

# Response

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## **FSO Codes Change Programme – Response to statutory consultation on modifications to industry codes to implement the Independent System Operator and Planner (ISOP)**

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This document sets out Ofgem’s and the Department’s responses to the statutory consultation on modifications to industry codes to implement the Independent System Operator and Planner (ISOP)<sup>1,2</sup>, published in May 2024.

In the statutory consultation we stated we would assess responses before making decisions on final modifications.

Having considered and taken account of stakeholder feedback received in response to that consultation, this response document sets out decisions taken by both organisations on the modifications to the following industry codes and their associated documents (collectively referred to as the “Codes”) on which the Relevant Authorities<sup>3</sup> intend to exercise powers under section 169 of the Energy Act 2023<sup>4</sup> in order to modify directly these Codes:

- Balancing and Settlement Code (BSC)
- Connection and Use of System Code (CUSC)

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<sup>1</sup> May 2024 Statutory consultation on GB codes <https://www.ofgem.gov.uk/consultation/statutory-consultation-establishing-independent-system-operator-and-planner-isop-gb-industry-codes-2024>

<sup>2</sup> Part 5 of the Energy Act 2023 defines the term Independent System Operator and Planner (ISOP), previously referred to as the Future System Operator (FSO)

<sup>3</sup> Relevant Authority means in this context the Secretary of State of the Department or the Gas and Electricity Markets Authority (GEMA), per section 169(7) and section 170(9) of the Energy Act 2023.

<sup>4</sup> Energy Act 2023: <https://www.legislation.gov.uk/ukpga/2023/52/enacted>

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- Distribution Code (D Code)
- Distribution Connection and Use of System Agreement (DCUSA)
- Grid Code
- System Operator Transmission Owner Code (STC)
- Security and Quality of Supply Standard (SQSS)
- Uniform Network Code (UNC)

We intend for the Relevant Authorities to exercise powers, respectively, under section 169 of the Energy Act 2023 in order to modify directly these Codes. The Gas and Electricity Markets Authority (GEMA)<sup>5</sup> and the Secretary of State of the Department will each act as the respective Relevant Authority for respective parts of the modifications. The intention is for GEMA to be the Relevant Authority for all the code modifications, excluding those related to National Security. In the case of the latter, the intention is for the Secretary of State to be the Relevant Authority.

The effect of the modifications is to implement changes to the Codes to ensure they are coherent with the establishment of the ISOP and changes to the regulatory framework in accordance with its statutory functions, duties and licence conditions.

Legal text for the modifications to the Codes is contained in a number of annexes (the “Annexes”) which are also being published alongside this document. However, the modifications are not made as a result of this publication and this document does not constitute a decision to make the proposed modifications to the Codes. Final decisions on making the modifications to the Codes will only be taken by the Relevant Authorities in sequence with (and subject to) a wider set of decisions by the Secretary of State to establish and designate<sup>6</sup> the ISOP and set the date for ‘Day 1’<sup>7</sup>.

Once made, it is anticipated that the modifications will take effect on Day 1.

More information can be found on the ISOP webpage<sup>8</sup> on the Ofgem website.

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<sup>5</sup> Gas and Electricity Markets Authority. Ofgem is the Office of the Gas and Electricity Markets Authority. The terms “GEMA” and “Ofgem” are used interchangeably in this document.

<sup>6</sup> Following notice by the Secretary of State under section 162 of the Energy Act 2023

<sup>7</sup> Day 1 is the effective date of designation of the ISOP and when the new ISOP Gas System Planner and Electricity System Operator licences come into effect

<sup>8</sup> Ofgem’s FSO / ISOP webpage: <https://www.ofgem.gov.uk/energy-policy-and-regulation/policy-and-regulatory-programmes/future-system-operation-fso>

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## Introduction

### Background

In April 2022, Ofgem and the Department decided<sup>9</sup> to proceed with the creation of a new publicly owned ISOP. The Energy Act 2023 set the legislative framework for the ISOP, which will be known as National Energy System Operator, or NESO. NESO will take on all the existing roles and responsibilities of the current National Grid Electricity System Operator Limited (NGESO) in addition to several new roles and responsibilities across electricity and gas. These duties and roles will enable NESO to take a whole energy system approach when operating and planning the energy system.

