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Via Email:

connections@ofgem.gov.uk

National Energy System Operator

Faraday House

Gallows Hill

Warwick

CV34 6DA

James.Norman@nationalenergyso.com

nationalenergyso.com

14 March 2025

Consultation on connection reform (TM04+) enablers, including a statutory consultation on modifications to licence conditions

Dear Jack,

Thank you for the opportunity to respond to your consultation published on 14 February 2025.

Who we are

NESO lies at the heart of the energy system as an independent, public corporation responsible for planning Great Britain's electricity and gas networks, operating the electricity system and creating insights and recommendations for the future whole energy system.

At the forefront of our efforts is delivering value for consumers. We work with government, regulators and our customers to create an integrated future-proof system that works for people, communities, businesses and industry, where everyone has access to clean, reliable and affordable energy.

NESO's primary duty is to promote three objectives: enabling the government to deliver net zero, promoting efficient, coordinated and economical systems for electricity and gas and the economy and efficiency of energy businesses and ensuring security of supply for current and future consumers. NESO will take a whole system approach, looking across natural gas, electricity and other forms of energy and will engage participants in all parts of the energy ecosystem to deliver the plans, markets and operations of the energy system of today and the future.

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Our key points

- We strongly support the minded-to decision overall, as we consider that the 'TMO4+ reform package' is the right outcome for industry and consumers. Approval of the 'TMO4+ reform package' will help support delivery of Government's Clean Power 2030 Action Plan, as well as ensure the right mix of projects in the reformed connections queue to meet Great Britain's wider ambitions, including ensuring efficient transition towards net zero by 2050, and promoting growth and investment.
- However, we have material concerns with the code minded-to decision to approve WACM1 and WACM7 rather than our Original Proposal. We set out further details on our concerns in Appendix 1 in response to your consultation questions.
- We are pleased to see that some of our feedback on the licence drafting has been taken into account, but some feedback was not actioned (and should continue to be considered by Ofgem). We also have further comments and suggestions on the updated licence drafting which we think requires further consideration. We set out our further comments and suggested amendments in Appendix 1 in response to your consultation questions.

We look forward to continuing to constructively engage with you and your team further over the coming months to successfully implement the proposed 'TMO4+ reform package', should Ofgem decide to approve it.

Should you require further information on any of the points raised in our response please contact Mike Oxenham at Michael.Oxenham1@nationalenergyso.com.

Yours sincerely

James Norman

Head of Connections Strategy

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Appendix 1 Consultation Question Responses

Package of reforms

Q1: Do you consider that the TMO4+ reforms as a whole advance the objectives that we identify? Do you support the TMO4+ package of reforms as a whole? If not, please explain why not. Please feel free to cross-refer to answers provided in response to questions on individual elements of the reforms, as set out below.

NESO Response:

We welcome the minded-to decision, and we strongly support the TMO4+ package of reforms as a whole as we agree that they advance the identified objectives. We do, however, have a concern with the selection of WACM1/WACM7 over the Original Proposal, which we further explore below.

Minded-to Decisions – Code Modifications CMP434

Q2: Do you agree with our minded-to position to approve WACM7 of CMP434?

NESO Response:

No. Whilst we have fewer concerns with WACM7 than we do with WACM 1 in CMP435 (as set out further below), we do not believe WACM7 provides any ultimate value to customers or consumers. Whilst WACM7 provides an explicit opportunity to withdraw for Users, they are able to do this at any time under the Original Proposal. Therefore, we do not believe the additional effort in relation to collation of Gate 2 Information and publication of the Gate 2 Register, and the process time and delay associated with the Pause, is efficient or effective. The 'Pause' associated with WACM7 will delay the time taken to provide offers to Users, and we do not believe the Gate 2 Information will result in any more withdrawals than would have naturally occurred under the Original Proposal. This is because the Gate 2 Information would not contain any information which would result in an applicant deciding that they no longer wished to proceed with their Gate 2 Application. We set out our reasoning for this view in response to Q3 below.

Q3: Do you expect the Pause for market self-regulation and information published in the Gate 2 Register would lead to a different approach taken by projects?

