

Flo Silver  
Ofgem  
Commonwealth House,  
3rd Floor,  
32 Albion Street,  
Glasgow,  
G1 1LH

03/04/2020

**Statutory consultation on the proposed Whole Electricity System Licence Condition [D17]~[7A] for Electricity Distributors and transmission owners**

Dear Flo,

Please find enclosed a response from **National Grid Electricity Transmission (NGET)** to your Whole Electricity System Licence Condition statutory consultation.

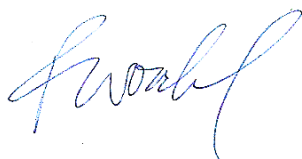
We support any work to improve embedding a Whole System approach into operating and developing the Electricity System. We already actively engage on initiatives facilitating Whole System thinking, including the ENA's Open Networks project, and the working groups supporting reform of Electricity network access via your on-going Significant Code Review.

Additionally, our T2 business plan<sup>1</sup> highlights our thinking for RIIO T2 on how we see Whole System evolving in importance for network development. This includes re-baselining our plan to factor a £289m reduction to allow for Whole System solutions, and up to £200m of possible annual constraint cost savings. We also strongly advocate for Whole System thinking to enable the development of the most economic and efficient options to assist with the transition to net zero, for example working across networks to install ultra-fast Electric Vehicle charging points.

There is therefore already a strong motivation from the Electricity licensees to embrace 'Whole System'. Nevertheless, we also understand the importance that Ofgem place on this, particularly when it comes to promoting economic and efficient solutions which benefit end consumers and our customers. We are therefore supportive of adopting this licence condition, though have highlighted areas of concern below which we have with the proposed drafting and implementation approach.

We hope you will consider these prior to deciding to implement any licence drafting changes. If you have any queries related to our response, please don't hesitate to contact me.

Yours sincerely,



Richard Woodward  
Strategic Policy Manager  
National Grid Electricity Transmission

National Grid performs a number of key roles that are essential in meeting the UK's energy needs, running the systems which keep Britain's energy moving, to power and heat our homes, and the way we all get around.

This response represents the views of National Grid Electricity Transmission plc (NGET) which owns the high voltage transmission system in England and Wales.

<sup>1</sup> <https://www.nationalgridet.com/document/131776/download>

## **The principles-based regulation approach**

We understand the benefits of adopting a 'light touch' drafting approach for any new licence condition, and that this presents a potentially less onerous compliance regime for all concerned.

However, we are wary that there is limited direction on enforcement in the drafting or supporting guidance note, which presents an obvious risk. Whilst we have no intention of testing the boundaries of compliance, Ofgem should recognise that some of these obligations are new and/or explained only in limited terms. It is important therefore that you work with licensees following implementation to evolve these obligations in an iterative manner.

Regular communication from Ofgem (and between the Electricity licensees) as we adopt this condition is crucial. We hope that this will be two-way in the early stages of applying these processes. Otherwise there is a potentially inefficient approach of licensees experimenting until they find the right balance to satisfy Ofgem's interpretation, which could be time-consuming for all of us.

A formal process to consult with the licensees on any amendments to the guidance document is certainly required to keep licensees in step with any best practice established. New T2 provisions follow this approach; any guidance is expected to follow a common format and involves issuing the guidance by direction, publishing it and allowing time for representations and confirming from when it will take effect. We therefore suggest that Part C of the proposed condition is expanded to reflect this approach. We have proposed some drafting for this in our review of the licence legal text later in our response.

## **Defining 'Coordination' and 'Collaboration'**

These two definitions sitting in the supporting guidance document rather than the licence drafting is potentially problematic for us, as I'm sure you understand. The consequence for licensees of this is the risk of these becoming broad and/or open-ended activities. The resulting resource burden of how these terms might evolve over time cannot be reasonably anticipated or planned for today.

Taking the 'Coordination' obligations as an example, there is a risk that clear transmission-only concerns evolve to always need 'triage' with ESO and DNOs to consider 'Whole System' alternatives before we proceed. It would therefore seem sensible for materiality or capacity thresholds be agreed where it is clear and obvious that Whole System thinking should not apply. This ensures network planning and development activities remain economic and efficient.

This potentially inefficient triage risk also exists for 'Collaboration' with Transmission System Users, particularly for proposals which are poorly conceived or unworkable. This was discussed at your recent stakeholder workshop, but there is limited coverage in the guidance note to cover for this. We have already flagged the risk that inefficient effort would be spent if there was no obvious way to distinguish proposals as 'legitimate' or not. We believe further guidance is required here to ensure licensee time is spent effectively and there are no risks of compliance breaches.

