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Date  
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Dear Nathan

**Consultation on licence conditions and Guidance for network operators to support an efficient, coordinated and economical Whole System**

SP Energy Networks (SPEN) welcomes the opportunity to share our views on Whole System initiatives. Whilst we are already developing, and implementing, Whole System solutions that are delivering benefits for consumers, we are concerned with the timing and scope of the proposed licence conditions. Rather than introducing new licence obligations, a more appropriate approach would be for Ofgem to publish a guidance document, setting out its policy for a Whole System approach across the next price control framework, following completion of the RIIO-2 price control negotiations.

**Whole System Licence Conditions**

The all-encompassing, vague nature of the proposed draft licence conditions is problematic. The proposed draft requires a network company to satisfy unclear obligations to '*optimise synergies*,' attain '*mutually beneficial operational decisions*' and consider '*any potential alternative actions...available to any stakeholder*.' To incorporate such ill-defined obligations into a network company's licence, under threat of potential enforcement, is not, a transparent, necessary or proportionate means through which to achieve better Whole System outcomes. We consider that the breadth of the licence drafting proposed, runs the risk of all consumption, load and generation information that DNOs hold on existing and future customers, potentially falling within these licence conditions. The implications of the proposed licence conditions will drive higher levels of data sharing than is necessary or proportionate, regardless of any consideration of the differences in local customer requirements. In turn, the proposals will materially increase the costs and regulatory burdens on DNOs, TOs and the ESO, with no proportionate benefits. We therefore do not agree that tangible benefits will be realised from the introduction of the proposed license modifications.

**Alignment with current proposals for the RIIO-2 framework**

It is also important to consider these Whole System proposals in the context of the forthcoming price control, RIIO-2. The RIIO-2 Sector Specific Methodology document, which is also currently out for consultation, sets out a definition for Whole System with an associated set of responsibilities which does not align with the proposals contained within this current consultation document. Primarily, the current RIIO-2 methodology consultation proposes a wider scope for Whole System in RIIO-2, which also includes gas networks, whereas, this consultation document only considers electricity transmission and distribution networks. Whilst we recognise that this consultation is focusing on RIIO-1, we would suggest that the definition and scope of Whole System responsibilities should be consistent, and agreed upon, as part of the on-going RIIO-2 negotiations.

**Delivering Whole System solutions**

As a responsible network operator we are already applying, and delivering Whole System solutions in accordance with broad obligations, to work in an efficient, economic and coordinated manner wherever appropriate. SPEN can point to many examples where we are already looking across the energy sector. In projects such as Dumfries and Galloway where we have developed novel commercial arrangements which effectively coordinates activities, decisions and data across SP Distribution, SP Transmission and the ESO. This project has proven successful and we consider this an example of the benefits of a Whole System approach. Another good example of Whole System thinking, appropriate co-ordination and implementation is the processes developed under our Network Access Policy to identify solutions to reduce system outage constraint costs by implementing alternative network design or infrastructure options. We consider that the effective development of Whole System solutions is still being established, not least through the ENA's Open Networks project. It is therefore both logical and appropriate to allow this work to complete, before pre-empting its conclusions.

In our opinion, a high level policy guidance document from Ofgem is all that is required. This document must include a standard approach to considering whole energy system costs and benefits (including network losses, heat and transport), factored into the RIIO-2 framework.

We are therefore strongly of the view that following agreement of the RIIO-2 price control framework, a guidance document is published setting out Ofgem's policy for a Whole System approach across the next price control. This document should set out an approach for considering the costs and benefits across the entire energy system, of the Whole System approach, and must be strongly reflective of the relevant conclusions from the ENA's Open Networks project, following its completion.

The enclosed Annex includes our detailed responses to each of the consultation questions posed. Should you have any questions in relation to this response, please do not hesitate to contact me.

Yours sincerely



**Lynne Bryceland**  
**Transmission Policy and Licence Manager**

**ANNEX**

**Consultation on licence conditions and Guidance for network operators to support an efficient, coordinated and economical Whole System**

**SPEN's response to consultation questions**

**Q1: Do you agree with the proposal to clarify Whole System responsibilities through licence conditions and supporting Guidance? Where possible, please provide evidence and examples to support your views. In particular please describe:**

**a. The potential benefits you might expect to result from these proposals?**

**b. If there are any material costs or issues for you in relation to these proposals?**

We do not agree with the introduction of the proposed Whole System licence conditions. In particular, we are concerned with the timing and scope of them. In responding to this consultation, we set out our concerns in greater detail below.

It is important to consider these Whole System proposals in the context of the forthcoming price control, RIIO-2. The RIIO-2 Sector Specific Methodology document, which is also currently out for consultation, sets out a definition for Whole System with an associated set of responsibilities which does not align with the proposals contained within this current consultation document. Primarily, the current RIIO-2 methodology consultation proposes a wider scope for Whole System in RIIO-2, which also includes gas networks, whereas, this consultation document only considers electricity transmission and distribution networks. Whilst we recognise that this consultation is focusing on RIIO-1, the current price control, we would suggest that the definition and scope of Whole System responsibilities should be consistent, and agreed upon, as part of the on-going RIIO-2 negotiations.