NESO Response:

No. At the point the Pause occurs, after the publication of the Gate 2 Information in the Gate 2 Register, Users will have already spent considerable time and effort on land rights and/or a (DCO) planning submission to become 'ready' and submit a Readiness Declaration as part of their new connection application within a CMP434 Application Window. As a result of the Gate 2 Information provided in the Pause, Users cannot do anything differently other than withdraw. However, we query why Users would do so, when they are yet to find out whether they have met the Gate 2 Criteria, and when they are so close to finding out that information. The Pause would actually delay Users in finding out that information. Whilst staying in the process until NESO confirms whether they have or have not met the Gate 2 Criteria in full after the Pause could result in Users not receiving a Gate

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2 Offer, withdrawing from the process guarantees that Users will not receive a Gate 2 Offer (having gone to the trouble of recently applying in the process).

The only drawback for Users of waiting another few weeks for the outcome of the queue formation process to be known after having seen the Gate 2 Information is a negligible (if any) increase in spend of their application fee (if it had been paid at the time of the Pause). Therefore, we cannot think of a situation where a User would actively withdraw due to the Pause and the Gate 2 Information. As such, we consider that there would be no additional market self-regulation or change in User behaviour as a result of the Pause and the Gate 2 Information.

Q4: Do you have any further remarks, comments or concerns with our minded-to position that you would like us to take into account?

NESO Response:

It is worth noting there is an additional benefit with WACM7 compared to the Original Proposal in that the Gate 2 Register would contain some information which would not otherwise be public information, so there is some additional transparency. However, this additional information would be limited and of little use to a User i.e. as it would not provide any information which could indicate the likelihood of meeting the strategic alignment criteria. We may also be able to undertake some activities during the Pause e.g. by starting to do some detailed readiness checks. However, there would be a risk of wasted work if any Users withdrew, and furthermore, these are very limited benefits compared against the material drawbacks set out in our response to Q2 and Q3 above.

CMP435

Q5: Do you agree with our minded-to position to approve WACM1 of CMP435?

NESO Response:

No. Our concerns related to WACM1 are also much greater than those related to WACM7 for CMP434.

Q6: Do you expect the Pause for market self-regulation and information published in the EA Register would lead to a different approach taken by projects?

NESO Response:

The Pause may lead to a different approach taken by Users, but to a limited extent, and in a negative way through additional potential for gaming behaviours (please see our reasoning later on in our response to this question). We consider that the additional process effort and process time associated with the Pause would not be offset by any potential benefits, and the introduction of the Pause would delay the timescale for implementing the Gate 2 to Whole Queue exercise and ultimately to issuing connection offers to Users. This could delay progress towards delivery of the Clean Power 2030 Action Plan and delay implementation of the first CMP434 application window, which would delay when additional projects could be added to the reformed queue.

To elaborate on our reasoning:

- As Users can withdraw from the Gate 2 to Whole Queue exercise at any time, we have considered whether publication of the EA Register would provide information which might

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result in more / more efficient withdrawals than would otherwise have occurred without the Pause. The EA Register information will not include information which will allow Users to know when they can connect, or if the location is oversupplied with a particular technology compared to the Clean Power 2030 Action Plan permitted capacities. This is because the EA Register information is just the existing connection date and connection point of those which have applied for Gate 2 with an 'effective' application and their installed capacity and technology type, as well as any projects which are to become Gate 1 Projects (and if they are interested in Reservation). The EA Register information does not include anything on current or future queue order or whether a project would be in Phase 1 or Phase 2 of queue formation, for example.

- As projects in the Pause consider that they are 'ready' and the queue formation process is yet to conclude at the time of the Pause, there is no reason that publication of the EA Register will result in additional withdrawals. The reason being that projects will still have a chance of being in the new queue until the queue formation process fully concludes (e.g. once the strategic alignment criteria are applied), so there would be no incentive for a User to withdraw, having gone through the process to seek to meet the readiness criteria and apply for a Gate 2 contract.
- We do not believe that the Pause would result in any additional process withdrawals, but even if it did, logically it would be most likely to lead to withdrawals in areas of perceived oversupply against the Clean Power 2030 Action Plan permitted capacities. As such, the project withdrawing would either have not been in the new queue taking up capacity anyway or would be replaced (with another project) if it would have been. Therefore, the scope for acceleration and the network capacity occupied would be the same irrespective of whether a User withdrew. Furthermore, if any withdrawal were from 'ready' Users in technologies where there is not oversupply, this would lead to worse outcomes for consumers as a ready project which would have been strategically aligned has then withdrawn, which would result in unnecessary undersupply.
- We have also considered whether the Pause could introduce any benefits with regard to Advancement requests. Under the Original Proposal, Users who genuinely want to advance their connection date will request Advancement and provide the earliest acceptable connection date, and associated information e.g. if they would only be interested in Advancement if it did not involve a move of their connection site, etc. However, under the Pause (depending on the point at which the Pause occurs), either: i) the Pause would have no effect on Advancement requests (if the Pause happens before the strategic alignment assessment); or ii) (if the Pause happens after the strategic alignment checks) Users would be given the opportunity to see whether they would have been removed from the new queue i.e. with their project being identified as a Gate 1 Project. With regard to point ii), whilst there are limited circumstances where this would be due to not having requested Advancement, under the Pause, the User could newly request Advancement or amend their Advancement request (e.g. to request an earlier connection date) to try to change this outcome. This request would likely not be because they want advancement, but instead to try to game the queue formation process and get back into the new queue at the expense of their competitors.