Since the April 2022 decision, Ofgem and the Department have consulted on the two new licences the ISOP will hold, the Electricity System Operator (ESO) licence, and the Gas System Planner (GSP) licence and the consequential changes to other licences. These new licences, and modifications to existing conditions, were published under statutory consultation<sup>10</sup> in March 2024. Ofgem and the Department also have consulted on Elexon ownership arrangements, with the response published in August 2024<sup>11</sup>.

Ofgem established the Future System Operator Codes Change Programme (FSO CCP) for developing the industry code modifications required for the establishment of the ISOP. Under the FSO CCP, [a Cross-Code Workgroup \(CCWG\)](#)<sup>12</sup> of industry representatives spanning all impacted codes and relevant constituencies was constituted in October 2023 after an initial Call for Volunteers<sup>13</sup>. Ofgem, its Project Partners<sup>14</sup> and the CCWG undertook analysis to determine the required code modifications. This analysis, taking into account feedback received from codes industry panels and similar forums, was set out as tracked changes on April 2024 versions of the Codes and published under [statutory consultation](#)<sup>15</sup> in May 2024 (“May 2024 statutory consultation”).

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<sup>9</sup> April 2022 response: <https://assets.publishing.service.gov.uk/media/624c840ce90e075f1120592f/future-system-operator-consultation-govt-response.pdf>

<sup>10</sup> March 2024 Statutory consultation on NESO licences and other impacted licences: <https://www.ofgem.gov.uk/publications/national-energy-system-operator-neso-licences-and-other-impacted-licences-statutory-consultation>

<sup>11</sup> Future ownership of Elexon: licence and code changes main website: <https://www.gov.uk/government/consultations/future-ownership-of-elexon-licence-and-code-changes>  
August 2024 Response: <https://assets.publishing.service.gov.uk/media/66c4dea7808b8c0aa08fa850/elexon-licence-and-code-consultation-government-ofgem-response.pdf>

<sup>12</sup> October 2023 Decision letter for Ofgem’s Call for Volunteers (CfV) – FSO Codes Change Programme: <https://www.ofgem.gov.uk/publications/decision-letter-ofgems-call-volunteers-fso-codes-change-programme>

<sup>13</sup> August 2023 CfV: <https://www.ofgem.gov.uk/call-for-input/call-volunteers-fso-codes-change-programme>

<sup>14</sup> Project Partners include NGESO, Elexon Ltd and National Gas Transmission plc (NGT)

<sup>15</sup> May 2024 Statutory consultation on GB codes <https://www.ofgem.gov.uk/consultation/statutory-consultation-establishing-independent-system-operator-and-planner-isop-gb-industry-codes-2024>

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## **Modifications being addressed by this response**

Our May 2024 statutory consultation set out proposed modifications as “policy packages”: those required to reflect the ISOP as a new public body (**“Institutional”**), and those associated with the ISOP’s statutory functions and duties, and new and enhanced roles to be obligated on Day 1 (**“Day 1 roles”**).

The “Institutional” package included updating:

- Definitions of defined terms currently referring to NGESO, updated to make reference to the new company NESO;
- References to the two new ISOP licences (the ESO and the GSP licences);
- References to the new licences structure; and
- Consequential references.

The “Day 1 roles” package included policy related to:

- Gas networks and markets, both (“Gas roles”);
- Advisory and Information Requests to the ISOP; and
- National Security directions issued to the ISOP.

This document sets out the responses received from stakeholders on the policy packages, expanding on the consultation position for context where necessary and providing detail on any changes to the proposed modifications to be taken forward, having taken account of the responses. In doing so, this document also includes any reasons for differences between the modifications proposed in the May 2024 statutory consultation and the modifications set out herein, and their effect.

