pushed back due to delays.	28 days would be preferred in line with C11 for ETYS or that submission is passed in the event of no Ofgem direction.
C27	NOA	C27.14(a)(iii)	Drafting in final sentence	To align with the existing obligation in C16 relating to system operation this should be amended to read: “...licensee’s ability to co-ordinate and direct the flow of electricity onto and over the national electricity transmission system in an efficient, economic and co-ordinated manner”
C27	NOA	C27.16)	“Strategic Wider Works”	This term is currently not defined. “Strategic Wider Works Output” is defined in Special Condition 1A.
C27	NOA	C27.16	“interconnector submission”	The meaning of “interconnector submission” is not clear. Paragraph 15(c) refers to an interconnector developer’s submission to the Authority. Is this the same thing?
C27	NOA	C27.19	Final line	We believe this should refer to 14(a)(ii)

Special 1A	Definitions	General	<p>Need to consider overlap of definitions and whether terms should be defined in 1A or embedded in the condition(s) in which used.</p> <p>It is suggested that 2N and 2O each have their own embedded list of definitions for terms used in each condition. This may result in some overlap but is perhaps the clearest approach</p>	<p>“Associate, Common Control Company, Participating Interest and Participating Owner, Relevant Other Competitive Business” are currently embedded in 2N and will have the same meaning in 2O. Could define in 1A for both conditions but the terms should then be removed from 2N.</p> <p>“Relevant System Planning Activities, Relevant System Planning Information and System Operation Functions” are defined “for the purposes of Special Condition 2O”. As they are only used in that condition, it would perhaps be better to embed the definitions in 2O.</p> <p>“Independent Examiner” is currently defined in 2N. If a definition is to appear in 1A it needs to cover 2N and 2O and 2N will need to be amended to remove it.</p> <p>“Information” is currently defined in 2N. If a definition is to appear in 1A to cover 2N and 2O then 2N will need to be amended</p>
Special 1A	Definitions	“System Operator Functions”	Line 6	<p>Insert “of this licence” after “Section C”</p> <p>This term is defined as activities pursuant to obligations under section C for which there are no equivalent obligations under section D or section E. Given that section C only applies to the SO it seems that there are no equivalent obligations in sections D or E. The words from “for which” could therefore be deleted. It is suggested also that the compliance statement is used to confirm and clarify the activities that are being conducted under section C in order that compliance with the ring fence can be appropriately assured.</p>
Special 2N	EMR	Definitions	Further consequential changes may be required in relation to the definitions depending which approach is adopted. See comment on 1A above	
Special 2O	Business separation / Relevant System Planning Activities	2O.2	Line 7	Reference should be to 2O.20

Special 20	Business separation / Relevant System Planning Activities	20.8	Reference to “(up to and including the members of the licensee’s board of directors (“board”))”. We understand that this is not aimed at preventing current senior management reporting lines which we have discussed with Ofgem but be construed as such. Accordingly we would request that this drafting is amended in order to be consistent with that contained in 2N.4(c). This ensures that senior management engaged in the management and operation of the licensee is not simultaneously engaged in ROCB but does not undermine existing NG group reporting lines. Further clarity and appropriate assurance can be given in the compliance statement as required	Replace with “(up to and including the members of the senior management team reporting to the licensee’s board of directors) are not...”
Special 20	Business separation / Relevant System Planning Activities	20.8	“Shared Services”	Term needs to be defined. Suggest approach as per 2N and reference in the compliance statement
Special 20	Business separation / Relevant System Planning Activities	20.12 / 20.14	It is suggested that 20.14 is deleted and 20.12 amended in order to require that all RSPI is kept confidential. As drafted 20.14 requires the licensee to assess the view of the owner of the information.	Delete 20.14 In 20.12, amend to read “...ensure that Relevant System Planning Information is treated and kept as confidential and is not directly or indirectly disclosed...”
Special 20	Business separation / Relevant System Planning Activities	20.13(a)	Line 1	Replace “its licence” with “this licence”
Special 20	Business separation / Relevant System Planning Activities	20.15(a)	Line 3	Replace final words with “as defined in paragraph 20.20”
Special 20	Business separation / Relevant System Planning Activities	20.17(a)	Line 2	The words “or any revisions of it” can be removed as revisions only become effective (and so form the compliance statement) if approved under 20.17(b)
Special 20	Business separation / Relevant System Planning Activities	20.17(b)	Line 4	Delete “paragraphs 20.4 and 20.5” with “the specified duties”. This is consistent with 20.15 (a) and reflects the obligations that the statement must comply with.

Special 2O	Business separation / Relevant System Planning Activities	2O.21	Line 1. There should not be a requirement for the Single Appointed Director to be a member of the board of the licensee. There is no such requirement in respect of the Single Responsible Director in 2N and the requirement in the deleted 2D was for the responsible director to be a member of the managerial board of the SO (i.e. the SO Executive Committee) which is distinct from the licensee's board). The SO executive Committee is a sub-committee of the licensee's board of directors. The Single Appointed Director for the purposes of 2O will be a member of the SO executive Committee.	Delete "being a member of the board of the licensee"
Special 2O	Business separation / Relevant System Planning Activities	2O.26(g)	The compliance officer does not have oversight of the operation of the managerial boards of the ROCB and will therefore not become aware of any instances relating to any member of such managerial boards.	Delete "or the Relevant Other Competitive Businesses" in line 3
Special 2O	Business separation / Relevant System Planning Activities	2O.29	Timing of submission of report to the Authority. Query whether this drafting should be amended in order to reflect 2N.27 and provide the licensee with 14 days from compliance certificate approval to submit the report and certificate to the Authority	Amend to read: "The licensee must, as soon as reasonably practicable and in any event no later than 14 days after the compliance certificate is approved by a resolution of the board as required by paragraph 2O.28 (d), submit..."
Special 2O	Business separation / Relevant System Planning Activities	2O.31	Business days	This condition uses the term "business days" whereas "working days" is used in Special Condition 2N. Neither are defined for these purposes but it would be helpful to have consistency of approach.