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- Therefore, we believe WACM1 removes value relative to the Original Proposal. The reasons being that:
 - There would be a minimum 4-6 process delay to the Gate 2 to the Whole Queue exercise as a result of the Pause (if the Pause happened before the strategic alignment checks). This delay would be because of the additional work and re-work to process the EA Register, publish EA Information, undertake the Pause and consider any changes as a result of the Pause. This would include additional interface time for data exchange between NESO and DNOs and transmission-connected IDNOs. Moreover, if the Pause happened after the strategic alignment assessment, this process delay may easily exceed 2 months;
 - There would likely be no additional withdrawals as a result of the Pause, and even if there were withdrawals, these would have no positive effect for consumers; and
 - The Pause would introduce additional opportunity to seek to game the Advancement request. This would not result in more robust Advancement requests and would introduce additional risk associated with Users securing advanced connection dates that they ultimately cannot deliver against, leading to additional queue management interventions.

Q7: Do you have any further remarks, comments or concerns with our minded-to position that you would like us to take into account?

NESO Response:

As per our response to Q4, there are some limited benefits (the same as for WACM7) but again we believe that the benefits of WACM1 are considerably outweighed by the drawbacks. Our strong preference remains for the Original Proposal.

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Q8: Do you agree with our minded-to position to approve the Original Proposal?

NESO Response:

Yes. We support the approval of the Original Proposal, which is important to facilitate CMP434, and (indirectly) CMP435.

Q9: Do you have any further remarks, comments or concerns with our minded-to position?

NESO Response:

No.

Minded-to Decisions – Connections Methodologies

Q10: Do you agree with our assessment, conclusions, and Minded-to Decision to approve the three Connections Methodologies? Please consider in your response our assessment against the proposed objectives for each Methodology as consulted on as part of the licence changes. If you

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do not agree, please share your views on (a) the objectives you think the Methodology does not meet and (b) the changes you think are needed to better facilitate the proposed objectives.

NESO Response:

Yes. We are supportive of the minded-to decision on the three new Connections Methodologies. However, in response to Ofgem's minded-to consultation positions (particularly with regards WACM1 and WACM7) and following further stakeholder engagement and implementation planning, we have identified minor proposed changes to the new Connections Methodologies. We intend to publish these shortly and separate to this consultation response. As part of our publication, we will set out exactly what we propose to change from the methodologies submitted to Ofgem in December 2024 in 'marked-up' format, alongside an explanatory document setting out why the change is proposed. We believe the changes to be non-substantial and so under proposed new licence conditions E15-E17 we do not think they would require further consultation.

Impact Assessment

Q11: Do you agree that we have, to a reasonable extent, identified and understood the potential impacts of TMO4+, including in particular the impacts on size and makeup of the queue and network build and connection dates?

Q12: Do you agree that we have, to a reasonable extent, captured and understood the potential impacts of TMO4+ on different user types, including generation, storage and demand customers across transmission and distribution, as well as consumers, NESO and network companies?

Q13: If you are a developer who has one or more connection agreements that may be affected by TMO4+, do you have feedback on how your contract may be affected and what impact this would have on your business? Please provide as much detail as possible (including confidentially if desired), including as to the likelihood of being affected (positively or adversely); the reasons for this (e.g. opportunities for acceleration, failure to meet Gate 2 Criteria); and the extent of any likely or potential financial or other impact.

Q14: Do you agree that we have, to a reasonable extent, identified and understood all the potential costs of implementing TMO4+?

Q15: Have we, as accurately as possible, identified and understood all the potential benefits of implementing TMO4+?

Q16: Are there any unintended consequences of TMO4+ that we have not identified?

