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Dear ESO Regulation Team

ENWL response to ESO Roles Guidance & ESO Reporting and Incentives Arrangements consultation

Thank you for the opportunity to provide our input into these two documents which will form a major part of the ESO's RIIO-2 framework.

Electricity North West is the Distribution Network Operator (DNO) covering the north west of England serving 5 million customers in 2.4 million premises, across a diverse range of locations, from urban Greater Manchester to rural parts of Cumbria, Lancashire and Cheshire.

We note that these two associated documents are part of a suite of documents being consulted on alongside the informal consultation on the gas distribution (GD), transmission (T) and ESO licence drafts and as such this particular response focuses solely on these two documents. This response should be read in conjunction with our response to the informal consultation on licence drafting.

Process

Due to the compressed timescales (four weeks) and scale of documents being consulted on as part of the overall licence drafting process, we have been unable to provide detailed feedback on the Roles Guidance document, however would welcome the opportunity to feed in our views, even if it is not possible to achieve this by the consultation deadline.

We would suggest that in future consultations which are linked but published on different dates with different closing dates are clearly linked so that stakeholders are able to see the extent of the interlinkage and other related documents.

Interlinkages with ED2 and DNOs undertaking Distribution System Operations

For both the licence conditions themselves and the roles guidance associated document, it is important that in developing these conditions and guidance the requirements specified fit within the role of the ESO and that this works alongside our role as a distribution system operation (DSO). There is a need to ensure clear collaboration and whole system delivery occurs capitalising on the respective expertise of the DNO/DSO and the ESO. Where the ESO is being steered towards



completing activities that require DNO/DSO input then it is essential that these areas are revisited as part of ED2 developments.

ESO Reporting and Incentives Arrangements

Given that ENWL are an active participant in the existing evaluation process, contributing at both mid-year and full year review points, as well as attending the performance events, it has been easier for us to comment and review on the proposed guidance as we are able to draw on our experience of the RIIO-1 process and have a degree of familiarity with the current arrangements.

As we stated in our response to Ofgem's Draft Determination for the ESO, it is critical that clearer up-front expectations and explicit assessment criteria is in place to manage the challenge of an evaluative regime. The ESO must be crystal clear on the expectations, evaluation criteria and what constitutes penalty or reward. We want to see strong performance from the ESO in a regime which allows them to be able to earn and receive incentive rewards that will be sufficiently motivating, in turn delivering benefits and good outcomes for consumers.

The guidance and ESORI documents are a critical component to this and therefore it is important that it provides the right level of detail. This is something that the ESO is best placed to directly answer.

We provide below our more detailed comments on the drafting as it is currently presented.

- Legal status - is unclear and should be detailed explicitly in both the licence and the guidance document.
- Five year strategy – it is unclear how the five year strategy is expected to evolve beyond the BP1 period. For BP2 proposals, should this reference the five year RIIO-2 period, or is it a rolling five year horizon?
- Figure 2 in 2.9 illustrates the BP2 cycle, however given that the document is primarily designed for BP1, we suggest the illustration shows both BP1 and BP2.
- Clause 2.13 – requires the ESO draft version to be “based on the views and feedback provided to the ESO throughout the duration of BP1”. The clause also states that the ESO must engage with stakeholders “well before” the deadline of April 2022. In reality these two things do not work together in that requiring engagement to commence partway through year one of BP1 will not allow stakeholders to have sufficient experience of BP1 to be able to provide this to the ESO in many instances and therefore the ESO may not be able to comply with part of this requirement. This may be better placed within Step 3 which is the final version of the plan.
- Clause 2.17 – suggest the word “previous” is changed to “current” given that the final business plan will be presented during the current cycle.
- Clause 2.18 – This paragraph does not provide certainty to the ESO or its stakeholders by the use of the word “aim” when it describes the Authority’s Draft Determination process. “We will aim to provide a Draft Determination on the final business plan by xx”. Whilst the rest of the document is prescriptive on the ESO, the looseness of this is not good practice or process for price control determinations. The ESO and its stakeholders need certainty on decision points, to provide both regulatory certainty and also resource planning, otherwise this looseness on Ofgem’s intention will lead to inefficiency for customers and the potential inability for stakeholders to sufficiently plan resources to engage in the process.
- Step 5 – Final Determinations – it seems late in the cycle for FDs to be in March 2023, which (depending on the date in March) may only be days before BP2 commences.
- Clause 2.35 states that the Performance Panel and the Authority will consider the Final Determination for BP2 when making its decision on the evaluation of the ESO’s performance for an incentive payment or penalty for the BP1 period. We have always understood the incentive regime to be intended to focus on the in-period performance relating to delivery of the business plan activities. We do not recall the inclusion of Business Plan process and outcome in the incentive structure to be consulted upon within the RIIO-2 process to date and are therefore surprised at its inclusion here considering there has been no related policy decision.

The RIIO-2 SSMD states that there would be no Business Plan Incentive for the ESO, however the inclusion within the ESORI guidance document changes that. We do not feel it is appropriate for the outcome of a Determination for a future period to have a bearing on the outcome of the performance assessment for the current period.

- Stakeholder input – we welcome the intention to retain stakeholder input to support the Performance Panel assessment, however the document should be clearer at which points in the process this is expected to be formally requested. It should also be clear that stakeholder input is a complementary set of information to aid the panel, whilst their evaluation is clearly defined by the criteria within the guidance document.
- Clause 2.49 – the wording needs to be revised to reflect the correct Business Plan cycle. If it is to be May then it will be the start of the following, not May of the final year. We also question whether it is practicable to require the ESO to produce this comprehensive report in the May, given that the period will only have just ended and if it is to include cost reporting as a criteria, this may not be fully available. Potentially a date in line with the July RIGS reporting for other sectors may be more appropriate.
- Chapter 3 – sections 3.5 to 3.31 place obligations on the Performance Panel in their evaluation. However, as is made clear in section 4, the Performance Panel is simply a recommendation, which will be reviewed by the Authority, along with other evidence submitted. Section 4.6 states that “The Authority will then determine a final score for each role using the criteria set out in Chapter 3”. If this is the case, then we suggest that Chapter 3 is made more explicit that this is criteria is what both the Performance Panel AND Ofgem will follow in their decision-making process. It would also be beneficial to the ESO and its stakeholders for Ofgem to provide transparency on areas where the Panel recommendation and Ofgem score differs.
- Clause 5.15 – This requires the ESO to submit information for its 43 IT projects on an ad hoc basis, when there is a change to a project’s investment stage or major change to expected costs. With 43 projects, this could be in a state of perpetual update, and it is important to consider what is proportionate and what is deemed to be material/major change to costs. If Ofgem intend to update cost benchmark every six months considering these IT projects, it is important that there is strong governance and transparency of this process so that stakeholders and the ESO can clearly see how revenues are being affected by this process and comparison to Final Determination.
- General – the document refers to the “scheme” in places. This isn’t a defined term, but is capitalised in some places, and not others. It is also used interchangeably with Business Plan Cycle. We suggest that clarity on naming is considered, and if scheme is to be used, it should be a defined term.
- Referencing – throughout the document refers to licence condition 4.4 but in the draft licence ESORI is covered within 4.3.

We trust this response is useful and look forward to working with the ESO and Ofgem as the RIIO-2 licence continues to be developed.

Yours sincerely

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