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Dear Nathan,

Response to Ofgem's "Consultation on licence conditions and Guidance for network operators to support an efficient, coordinated, and economical Whole System"

I am writing on behalf of ESP Utilities Group ("ESPUG") (comprising the licensed companies ES Pipelines Ltd, ESP Connections Ltd, ESP Networks Ltd, ESP Pipelines Ltd and ESP Electricity Ltd). We welcome the opportunity to respond to Ofgem's "Consultation on licence conditions and Guidance for network operators to support an efficient, coordinated, and economical Whole System" consultation paper ('the 'Consultation Paper'), dated 28th November 2018.

In summary, ESPUG broadly supports the proposals as they stand with the following observations and caveats:

- ESPUG supports Ofgem's objectives outlined in the consultation and will commit to participating in the discussions on system wide efficiency.
- As small network companies, IDNOs have a limited ability to take actions that will have Whole System impacts. Whilst this has been acknowledged in pages 26-27 of the Consultation Paper, we are concerned that this is not reflected in the licence as it is drafted. We would like assurances that this policy intent will be reflected in enforcement policy.
- There are some potential challenging compliance issues that are out of our direct control. These are related to the extent that there is an industry consensus on:
 - Obtaining a common industry understanding of Whole System benefits and complying with it.
 - Differences between alternative optimisations of the same network.
 - The resolution of trade-offs between different technologies and other objectives e.g. security of supply or basis of return (short or long term).

Finally we would ask Ofgem that during the implementation and regulatory design phase of the licence condition, Ofgem understands that networks will have to take account of externalities (i.e. Whole System considerations) which are not currently costed into charging models. Networks may appear to be less technically efficient when viewed in isolation, when they are in fact benefitting the wider energy system as a whole. Further to this, the benefits

of cooperation are often in avoided costs. This may be difficult to measure and may replicate the same issues Ofgem has had difficulty reconciling under RIIO i.e. 40% underspend in GD-1 and variations in budgets for business plans. These factors will need to be taken into consideration in future price controls and charging reforms.

Our detailed comments are set out in the appendix to this letter. If you wish to discuss any of the issues raised in our response or have any queries, please contact me on 01372 587500.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Seb Eyre', with a large, stylized 'S' at the beginning.

Sebastian Eyre
Regulation Analyst

ANNEX

Answers to consultation Questions

Question 1: Do you agree with the proposal to clarify Whole System responsibilities through licence 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?

ESPUG agrees with the objectives of this proposal. We note that we already have obligations that require us to cooperate with other industry parties within the Electricity Act 1989 (Section 9) and in areas such as technical codes Electricity Safety, Quality and Continuity Regulations ESQR (section 4) and consolidation of these obligations are welcome. We are willing to share and facilitate the transfer of information to support the delivery of an economical Whole System and improve outcomes for consumers.

However, there are difficulties in understanding what Whole System Benefits may be and how they may accrue to individual market participants.

Finally we note that often the benefits of cooperation are in avoided costs.

Question 2: 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?

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

The licence change as currently drafted presents some risks based on a retrospective nature of enforcement and the ability of IDNOs to systematically survey developments in relevant technology outside of energy networks. These are summarized in Table 1.

Table 1 Comments on Licence text

Section	Text	Comment
1.	"...must take <u>all</u> appropriate steps."	<ul style="list-style-type: none">Creates compliance risk as this assumes parties will be able to foresee all steps are required. This is not always the case as, from a compliance perspective; it might only have been possible to identify <u>all</u> appropriate steps in retrospect.We believe a best endeavours test would be better suited in the context of uncertainties created by energy policy.
2.	"considering any potential alternative actions"	<ul style="list-style-type: none">Again, alternative options can often be identified in retrospect of the decision to adopt a strategy.We fully support the use of "as may be appropriate in the circumstances"
3.	Information sharing and data provision	<ul style="list-style-type: none">No comment on provision.
4.	Whole Systems Guidance	<ul style="list-style-type: none">No comment on provision.
Definitions		<ul style="list-style-type: none">No comment on provision.

From an IDNO perspective, compliance issues are focused on:

- Obtaining a common understanding of Whole System benefits
- Alternative optimisations of the same networks.
- The resolution of trade-offs between different technologies and other objectives e.g. security of supply and the concept of an economical system.