NESO Response:

We have not provided detailed comments on the impact assessment, but we agree generally with the conclusion in that we agree the expected benefits greatly outweigh the potential costs, having taken into account a reasonable view of the categories of potential benefits and costs.

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Electricity System Operator Licence Conditions

Condition A1: Definitions

1. Do you agree with the proposed licence changes for Condition A1 of the Electricity System Operator Licence? Please provide the reasons for your answer.

NESO Response:

Broadly we agree with the proposed changes to Condition A1, subject to the points below.

- General, ISOP – Throughout the licence drafting, we request that *'the ISOP'* is changed to *'the licensee'* to align with the remainder of the electricity system operator licence. The use of *'ISOP'* is correct in the transmission licence drafting, but not in the electricity system operator licence. It is important that a consistent term is used to describe NESO throughout its licences.
- Paragraph A1.4, Application Window – The reference here should be to *'Condition E12 (Requirement to offer terms)'*.
- Paragraph A1.4, Connections Methodologies – The words *'and/or'* at the end of (a) seem unnecessary and potentially confusing and we request that they are deleted.
- Paragraph A1.4, Connection Network Design Methodology – For consistency with Condition E16, including paragraphs E16.1(b), E16.2, E16.5 and E16.8, we request that *'issued'* is changed to *'produced and updated'*. The reference here should be to *'Condition E16 (Connections Network Design Methodology)'*.
- Paragraph A1.4, Connection Process – We are concerned that the definition is not entirely clear, because it does not state that the process is to assess connection applications and provide offers in accordance with *'applicable provisions'* of the CUSC, DCUSA, STC and Connections Methodologies. We request adding the wording in so that it cannot be incorrectly read into the licence that because the Connections Process must be followed that means that the Connections Methodologies must always be followed for any application.
- Paragraph A1.4, Developer-Associated Offshore Wider Works – The change made means that *'Condition'* has been duplicated.
- Paragraph A1.4, Gate 1 / Gate 2 – Two definitions proposed to be added in the statutory consultation are the definitions for *'Gate 1'* and *'Gate 2'*. Referring to these two terms as *'connection stages'* does not seem clear to us. The Gates are not really stages, but different types of offer/agreement. In addition:
 - *'Gate 2'* does not appear to be used in the drafting and so we suggest can be deleted. It does not seem helpful to introduce unused definitions.
 - The only place in which *'Gate 1'* is used it is referring to a *'Gate 1 agreement'*. Given the gated process is being set out in the relevant CUSC modifications, we suggest including the defined term *'Gate 1 Agreement'* which *'has the meaning given to that term in the CUSC'*. This is done for other defined terms (e.g. *'Developer Capacity'*).

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- Paragraph A1.4, Gate 2 Methodology – For consistency with Condition E15, including paragraphs E15.1(b), E15.3, E15.7 and E15.8, we request that ‘issued’ is changed to ‘produced and updated’. The reference here should be to ‘Condition E15 (Gate 2 Methodology)’.
- Paragraph A1.4, Non Developer Associated Offshore Wider Works – The condition reference should not be changed but should remain as in our current licence (‘E13’).
- Paragraph A1.4, Project Designation Methodology – For consistency with Condition E17, including paragraphs E17.1(b), E17.9, E17.13 and E17.14, we request that ‘issued’ is changed to ‘produced and updated’. The end to the sentence here should be to ‘Condition E17 (Project Designation Methodology)’.
- Paragraph A1.4, Strategic Energy System Plan – This new definition has been introduced, which is then used in the requirements relating to the methodologies in Conditions E15 to E17. Although we do not object to the introduction of a definition in this way, it is important that there is no ambiguity around what might constitute such a plan. The proposed definition seems ambiguous, because it does not determine how NESO knows that it is permitted to rely upon a plan published by government. For this reason, we propose the following change to the definition:

‘means the energy system plan that the Secretary of State has notified to the licensee [and the Authority] from time to time as containing the capacity ranges or pathways that the licensee is permitted to rely upon when developing, reviewing and implementing its Connections Methodologies.’

Although this proposal includes an additional procedural step, it seems to us that this is necessary. An alternative that would also work would be for Ofgem to provide the notification, confirming which plan is relevant at any particular time for the purpose of the licence.

Condition B3: Conduct of ISOP Business

2. Do you agree that no further changes should be made to Condition B3 of the Electricity System Operator Licence? Please provide the reasons for your answer.

