



Neil Copeland  
Office of Gas and Electricity Markets  
10 South Colonnade,  
Canary Wharf,  
London.  
E14 4PU.

ES Pipelines Ltd  
Bluebird House  
Mole Business Park  
Leatherhead  
Surrey  
KT22 7BA  
T: 01372 587500  
F: 01372 377996  
info@espug.com  
www.espug.com

4<sup>th</sup> January 2019

### **Consultation on changes to the arrangements for 'Clock Stopping'**

Dear Neil,

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 changes to the arrangements for 'Clock Stopping'" consultation paper ('the 'Consultation Paper'), dated 23<sup>rd</sup> November 2018.

In summary, ESPUG supports the retention of clock stopping arrangements with the revised guidance presented in the consultation for the following reasons:

- As a matter of principle, networks should not be penalised for circumstances that are by definition outside or beyond their control.
- ESPUG believes that the existing regulations with the proposed new guidance are more than able to define the circumstances when the clock can legitimately be stopped.
- Distributions of clock stopping events may be randomly distributed, certainly for scenarios 1, 4, and 5 defined in the guidance. This has implications for understanding network performance and the price control. If clock stopping is removed, Ofgem will not be in a better position to:
  - Understand network *efficiency*, precisely because of the randomness of the scenarios actually taking place.
  - Set better regulatory *targets* as the networks performance at the margin will be based on luck and not good network management.
  - Set better investment *incentives* for network security- for similar reasons above but mainly because of the networks ability to predict the occurrence of the scenarios becomes a new efficiency frontier that is a non-core activity of energy distribution (e.g. predicting emergency events involving site access issues) with little or no prospect of developing effective mitigating strategies.
- Crucially, the removal of clock stopping is unlikely to get consumers connected any faster than they would otherwise be under the scenarios defined in the consultation paper.

- Other related regulations use a similar regulatory design to clock stopping. The Standards of Performance Regulations (2005 No. 1019) have carefully defined classifications that include “normal”, “severe weather” conditions and standards for “Highlands and Islands” reflecting real world differences in the networks ability to function.

In this consultation we are not presented with evidence of the materiality or the context of licensees’ alleged inconsistent application of clock stopping. Are there, for example, differences in policy between high and low density networks that could also explain the inconsistency in network practices cited in the consultation?

Finally, we do not agree that ‘Option 2: remove the ability of licensees to stop the clock’ would enhance value for money for consumers. Although it may reduce administrative burden on licensees, we believe it could lead to an increase in operational and safety costs, for little or no benefit to the customer given the nature of clock stopping events.

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 Sebastian Eyre on 01372 587500.

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

Yours sincerely,



Sebastian Eyre  
Regulatory and Policy Analyst  
**ESP Utilities Group**

## ANNEX

### Answers to consultation Questions

**Question 1: For each scenario please explain whether you agree with our view on whether licensees should, or should not, be able to stop the clock. Please explain the reasons for your view.**

Scenario	Should/ should not stop the clock	Comment
<b>Emergency services prevent access to assets</b>	Should be able to stop the clock	This is clearly a case for retention where network engineers cannot make repairs if there is no site access.
<b>Where a licensee is unable to access a remote geographical location</b>	Should be able to stop the clock	We agree this is a case where the drafting should be tightened (p3 a-c) but do not agree that this scenario should be abandoned.
<b>Where it is unsafe to work</b>	Should be able to stop the clock	There is a potential for a conflict of laws, particularly in the context of health and safety legislation and also company law. While we agree that innovation and new technology can increase the window within which it is safe to work, it does not eliminate the need for this window, and we believe disallowing the 'clock stop' sets an expectation that workers would be expected to attend when it is unsafe to do so. It is also unclear how the targets have been set in recognition of severe weather events.
<b>Where a customer either: (a) requests to be left off supply (b) refuses a temporary solution, or (c) agrees to be left off supply because the customer has their own generator</b>	Should be able to stop the clock	This is clearly a case for retention where network customers are exercising choice.
<b>Where a licensee is unable to contact a customer to request access to undertake work necessary to restore supply</b>	Should be able to stop the clock	It would be difficult for a network to do anything other than wait to request access. For example, if a customer is out of the country and cannot be reached, the network cannot attend at its own accord.
<b>Where a demand customer's minimum agreed capacity is restored, but its flexible maximum capacity is not restored until later</b>	Should be able to stop the clock	We agree that the stop clock arrangements should continue. We also agree that 'Firm' and 'Non-firm' should be defined to promote consistent application of the arrangement across networks. These terms were recently defined by industry under the ENA ONP, with the expectation that the agreed definitions would be adopted by networks.

**Question 2: Please describe any circumstances not set out in this letter in which you think licensees should be allowed to stop the clock.**

The categories are very broad and so cover the majority of clock stopping eventualities.

**Question 3: Please highlight any concerns you have with the proposed legal drafting specifically, and whether in your view it would give effect to Ofgem’s proposed position.**

We have no concerns. It would make sense to further clarify what is meant by auditable records (1.1 (a)) given that it will be collected under emergency conditions that may include for example, a verbal instruction.

**Question 4: Should we remove the ability of licensees to use clock stopping? Please explain the reasons for your views.**

No. We think that clock stopping regime should continue. Networks should not be held accountable for continuity of supply in circumstances that are by definition outside or beyond their control. Furthermore, ESPUG believes that the existing regulations with guidance are more than able to define the legitimate circumstances when the clock can be stopped and so should be maintained.

In the context of understanding network performance and the price control, Ofgem will not necessarily be in a better position to understand networks over a number of dimensions of regulatory oversight including the understand of network efficiency, target setting and investment incentives if clock stopping is removed.

Ofgem is likely to be less able to understand network efficiency, precisely because of the randomness of the scenarios actually taking place are not a reflection of good network management.

The removal of the clock stopping arrangements may not guarantee the development of better regulatory targets or investment incentives for network security. It is likely that the distributions of clock stopping events are random amongst the networks, certainly for scenarios defined in the guidance in particular, 1 (prevention of access by emergency services), 4 (customer requests), 5 (customer contact). This means that a networks performance will be assessed on events outside its control with little or no prospect of developing effective mitigating strategies.

Crucially the removal of clock stopping is unlikely to get consumers connected any faster than they would be otherwise be under the circumstances defined in the consultation paper.

Finally, other related regulations use a similar regulatory design to clock stopping and this proposal potentially leads to misalignment. The Standards of Performance Regulations (2005 No. 1019) have carefully defined classifications that include “normal”, “severe weather” conditions and standards for “Highlands and Islands” reflecting real world differences in the networks ability to function.