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Dear Min,

**Consultation on the assessment criteria for derogations from the Grid Connection Codes**

SSE welcomes the opportunity to respond to Ofgem's consultation on the assessment criteria for derogations from the Grid Connection Codes (GCCs).

We support an introduction of the term "affected party seeking a derogation" to ensure the applicability of the GCCs derogation assessment criteria to all relevant parties in GB (be they licenced or unlicensed in the context of GB law). We also agree that, in principle, an assessment of consumers' impact resulting from such derogations should be introduced as an explicit part of the ENC derogation assessment criteria (where that does not conflict with the legal requirements set out under EU law).

Our comments to specific consultation questions are outlined further in this document.

Kind regards,

**Polina Kharchenko**

Regulation Manager

## Consultation Questions

### **1) Do you agree with our approach to use the existing GB derogations assessment criteria as the basis for our GCC derogation assessment criteria?**

We agree with the approach in principle. In our view this approach should seek to ensure consistency between the European Network Codes (ENCs) and GB technical code derogation assessment criteria, whilst recognising that the legal requirements are different for both. While the GCC derogation criteria should be clearly aligned with the requirements of GCCs, the relevant GB technical code derogation criteria should only be changed in as much as they are required to comply with the GCCs.

Broadly similar criteria used for derogations from the European network code and the GB national code requirements should ensure that the derogation process is straightforward and easy to use; whilst recognising that the legal obligation(s) on the applicant for the derogation maybe different.

### **2) Do you agree that the proposed GCC derogation assessment criteria, described in Annex 1, properly reflect the requirements set out in the GCCs?**

In broad terms, we agree with the main changes described by Ofgem in Annex 1 of the consultation document. Specifically, we support an introduction of the term “affected party seeking a derogation” to ensure applicability of GCCs derogation assessment criteria to all parties in GB (be they licenced or unlicensed in the context of GB law). Whilst we support, in principle, the application of an assessment of consumers’ impact resulting from such derogations being introduced as an explicit part of the ENC derogation assessment criteria, we are concerned to ensure that this is legally permissible in terms of EU law; noting, for example, that the further requirements concerning the preparation of requests for derogations (from relevant system operators)<sup>1</sup> does not apply to power-generating facility owners.

In our view, the proposed GCC derogation assessment criteria ensure that affected parties, which are not in a position to comply with a particular code or standard, or where inefficient outcomes from compliance with those requirements might arise, are able to seek a relief from those obligations.

In our view the changes described in Annex 1 should seek to ensure that any derogations from the connection requirements of the technical codes that are granted do not negatively

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<sup>1</sup> RfG, Article 63(10)

impact the socio-economic benefits in terms of improvement in security of supply whilst, for example, providing benefits to the internal market in electricity, cross-border trade and integration of renewable energy and the ultimate delivery of a harmonised pan-European energy market.

**3) Do you identify any issues with our proposed GCC derogation assessment criteria?**

Whilst we understand the need (within the GB arrangements for seeking a derogation in terms of the national codes) for an affected party to demonstrate the first six items listed in Annex 1 of the consultation document, we are not certain that these would be permissible within the context of a GCC derogation request.

For example, item four (of the first six) implies that, where another materially affected party has objected (and refuses to remove that objection, such that it remains 'outstanding'), no derogation request can be submitted. However, no such 'limitation', that restricts, for example, a power-generating facility owner from making an application, seems to exist within the relevant GCC articles.

Notwithstanding the above, and given that the criteria would have to be applied by Ofgem in a non-discriminatory way to all parties seeking a derogation, we are concerned that the obligations placed upon smaller applicants for derogations may be unduly onerous.