NESO Response:

In response to Ofgem’s November consultation on the licence changes, we did not consider that there was a need to change the condition, on the basis that an advantage driven by a methodology that NESO is required to follow would not be unfair. We were also concerned about adding a specific reference to project designation, given there may be other situations where this applies.

We welcome Ofgem’s confirmation that *‘we do not consider licensee compliance with any of the Connections Methodologies (or any other licence condition) and implementation of the processes as set out in the TMO4+ reform package to imply providing an unfair commercial advantage’*.

However, it seems important that there is consistency across different licences where the same issue is being addressed. The proposed changes to introduce ‘for the avoidance of doubt’ provisions in the distribution licences create an inconsistent position, which (in spite of the helpful confirmation from Ofgem above) seems confusing when the regulatory framework is considered overall. In particular:

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- The provision being introduced in the distribution licences relates to the compliant application, implementation or facilitation of the Connections Process overall, whereas the equivalent provision proposed for the ESO licence relates only to project designation.
- The provision being introduced in the distribution licences applies both to the obligation not to restrict, prevent or distort competition (Condition 4.1) and the requirement not to unduly discriminate, whereas the equivalent provision proposed for the ESO licence applies only to the requirement not to give an unfair commercial advantage.

We do not see this inconsistency as justified and propose that the two licences are brought into alignment. In drafting terms, we suggest that instead of the change proposed to Condition B3 in the statutory consultation, the following paragraph is added as a new paragraph B3.3A:

'For the avoidance of doubt, the licensee shall not be in breach of this condition in the compliant application, implementation or facilitation of the Connections Process.'

This provision would apply to both the obligation not to give an unfair commercial advantage and the obligation to not unduly restrict, prevent or distort competition.

Condition C11: Requirements of a Connect and Manage Connection

3. Do you agree that no further changes should be made to Condition C11 of the Electricity System Operator Licence? Please provide the reasons for your answer.

NESO Response:

We agree that no further changes are required.

Condition E2: Connection and Use of System Code (CUSC)

4. Do you agree that no further changes should be made to Condition E2 of the Electricity System Operator Licence? Please provide the reasons for your answer.

NESO Response:

We agree that no further changes are required.

Condition E15 (new): Gate 2 Methodology (E12 in the policy consultation)

5. Do you agree with the further changes to the proposed new Condition E12 of the Electricity System Operator Licence? Please provide the reasons for your answer.

NESO Response:

We broadly agree that the draft licence condition gives effect to Ofgem's stated policy position. We have the following specific comments:

- General, '*relevant objectives*' – There remain a number of places where the phrase '*relevant objectives*' is used. We remain unclear on what the intention of including '*relevant*' is here and, as it is not clear, we request that it is deleted.
- Paragraph E15.2 – Our understanding of the policy intent is that it is the methodology that must meet the criteria and that, if it does not, Ofgem may reject the methodology and direct NESO to reconsider it. However, the intention is not that in such a situation NESO would automatically be in breach of licence. The current drafting does not align with the policy intention because it

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does appear to create a breach in such a situation. We request that the opening wording of paragraph E15.2 is changed to *'The Gate 2 Methodology must'* (and that the words *'ensure that the Gate 2 Methodology meets'* at the start of paragraph E15.2(b) are changed to *'meet'*). This drafting would then be consistent with paragraph E16.3, which does reflect our understanding of the policy intent.

- Paragraph E15.2(a) – We suggest that *'(a) – (g)'* here is confusing and request that this is deleted. (This would make this paragraph consistent with paragraph C11.3, which does not refer to (a)–(g).)
- Paragraph E15.3 refers in (b) and (c) to ISOP having evidence issued and verifying the evidence but in some cases it will be the DNOs who will have evidence issued to them and the need to verify, in accordance with both the CUSC and the Gate 2 Criteria Methodology. To resolve this, in (b) *'the ISOP'* could be removed and in (c) the wording could be changed to *'the process to be followed to...'*
- Paragraph E15.11 – This drafting is incorrect because paragraph E15.7 applies only following a NESO review rather than to all consultations. We request changing the end of the sentence to *'...must submit to the Authority for approval the Gate 2 Methodology or any subsequent amendments (where relevant including the statement required in accordance with paragraph E12.7).'*
- Paragraph E15.14 – It is unclear from the drafting whether the reference to consultation is as part of the direction or a reason for the direction. To clarify this, we request that *'...including if further consultation is required...'* is changed to *'...including on whether any further consultation is required...'*. There is also a typo at *'2Methodology'*.

