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**Notice of statutory consultation on a proposal to modify the special conditions of the electricity transmission licence held by National Grid Electricity Transmission plc dated 27 March 2024  
(Notice)**

Dear Mick

We welcome the opportunity to respond to the Notice and the objective and structured approach taken in the published document which includes the Notice.

National Grid Group's operations in the UK include: National Grid Electricity Transmission (NGET), which owns the high voltage transmission system in England and Wales; National Grid Electricity Distribution (NGED), which owns and operates electricity distribution networks in the Midlands, the South West and Wales; National Grid Ventures (NGV), which owns and operates energy businesses in competitive markets, including sub-sea electricity interconnectors; and National Grid Electricity System Operator (NGESO), a legally separate business within National Grid Group which balances the supply and demand of electricity in real time across Great Britain.

This consultation response represents the views of National Grid as seller of NGESO and of NGET as the holder of the electricity transmission licence that will be modified as a result of the proposed licence modifications set out in the Notice. Our response deals with the proposed changes to the current NGET Special Licence Conditions 1.1 and 6.1.

With regards to the definition of "NGESO" in Special Condition 1.1, firstly this should be reinstated as the definition needs to be retained given the term is referenced in the proposed modifications at Special Condition 6.1.6 and also elsewhere in the current Special Conditions of the NGET licence. Secondly, we are aware of a separate Ofgem consultation published on 28 March 2024 proposing consequential changes to the NGET licence as part of the FSO separation. That consultation does not include the changes currently proposed in the Notice to Special Condition 6.1 but there is a need to align the changes being made by the Notice and the 28 March 2024 consultation. If the changes in the Notice are made first, then the consequential changes consultation of 28 March 2024 will also need to subsequently change the references in Special Condition 6.1 to "NGESO" to "ISOP". However, if the consequential changes (28 March 2024 consultation) are made first, then the proposed modifications to Special Condition 6.1 set out in the Notice will need to refer to "ISOP"<sup>1</sup> rather than "NGESO".

With regards to the definitions of  $LSOEDE_t$  and  $FSOE_t$  in Special Condition 6.1 these should be amended to provide a review and direction ability to the Authority rather than these values being set by direction from the Authority as is currently proposed in the Notice. The current drafting requires a direction in all circumstances and is likely to introduce an additional unnecessary burden on Ofgem (and the licensee) which can be avoided by a simpler process without reducing the

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<sup>1</sup> Later in the document we refer to ISOP rather than clarifying that this would be NGESO or ISOP depending on the order in which the changes are made.

assurance Ofgem would have. The Authority should have the ability to review any values and adjust these by direction if necessary; the timing of this process need not necessarily be set out on the face of the licence, but we would welcome clarification as to how Ofgem would envisage such a review process working. These definitions should therefore be amended to confirm that the value in question is not set by direction but, rather, that such value may be reviewed and, if necessary, adjusted by direction. The latter can be achieved by including the words “The Authority may review [this adjustment] annually and may adjust the value of the LSOEDE<sub>t</sub> and/or the FSOE<sub>t</sub> terms by direction following such a review.” Additional proposed changes to the definitions of these terms are set out in the Appendix to this letter. Furthermore, in relation to the FSOE<sub>t</sub> term, the reference to “fair allocation of” with regards to payments should be removed. As previously discussed, multiplication by the Pre-Cut-Off Date Regulatory Fraction for NGESO will ensure costs are fairly allocated. If this term is not removed, the licence would read as taking a fair allocation of a fair allocation.

With regards to the definition of LSOIDE<sub>t</sub> there is a typo in Part C (6.1.6) of the proposed amendment to Special Condition 6.1 where LSOIDE<sub>t</sub> is referred to as LOSIDE<sub>t</sub>. Furthermore, in line with the points made above this value should not be set by Authority direction as is currently proposed but the Authority should have the ability to review any value and adjust this by direction if necessary. Therefore, to ensure consistency with both the LSOEDE<sub>t</sub> and FSOE<sub>t</sub> terms, the LSOIDE<sub>t</sub> term should be amended to confirm that the value in question is not set by direction but, rather, that such value may be reviewed and, if necessary, adjusted by direction. This can be achieved by including the words “The Authority may review these payments annually and may adjust the value of the LSOIDE<sub>t</sub> term by direction following such a review”.