As a responsible network operator we are already applying, and delivering Whole System solutions in accordance with broad obligations, to work in an efficient, economic and coordinated manner wherever appropriate. SPEN can point to many examples where we are already looking across the energy sector. In projects such as Dumfries and Galloway where we have developed novel commercial arrangements which effectively coordinates activities, decisions and data across SP Distribution, SP Transmission and the ESO. This project has proven successful and we consider this an example of the benefits of a Whole System approach.

Another good example of whole system thinking, co-ordination and implementation is the processes developed under our Network Access Policy (NAP) to identify solutions to reduce system outage constraint costs by implementing alternative network design or infrastructure options. These were developed jointly with SHE Transmission and the GB system operator who had special licence condition 4J introduced in April 2018<sup>1</sup> to implement this type of solution. An amendment to the System Operator-Transmission Owner Code (STC) to support the licence condition has been promoted by SPEN and approved by the STC committee for introduction in April 1<sup>st</sup> 2019 in line with the separation of the GB ESO.

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<sup>1</sup> [https://www.ofgem.gov.uk/system/files/docs/2018/03/decision\\_to\\_modify\\_ngets\\_licence\\_to\\_introduce\\_new\\_eso\\_reporting\\_and\\_inc.pdf](https://www.ofgem.gov.uk/system/files/docs/2018/03/decision_to_modify_ngets_licence_to_introduce_new_eso_reporting_and_inc.pdf)

However, appropriate projects that can make use of this funding and deliver Whole System benefits for consumers have not yet been implemented. This failure is in part due to lack of clarity on how potential projects will be justified as bringing consumer benefits as constraint costs savings are difficult for the ESO to forecast. More guidance from Ofgem as to how the ESO should utilise this funding mechanism is required at the earliest opportunity, to realise these benefits for consumers. At present the proposed Guidance document does not address this issue specifically and we recommend Ofgem should include this in the finalised version.

We consider that the most effective practical operation of development of the Whole System solutions are still being established, not least partly through the ENA's Open Networks project. It is therefore both logical and appropriate to allow this work to complete its work, before pre-empting its conclusions. We are therefore strongly of the view that following agreement of the RIIO-2 price control framework, a guidance document is published setting out Ofgem's policy for a Whole System approach across the next price control. This document should set out an approach for considering the costs and benefits of the Whole System approach and must be strongly reflective of the relevant conclusions from the ENA's Open Networks project, following its completion.

**Q2: Do you agree with the proposed scope and content of these licence conditions and Guidance? Please provide any specific comments you have on the attached draft, including illustrative examples, and where possible, please provide reasons and evidence to support your response, in particular:**

**a. Are there other examples or areas of activity which you consider should be highlighted, or do you see the need for further clarity in any area?**

We do not agree with the scope and content of the proposed Whole System licence conditions, nor their introduction.

It is Ofgem's intention that the proposed licence conditions will '*ensure electricity network operators have clarity about [Ofgem's] expectations in the performance of their existing duties that they develop and operate efficient, coordinated and economical networks.*'<sup>2</sup> However, we are very concerned that the draft licence conditions proposed are phrased in such broad and vague terms that it creates very little clarity on the positive obligations that Ofgem purports to impose on licensees.

**b. Do you consider these would be beneficial and proportionate? Are there any aspects which should not be included?**

The all-encompassing imprecise nature of the draft conditions is highly problematic. The proposed draft requires a network company to satisfy obscure obligations to '*optimise synergies,*' attain '*mutually beneficial operational decisions*' and consider '*any potential alternative actions...available to any stakeholder.*' To incorporate such ill-defined obligations into a network company's licence, under threat of potential enforcement, cannot be said to be a transparent, necessary or proportionate means through which to achieve better Whole Systems outcomes.

<sup>2</sup> Consultation on licence conditions and Guidance for network operators to support an efficient, coordinated, and economical Whole System, Ofgem, 17 December 2018, p6 ('Whole System Consultation')

We also consider that the drafting proposed runs the risk of all consumption, load and generation information that DNOs hold on existing and future customers, potentially falling within these licence conditions. The implications of the proposed licence conditions will drive higher levels of data sharing than is necessary or proportionate, regardless of any consideration of the differences in local customer requirements. In turn the proposals will also materially increase the costs and regulatory burdens on DNOs, TOs and the ESO with no proportionate benefits. We therefore do not agree that tangible benefits will be realised from the introduction of the proposed license modifications.

Whereas Ofgem's stated purpose is to introduce clarity around its expectations of a network company, in reality, a network company's business decisions will be subject to an ex post facto assessment of whether it adequately investigated and pursued a Whole Systems outcome, with the potential to be found in breach of its licence. We consider it inappropriate to create any licence obligations in the absence of a defined, developed policy on the Whole System approach.