Condition E16 (new): Connection Network Design Methodology (E13 in the policy consultation)

6. Do you agree with the proposed new Condition E16 of the Electricity System Operator Licence? Please provide the reasons for your answer.

NESO Response:

We broadly agree that the draft licence condition gives effect to Ofgem's stated policy position. We have the following specific comments:

- General, *'connection'* – There are a number of places in this condition (and also in conditions E12 and E17) where applications for a connection are referred to where we wonder whether the drafting should also refer to applications for *'Use of System'* and we suggest that Ofgem consider this further in finalising the drafting.
- General, *'relevant objectives'* – As noted above in response to Q5, we remain unclear on what the intention of including *'relevant'* is here and, as it is not clear, we request that it is deleted.
- General, *'electricity distribution operator' / 'distribution operator'* – In response to the policy consultation we noted that we were not clear why the drafting introduced new undefined terms to respond to distribution network operators. We request that Ofgem consider again whether a term defined in the licence already such as *'Authorised Distributor'* could be used to avoid any confusion.

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- Paragraph E16.2(b) – We request that this should read ‘...*network planning, the Strategic Energy System Plan...*’.
- Paragraph E16.2(c) – We request that this should read ‘...*Transmission Licensees*’ (plural).
- Paragraph E16.7 – The reference should be to paragraph ‘E16.3’.
- Paragraph E16.10 – The reference should be to paragraph ‘E16.9’.
- Paragraph E16.11 – As noted in response to Q5, this drafting is incorrect because paragraph E16.7 applies only following a NESO review rather than to all consultations. We request changing the end of the sentence to ‘...*must submit to the Authority for approval the Connection Network Design Methodology or any subsequent amendments (where relevant including the statement required in accordance with paragraph E16.7)*’.
- Paragraph E16.14 – The reference should be to paragraph ‘E16.11’.
- Paragraph E16.14(b) – As noted above in response to Q5, to clarify the drafting we request that ‘...*including if further consultation is required...*’ is changed to ‘...*including on whether any further consultation is required...*’.

Condition E17 (new): Project Designation Methodology (E14 in the policy consultation)

7. Do you agree with the proposed new Condition E17 of the Electricity System Operator Licence? Please provide the reasons for your answer.

NESO Response:

We broadly agree that the draft licence condition gives effect to Ofgem’s stated policy position. We have the following specific comments:

- General, ‘*relevant objectives*’ – As noted above in response to Q5, we remain unclear on what the intention of including ‘*relevant*’ is here and, as it is not clear, we request that it is deleted.
- Paragraph E17.3 – We suggest that ‘*or*’ in each place at the end of sub-paragraphs (a) to (d) should be deleted.
- Paragraph E17.3(b) – ‘*System Operation*’ should be lower case as this is not defined.
- Paragraph E17.3(f) – The references here are incorrect and we request that it is updated to ‘*projects not meeting (a) – (e) above as agreed with the Authority and as included in an update to the Project Designation Methodology in accordance with Part C*’. (We have suggested referring to Part C rather than the relevant paragraph numbers.)
- Paragraph E17.4 – The sub-paragraphs should be (a) and (b), rather than bullets. We also suggest that ‘*its decision*’ in the final line should be changed to ‘*the designation*’.
- Paragraph E17.9(a) – This sub-paragraph should start with ‘*the*’ (lower case).
- Paragraph E17.9(b) – We suggest changing ‘*require*’ to ‘*requires*’.
- Paragraph E17.9(c) – We suggest changing ‘*Process*’ to ‘*process*’ as this is not a defined term.
- Paragraph E17.10 – As noted in response to Q5, our understanding of the policy intent is that it is the methodology that must meet the criteria and that, if it does not, Ofgem may reject the

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methodology and direct NESO to reconsider it. However, the intention is not that in such a situation NESO would automatically be in breach of licence. The current drafting does not align with the policy intention because it does appear to create a breach in such a situation. We request that the opening wording of paragraph E17.10 is changed to *'The Project Designation Methodology must meet the following objectives...'*. This drafting would then be consistent with paragraph E16.3, which does reflect our understanding of the policy intent.