In addition to the above, we believe the following changes are also required to the proposed modifications set out in the Notice:

- Under Chapter 1 (Interpretation and definitions) reference should be made to “Special Condition 1.1 (Interpretation and definitions)” as this is the Special Condition that contains the definitions that are being modified by the Notice.
- In Special Condition 1.1, in the definition of FSO, close bracket after “ISOP” and remove brackets each side of “2023”.
- In Special Condition 1.1, in the definition of Pension Regulator, replace “Has” with “has”.
- In Special Condition 6.1.3, the definition of ESOP<sub>t</sub> should be extended as it does not state the value of the term is zero until the FSO/ISOP is established. This definition should therefore include “For the avoidance of doubt the value of the ESOP<sub>t</sub> term will be zero until the ISOP is established.”
- In Special Condition 6.1.7 (c), we suggest “project costs reasonably incurred” is used rather than “project costs incurred”, as included in drafting previously discussed with Ofgem.
- In Special Condition 6.1.3, a number of terms (ESOP<sub>t</sub> and EDE<sub>t</sub>) should be in italics for consistency.

In light of the above changes, we have included our proposed modifications as shown below, in the Appendix.

If you have any questions on this response, please contact [richard.allman@nationalgrid.com](mailto:richard.allman@nationalgrid.com).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chris Bennett', with a long horizontal flourish extending to the right.

Chris Bennett

UK Policy & Regulation Director & Programme Director FSO

Appendix. –

We set out below the changes that we believe are necessary to the licence modifications that are set out in the Notice. Deletions are shown in red strike through, and new text (or amended formatting) is shown in red font.

## Chapter 1: Interpretation and definitions

### Special Condition 1.1 Interpretation and definitions

NGESO/ISOP	means National Grid Electricity System Operator Limited/Independent System Operator and Planner (which term is used will depend on the timing of various licence modifications as discussed in our response to the Notice)
<u>Incremental Deficit</u>	<u>has the meaning given in the Pensions RIGs</u>
<u>Future System Operator (FSO)</u>	<u>means the body that will be designated as the Independent System Operator and Planner (ISOP) under the Energy Act <del>{2023}</del></u>
<u>Pension Protection Fund</u>	<u>has the meaning given in the Pensions RIGs</u>
<u>Pensions Regulator</u>	<u>has the meaning given in the Pensions Act 2004</u>
<u>Pension RIGS</u>	<u>means the guidance document issued by the Authority titled 'Network Operators' Price Control Pension Costs - Regulatory Instructions and Guidance: Triennial Pension Reporting Pack supplement including pension deficit allocation methodology.</u>
<u>Pre-Cut-Off Date Regulatory Fraction</u>	<u>has the meaning given in the Pensions RIGs</u>
<u>System Operator Pension Transfer Costs</u>	<u>means pension scheme costs properly incurred by the licensee that otherwise would not be incurred as a consequence of any transfer of assets and rights under Schedule 10 of the Energy Act 2023</u>

## Chapter 6: Pass-through expenditure

### Special Condition 6.1 Pass-through items (PT<sub>t</sub>)

#### Introduction

- 6.1.1 The purpose of this condition is to calculate the term PT<sub>t</sub> (the allowed pass-through term). This feeds into Calculated Revenue in Special Condition 2.1 (Revenue restriction).

6.1.2 The effect of this condition is to ensure that the licensee’s Allowed Revenue reflects that certain costs can be passed through to Users.