## **Data confidentiality and commercial sensitivity risks**

Any requirement to coordinate with other licensees may be inconsistent with obligations concerning customer confidentiality (especially Utilities Act s105) and requirements under competition law. Whilst we understand the direction of travel around data transparency, the guidance document does not address any reasonable limitations to sharing confidential or commercially sensitive data, or personally identifiable information.

This also applies for the content needed for the Coordination Register, which will obviously be published. Some more precise guidance (or a template) for this register would also be appreciated.

There are significant confidentiality risks here, particularly how we justify why a proposed Whole System action is uneconomic or is detrimental to safe system operation. There may need to be an evidencing process developed by Ofgem where this can happen directly with you, without the risk of commercially sensitive data being freely scrutinised by third parties.

Any data provided for the purposes of 'Coordination' in compliance to this new condition could easily provide crucial insights to better enable other electricity licensees to compete against each other. It is vital that Ofgem enforce limitations on the sharing of commercial or operational data amongst licensees, particularly to avoid the unforeseen consequence of diluting future competition in transmission network development.

## **Risk of undermining customer choice**

Whilst obligating licensees to triage Whole System options for strategic network investment decisions is the right thing to do for end consumers, there is also a balance to be struck with investments related to connecting individual customers.

We understand that this condition enables customers to prompt broader consideration of the best route to connect them. We hope this will provide us the opportunity to advocate the benefit of making transmission connections for customers who may not historically consider them. We acknowledge the opposite may also be true.

Nevertheless, where a User has specific requirements (e.g. lower lead times; greater capacity/redundancy) which act as a driver for their preference of who to connect with, there is a risk that this condition could stifle their choice. Where customers are willing to pay to enable this choice, our assumption is that this will be excluded from consideration from this licence condition. Further guidance from Ofgem would be helpful to clarify this.

## **Clarification on 'Transmission System User'**

Following the Ofgem stakeholder workshop in February, it was made clear that network licensees would only be obligated to consult with their directly-connected users for Collaboration obligations. Any conversations with other system users (e.g. embedded users) were not precluded but would not be expected for discharging compliance. The drafting of the 'Transmission System User' term however still feels open ended...

*transmission system user means a person producing electricity that is being conveyed by means of that transmission owner's system...*

We would appreciate Ofgem's clarification on what 'conveyed' means in this context. The most likely interpretation is anyone who could flow MWs onto the transmission system; which could easily encompass sub-1MW distribution-connected generation in the right conditions. Clearly this literal interpretation leads to extremely onerous compliance obligation for the TOs, in comparison to those of our DNO colleagues. This is presumably not your intention.

## **The nature of the licensee roles and supporting arrangements**

Transmission System Users have a direct contractual relationship and established methods of interaction with NGENSO via the Connection and Use of System Code (CUSC). The onshore TOs are held at arm's length to these arrangements, and instead interact indirectly with our customers via corresponding obligations with the ESO in the SOTO Code (STC) code. This effectively makes the ESO our customer intermediary.

This setup is inherently inefficient but is nevertheless the framework for how we operate today. It is therefore crucial that NGENSO has a role in helping to facilitate any interaction between NGET and Transmission System Users, or others if necessary. STC code modifications should be put in place to cement these arrangements if existing processes do not exist to easily facilitate this.

The TO/ESO dynamic is important for Ofgem to acknowledge when it comes to enforcement of implementing any new Whole System options. Where a market opportunity could be developed as part of a Whole System collaboration activity, the implementation of this is much simpler for the ESO and the DNOs (as they evolve to become DSOs), noting DNOs are also signatories to the CUSC and the DCUSA. The TOs currently have no means via the code frameworks to act as market facilitators; consequently, our ability to directly affect market-led change is extremely limited. It is contingent on the willingness of the ESO to act on our behalf. We trust that existing licence conditions will compel them to reasonably do this, and that in due course Ofgem will also allow the TOs to more efficiently make changes to the codes that affect our customers.

An additional risk in respect of implementing Whole System outcomes comes where network investment is made by one licensee for the economic/efficiency benefit of (or on behalf of) one or more licensees and their customers. Ofgem need to ensure the ability for network licensees to ‘cross-fund’ one another is fully understood in the Price Control mechanisms. Failure to do so could lead to significant revenue risks for the licensees making investments, which could in turn have a knock-on impact on usage charges and by extension end consumers. Furthermore, none of the existing commercial frameworks provide for this, meaning code changes may also be required.

## **Proposed licence legal text**

We have prepared mark-up and supporting comments on the proposed licence condition legal text. They highlight queries we have over the use of existing and new definitions, as well as other supplementary terms, which are perhaps not suitable in this context. We have also flagged where we believe further clarification is required – either through the legal drafting or the supporting guidance note. As mentioned above, we have also proposed a governance process for making amendments to the guidance document in Part C (highlighted in yellow in the attachment).



Whole System  
Statutory Consultation