- Paragraph E17.10(f) – We request that this should read *'...into consideration the Strategic Energy System Plan'*.
- Paragraph E17.17 – As noted in response to Q.5, this drafting is incorrect because paragraph E17.13 applies only following a NESO review rather than to all consultations. We request changing the end of the sentence to *'...must submit to the Authority for approval the Project Designation Methodology or any subsequent amendments (where relevant including the statement required in accordance with paragraph E17.13)'*.
- Paragraph E17.20(b) – As noted above in response to Q5, to clarify the drafting we request that *'...including if further consultation is required...'* is changed to *'...including on whether any further consultation is required...'*.

Condition E12: Requirement of offer terms (E15 in the policy consultation)

8. Do you agree with the proposed licence changes to Condition E12 of the Electricity System Operator Licence? Please provide the reasons for your answer.

NESO Response:

We have a number of specific comments on the drafting:

- In paragraph E12.3, it appears to us that the intention is to capture requirements in both the STC and the CNDM. On that basis, in both places, we request that the text is changed to *'...the STC and/or the Connections Network Design Methodology'*.
- In paragraph E12.5, it appears to us that the words *'containing the details in (a) – (g) below'* may be confusing, because the application will not always be requesting all of those details. It appears to us that this could more clearly refer to *'the details in (e) and (f) and any other relevant details below'*. This would also apply in paragraph E12.6.
- In paragraph E12.7, the words *'or where no modification to an existing connection is requested'* seem very unclear. We are not clear what this drafting is intended to cover and request that Ofgem considers this paragraph further.
- In paragraph E12.9:
 - We suggest changing *'subject to the Gate 2 Criteria'* to *'which are required to meet the Gate 2 Criteria'* for consistency with other parts of the condition.
 - We suggest moving the words *'Unless otherwise agreed with the Authority'* to the start of the sentence, as otherwise it does not seem clear that it applies to all of the sentence (as we understand to be intended).
 - We suggest changing *'application window'* to *'Application Window'* (as a defined term).

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- Paragraph E12.14(b) – It seems odd wording to say that applications are obliged to apply as in the consultation text. We request changing to ‘...whose applications are not required to be submitted within an Application Window referred to in paragraph E12.9...’.
- In paragraph E12.14(c), given the Application Window is defined as a ‘*time period*’, we request that ‘*closing date*’ is changed to ‘*end*’ so that the meaning is clear.
- Paragraph E12.17 is not showing correctly in the consultation drafting. Paragraph E12.17(b) should end after the first ‘*in accordance with paragraph E12.5;*’ with the wording afterwards aligned with the paragraph opening.

Public

Electricity Transmission Standard Licence Conditions

Condition D1: Interpretation of Section D

9. Do you agree with the proposed licence changes to Condition D1 of the Electricity Transmission Standard Licence? Please provide the reasons for your answer.

NESO Response:

Transmission Owners (TOs) are best placed to respond to this question, but please note that some of our comments on ESO Licence Condition A1 also apply here. We note that the new 'Gate 1' and 'Gate 2' definitions seem to be not used at all in the drafting and so could cause confusion.

Condition D4A: Obligations in relation to offers for connection etc. (Transmission Owners)

10. Do you agree with the proposed licence changes to Condition D4A of the Electricity Transmission Standard Licence? Please provide the reasons for your answer.

NESO Response:

TOs are best placed to respond to this question but we have some notable observations as follows.

- D4A.1 and D4A.2 as written imply that CNDM applies to all offers whereas it does not apply to applications by a person who is not required to meet the Gate 2 Criteria. We are also unclear that this drafting does cover offers for Gate 1 Projects with Reservation as stated at paragraph 3.21 the statutory consultation and we would encourage Ofgem to further consider drafting refinements here to ensure that the position is clear.
- D4A.2 as written also refers to both E12.5 and E12.7, but we are not clear that the reference to E12.5 is clear as this does not appear to relate to 'Gate 1 Projects'. Furthermore, we will need to consider if and how this licence condition interacts with the minded-to decision for CM095 and whether a further clarificatory code change is required as a result i.e. in respect of the information provision between TOs and the NESO in relation to Gate 1 Projects as per i) and ii), and we query whether iii) is required as this refers to 'the agreement'. Overall, we are unsure that the drafting here clearly aligns with the stated intent, and we would encourage Ofgem to also further consider drafting refinements here.
- D4A.4 – we are not sure why there is a separate and unamended condition here in respect of Use of System?

Condition D16: Requirements of a connect and manage connection

11. Do you agree with the proposed licence changes to Condition D16 of the Electricity Transmission Standard Licence? Please provide the reasons for your answer.