### Part A Formula for calculating the allowed pass-through term (PT<sub>t</sub>)

6.1.3 The value of the PT<sub>t</sub> term is derived in accordance with the following formula:

$$PT_t = RB_t + EDE_t + TPD_t + \underline{ESOP_t}$$

where:

- RB<sub>t</sub>* means the amount levied on the licensee in respect of the Prescribed Rates or an amount directed under Part B;
- EDE<sub>t</sub>* means the payments in relation to the Pension Scheme Established Deficit repair expenditure for each Regulatory Year, as further explained and elaborated upon in the ET2 Price Control Financial Handbook;
- TPD<sub>t</sub>* means the temporary physical disconnection costs incurred by the licensee in relation to interruption payments made by the System Operator as part of its balancing services activity in the licensee's Transmission Area that are charged to the licensee in accordance with the provisions of the STC; and
- ESOP<sub>t</sub>* means the System Operator Pension Transfer Costs and is derived in accordance with Part C. For the avoidance of doubt the value of the ESOP<sub>t</sub> term will be zero until the [ISOP] is established.

### Part B Review of Prescribed Rates pass-through term (RB<sub>t</sub>)

6.1.4 As part of any periodic revaluation, the licensee must:

- (a) engage with the Relevant Valuation Agency; and
- (b) use its reasonable endeavours to minimise the amount of the Prescribed Rates to which it is liable.

6.1.5 If, after reviewing the licensee’s engagement with the Relevant Valuation Agency and any further information required from the licensee with respect to a particular revaluation, the Authority considers that the licensee has not complied with paragraph 6.1.4, the Authority will adjust the value of RB<sub>t</sub> by direction.

### Part C Formula for calculating ESOP<sub>t</sub>

6.1.6 ESOP<sub>t</sub> is derived in accordance with the following formula:

$$\underline{ESOP_t = LSOIDE_t + LSOEDE_t + FSOE_t + FSOO_t}$$

where:

- LSOIDE<sub>t</sub> ~~has the value directed by the Authority and~~ means the payments made by the licensee in relation to the Incremental Deficit for each Regulatory Year in respect of legacy pensioner and deferred pension members attributed to NGESO. The Authority may review these payments annually and may adjust the value of the LSOIDE<sub>t</sub> term by direction following such a review.

<u>LSOEDE<sub>t</sub></u>	<del>has the value directed by the Authority and</del> represents the <u>adjustment to offset any negative value incurred by the licensee for each Regulatory Year in relation to the Pension Scheme Established Deficit in respect of legacy pensioner and deferred pension members attributed to NGESO, including (for avoidance of doubt) any stranded surplus clawback, as further explained and elaborated upon in the ET2 Price Control Financial Handbook.</u> <del>The Authority may review this adjustment annually and may adjust the value of the LSOEDE<sub>t</sub> term by direction following such a review.</del>
<u>FSOE<sub>t</sub></u>	<del>has the value directed by the Authority and</del> represents the <u>fair allocation of</u> payments made by the licensee for external costs relating to the National Grid Electricity Group of the Electricity Supply Pension Scheme for each Regulatory Year as specified in paragraph 6.1.7 multiplied by the Pre Cut-Off Date Regulatory Fraction for NGESO, excluding any costs recovered by the licensee via NGESO as part of the FSO transition cost recovery process. <del>The Authority may review these payments annually and may adjust the value of the FSOE<sub>t</sub> term by direction following such a review; and</del>
<u>FSOO<sub>t</sub></u>	has the value directed by the Authority and represents for each Regulatory Year other System Operator Pension Transfer Costs, <u>excluding any costs recovered by the licensee via NGESO as part of the FSO transition cost recovery process.</u>

6.1.7 Costs properly incurred by the Licensee for the purposes of calculating FSOE<sub>t</sub> are:

- (a) scheme management and administration costs, including all explicitly charged investment fees and regulatory imposed costs such as Pension Protection Fund and related levies and other non-controllable costs of meeting regulatory requirements of the Pensions Regulator and all relevant statutory requirements.
- (b) reasonable pension liability management costs including the cost of early retirement, voluntary redundancy, flexible retirement options, transfer and pension increase exchange (PIE) exercises, and
- (c) such project costs reasonably incurred.

6.1.8 The licensee may submit evidence to the Authority of such other System Operator Pension Transfer Costs that in their view should be included in the calculation of FSOE<sub>t</sub>.