**Q3: These proposals require licensees to engage and coordinate with Stakeholders. This recognises that a range of parties may have an interest in different aspects of the system, and the licensees should seek to engage with those with an interest in a given situation. Do you agree with this approach?**

We agree that engagement and coordination with stakeholders is fundamental in a Whole System. However, network operators are already engaging extensively with stakeholders and should retain the flexibility to do so as they deem appropriate. SPEN proactively engages with a wide range of stakeholders, far beyond standard network users. For example, we work closely with stakeholders such as Transport Scotland and local authorities, allowing us to take a view on other energy requirements, to ensure alignment with their policies and priorities, where possible. It is also important to recognise that many stakeholders are not unique to one network operator and are likely to be relevant to DNOs, TOs and the ESO in this process. For example, a local authority installing EV charging points will have an impact on both the distribution and transmission network. Therefore coordination is essential to ensure any unnecessary duplication of effort and engagement by both the TO and DNO(s), with the customer, is avoided.

If it is the case that Ofgem's proposal anticipates increased coordination or sharing between market competitors, have competition law implications been considered? In particular, we would therefore suggest that Ofgem gives close consideration to any legal ramifications resulting in the whole system approach, including cross-subsidisation across the electricity and gas sectors.

**Q4: Do you consider any changes or clarifications are needed in relation to industry code objectives, notably the Distribution Code and the Grid Code, to support the delivery of Whole System outcomes? Specifically,**

**a) Do you see the need for further change or clarification to the code objectives themselves, or their interpretation, e.g. through introduction of a specific relevant objective in relation to Whole System actions?**

**b) Have you identified any interactions of these provisions with wider aspects of industry arrangements which should be considered in developing them?**

Over the past number of years there has been significant interaction between the Distribution and Grid codes as many issues now cross over between the Transmission and Distribution networks and solutions are increasingly reliant upon Users connected to the Distribution networks. Most recently cross code working has led to the successful implementation of the EU Network Code requirements into the GB Code framework. Increased working between the Panels will require an alignment of both the governance and relevant code objectives to ensure that joint working is both feasible and efficient. Whether this is feasible through the introduction of a new code objective for both codes is difficult to foresee as each code is composed of different stakeholders each with their own particular view and may require a more fundamental change to allow the full benefits from Whole System outcomes to be realised.

We are aware that there is currently a wider review into Energy Industry Codes being conducted by BEIS / Ofgem and we believe that any firm policy should await the conclusions from this review to ensure that any changes are conducted in a coordinated and efficient manner and make the best use of industry time and resources required to deliver them.

**Q5: Do you believe further, specific guidance in any area and in particular in relation to efficient connections and constraint management (e.g. in preparedness for electric vehicles or increasing distributed generation) would be beneficial? Please provide reasons and, where possible, evidence to support your answer.**

The current Transmission Connection process is well defined in the STC. However, the opportunity to include identification of alternative “non-build” solutions to delay or mitigate traditional infrastructure alternatives is not routinely undertaken; this is primarily due to the limitations imposed by the current licenced timescales and subsequent penalties for late preparation of connection offers. It is also due to the resource and capability limitations of the ESO to provide constraint cost and cost benefit analysis of reinforcement that does not bring benefit to system boundaries. Focusing on this area in the guidance note could highlight this as a priority for network companies to address. Aspects of whole system developments may also be resolved within the ENA’s Open Networks workstream, and Ofgem should await the conclusions of this work before progressing further with defining its Whole System policy.

**Q6: For which relevant datasets or information do you consider the need for availability and accessibility is greatest, in order to deliver Whole System benefits? Do you consider there to be any significant barriers to sharing these? Please provide specific suggestions for what you consider to be effective sharing arrangements, including required enablers and governance, such as the development of any industry standards?**

The need for accurate network constraint costs would bring opportunities for minimising whole system costs for example by improving system access decisions by TOs. It is not clear that the obligations on the ESO, in its licence, are sufficient to incentivise it to develop this. It would be helpful if the Guidance addressed these areas.

**Q7: Do you agree with the proposal to apply these provisions to all electricity distribution licence holders, including IDNOs, and onshore TOs, and to exclude the ESO, offshore TOs and interconnectors? Where possible, please provide reasons and evidence to support your response.**

It would be inappropriate to apply these conditions to any licensee at this time. Notwithstanding this view, should Ofgem take the decision that licence modification is required now; we would expect this to apply to all parties, identified by Ofgem. As per our response to Q1 above, it is important that those affected parties are fully aligned with those listed in the RIIO-2 Sector Specific Methodology consultation. Should this apply to network parties which do not fall under the RIIO framework, we agree that a separate licence modification will be required to ensure IDNOs have the same obligations as those under the RIIO framework going forward.