NESO Response:

TOs are best placed to respond to this question. However, we note the following points:

- D16.1 – This should refer to '*paragraph E12.5 of the electricity system operator licence*'.
- D16.1 – We do not agree that the reference to paragraph C11.2 should be updated.

Condition D18 (New): Requirements to comply with Connection Network Design Methodology for Use of System and connection (Transmission Owners)

Public

12. Do you agree with that no further changes should be made to the proposed new Condition D18 of the Electricity Transmission Standard Licence? Please provide the reasons for your answer.

NESO Response:

The cross references will also need to be updated to reflect it being E16 rather than E13.

In D18.1, the drafting should read '*cooperate with the ISOP...*'.

In D18.2, the word 'Design' is still also currently omitted at 'Connections Network Methodology'.

Condition E17: Obligations in relation to offers for connection (Offshore Transmission Owners)

13. Do you agree that no change to Condition E17 of the Electricity Transmission Standard Licence is required? Please provide the reasons for your answer.

NESO Response:

Offshore Transmission Owners (OFTOs) are best placed to respond to this question but our comments on D4A in response to Q10 above could potentially result in changes here if change refinements are made to D4A.

Although no consultation question is included on Condition E18, we note that the changes proposed in the statutory consultation should not be made since the condition referred to in the electricity system operator licence (condition E13) is no longer being renumbered.

Condition E25 (New): Requirements to comply with connection network design Methodology for Use of System and connection (Offshore Transmission Owners)

14. Do you agree that no further changes to the new proposed condition E25 of the Electricity Transmission Standard Licence are required? Please provide the reasons for your answer.

NESO Response:

Our comments on D18 in response to Q12 above should result in changes here if change refinements are made to D18 as we have suggested.

(And Paragraph numbering here should also start at '1' and not '3'.)

Public

Distribution Standard Licence Conditions

Condition 1: Definitions for the standard conditions

15. Do you agree with the proposed licence changes to Condition 1 of the Electricity Distribution Standard Licence? Please provide the reasons for your answer.

NESO Response:

DNOs are best placed to respond to this question, but please note that some of our comments on ESO Licence Condition A1 also apply here. We note that the new 'Gate 1' and 'Gate 2' definitions seem to be not used at all in the drafting and so could cause confusion.

Condition 4: No abuse of licensee's special position

16. Do you agree with the proposed licence changes to Condition 4 of the Electricity Distribution Standard Licence? Please provide the reasons for your answer.

NESO Response:

We have no concerns with the proposed licence changes to Condition 4, but we do ask that consistent changes are made to the ESO licence condition B3 as are made here.

Please see our response to Q2 above for further information.

Condition 12: Requirement to offer terms for Use of System and connection

17. Do you agree with the proposed licence changes to Condition 12 of the Electricity Distribution Standard Licence? Please provide the reasons for your answer.

NESO Response:

Our only concern with the proposed licence changes is that, unlike in Condition 12A, paragraph 12.4A refers only to requests for a connection and not requests for modification of an existing connection. We query whether modifications should be referred to for clarity.

Condition 19: Prohibition of discrimination under Chapters 4 and 5

18. Do you agree with the proposed licence changes to Condition 19 of the Electricity Distribution Standard Licence? Please provide the reasons for your answer.

NESO Response:

We have no concerns with the proposed licence changes to Condition 19, but we ask that consistent changes are made to the ESO licence condition B3 as are made here.

Please see our response to Q2 above for further information.

Condition 20: Compliance with Core Industry Documents

19. Do you agree that no change is required to Condition 20 of the Electricity Distribution Standard Licence? Please provide the reasons for your answer.

NESO Response:

We have no concerns with the proposal. DNOs will have to comply with the Methodologies, which set out alignment criteria as per the Clean Power 2030 Action Plan and the SSEP.

Public

Condition 12A (New): Requirement to progress User applications into the Gate Window process and submit projects for Transmission assessment

20. Do you agree with the proposed new Condition 12A of the Electricity Distribution Standard Licence? Please provide the reasons for your answer.

NESO Response:

We have no concerns with the proposed changes as they require licensees to assess applicants against the Gate 2 Criteria, communicate the outcome of those checks to the licensee, and ensure that applications that have met the Gate 2 Criteria are progressed as soon as is reasonably practicable and in accordance with the timeframes and processes specified in the CUSC and Connections Methodologies.