Our comments are highlighted in in Table 2.

Table 2 Comments on guidance

Section	Text	Comment
1.12- 16	Proportionate “At a minimum, this means considering potential benefits from coordinating, and cooperating in circumstances where one party identifies possible efficiencies from doing so, where there is a likelihood of improved outcomes for the Whole System.”	<ul style="list-style-type: none"> • This is a key aspect to successful compliance with this new obligation. • We would like some additional guidance. For example, for whole network efficiencies there may be a number of optimal solutions and trade-offs for the licensee to make.
1.16	“...they refer to those parties with a potential interest in the particular activity.”	<ul style="list-style-type: none"> • This is potentially wide ranging, and we believe it may be difficult for IDNOs to be aware of <i>all</i> the various “potential” parties’ data requirements.
2.4	“Achieving efficient Whole System outcomes needs a common understanding of system requirements, supported by information availability and exchange.”	<ul style="list-style-type: none"> • We agree with the direction but this could take time given the diverse perspectives of the stakeholders.
3.8	“Where an efficient action is identified that provides benefits, or lower impacts, beyond a single licensee’s network, compared to alternatives, but is otherwise broadly equivalent in its impacts for their own network, they should pursue the action with greatest overall system benefit.”	<ul style="list-style-type: none"> • As previously discussed, we believe clearer direction would be required to resolve the following issues <ul style="list-style-type: none"> ○ making trade-offs between different technologies and ○ a licence condition that effectively mandates a coherent vision of a network e.g. network resilience vs. cost
4.6	Improving data quality	<ul style="list-style-type: none"> • The data requirements are as good as far as they go. However much of the data will have assumptions behind them. This is important for the change as there is no explicit requirement for this. We would like the guidance to encourage sharing of assumptions as well as data.

Finally, we believe it is important to acknowledge that there is a lack of definition and understanding of proportionality of benefits and how these will trickle down to market participants. For example, there may be situations where economically rational charging could increase costs to business yet could benefit the Whole System. This sort of policy dilemma would benefit greatly from clarification.

Question 3: These proposals require licensees to engage and coordinate with Stakeholders. This recognizes 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?

Engagement and communication are key to the successful introduction of this licence change. However, there may be a limit to the level of engagement that parties can facilitate. For example, there could be several groups for which there is little or no information about (i.e. emerging market participants), yet these groups could have a tangible impact on the Whole System. The question then becomes how many resources we commit in searching for and engaging with these stakeholders.

As we have stated, the understanding of what constitutes Whole System benefits over diverse commercial interests is the regulatory issue for this consultation. This is compounded by understanding of technologies and how they could be optimised.

Question 4: 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?

Yes. ESPUG supports as much guidance as possible. This helps us to develop compliance strategies. However, a lack of clear objectives regarding the outcomes of the Whole System actions causes difficulty in assessing the direction of Ofgem's initiative.

We support the view placing a specific Whole System objective in the relevant codes that serves as a gateway for specialist modifications.

Question 5: 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.

Specific guidance would be useful for cooperation in new or novel problems created by new technologies. There are three types of cases where it would be useful to have some further guidance on:

- Cases where our investment decisions have an impact on the development of competing technologies.
- Issues associated with the timing and prioritisation of any system upgrades required to facilitate new technologies.
- The management of any ques for connections between different technologies in areas where the networks may be constrained.

Question 6: 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?

Key for us is the data inputs to the charging models so we can complete our own modelling, availability of capacity etc. Additionally, information on future energy demand on a granular level to help better coordination with the transmission system by way of sharing assumptions will be a Whole System benefit. Other relevant information such as information about locational price signaling for new connections would also serve to benefit the Whole System.

Question 7: 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.

We agree. IDNOs can contribute to whole system efficiency but within the constraints of the business. Some limitations we have identified include the ability to forecast the impact of specific connections on the wider system, lack of visibility of the capacity available in the wider system, and the nature of the new connections market; developers may not be able to respond flexibly to energy policy. It is important that the system responds to the needs of users, rather than attempt to shape users' needs, as this may create cross-sector inefficiencies and wider societal impacts.