## **Structure of this document**

The May 2024 statutory consultation described in notices under section 170 of the Energy Act 2023 the intent of each Relevant Authority to act for corresponding parts of the modifications. The notice issued on behalf of GEMA proposed all modifications excluding National Security. The notice issued on behalf of the Department proposed modifications only related to National Security. Similarly, this response is set out in two sections:

**1. Modifications excluding National Security** for which GEMA is the Relevant Authority. This is further set out as responses to representations made regarding:

- Modifications related to the electricity codes; and
- Modifications related to strategic gas planning and the UNC.

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**2. Modifications relating to National Security** for which the Department is the Relevant Authority.

**Appendix 1 – Glossary** contains an explanation and definitions of terms used throughout this document.

**Appendix 2 – Baseline analysis** provides a code-specific accounting of baseline changes since the May 2024 statutory consultation.

**A number of annexes** (the “**Annexes**”) are being published alongside this document:

1. **Annex A – Responses log excluding National Security.xlsx**: A log of all non-confidential responses related to modifications excluding National Security and a response to each.
2. **‘Change-marked’ legal text of the Codes** as if the modifications set out in this document were applied to them:
  - **Annex B – BSC.zip**
  - **Annex C – Distribution Code.zip**
  - **Annex D – DCUSA.zip**
  - **Annex E – CUSC.zip**
  - **Annex F – Grid Code.zip**
  - **Annex G – STC.zip**
  - **Annex H – SQSS.zip**
  - **Annex I – UNC.zip**
  - **Annex J – Core Definitions Modification and Effect** provides modifications and effects of comments regarding the defined terms as set out in paragraph 1.5.
  - **Annex K – Non-confidential responses.zip**
3. **Annex N – National Security.zip**:
  - A change log setting out the revisions to each of the Codes (i) the reference where a change was made, (ii) the revision, and (iii) reasoning for it;
  - A log of all non-confidential responses relating to National Security and a response to each.

## **The legal effect of the modifications, and Implementation**

Notwithstanding the modifications being described as policy packages, or responses being governed by two Relevant Authorities:

*Legal effect*

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- a) Where the Relevant Authorities have decided on final modifications to the Codes, those modifications will have legal effect from Day 1 regardless of whether they are reflected in the consolidated published versions of the Codes as of that date.
- b) The legal text of the code modifications will be enclosed with and or signposted from the Relevant Authorities’ decision notice(s), to enable the relevant code administrators to then (respectively) update the consolidated published versions of the Codes<sup>16</sup>.
- c) The Relevant Authorities are amending the Codes in the manner<sup>17</sup> set out in those documents. Practically, this means we propose to modify certain text within the Codes identified per the approach set out in footnote 17, and not modify the entirety of the Codes themselves<sup>18, 19</sup>.

*Baseline changes since April 2024*

- d) The baseline for the tracked change Codes annexed to the May 2024 statutory consultation were those provided by the relevant code administrators to Ofgem and the Department in the weeks leading up to the publication. These were generally the versions available in April 2024. *Appendix 2 – Baseline analysis* provides a code-specific accounting of baseline changes from then to publication of this document, and the versions of the Codes considered for the purposes of the responses in this document.
- e) In specific cases the Codes’ baselines have changed since the consultation and may change further between the publication of this response and the Relevant Authorities’ decisions. There is a chance therefore, that in limited instances, some modifications into the Codes may typographically misalign due to movement in a baseline. Where but for a minor misalignment or another typographical consequence of baseline movement, the modification is unaffected, then the modification in question should be read-in<sup>20</sup> as required.

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<sup>16</sup> We would expect code administrators to complete consolidation as soon as reasonably practicable.

<sup>17</sup> Modifications made by GEMA to be shown with deletions in ~~strike through~~ and additions in double underline, and modifications made by SoS to be marked in green highlighting.

<sup>18</sup> As such, our decisions do not amount to creating new versions of the Codes per se.

<sup>19</sup> As a worked example, we proposed to STC Section B, 7.1.3 “*The Code and Code Procedures may (and may only) be amended from time to time pursuant to the ~~Transmission~~ ESO Licence condition E4”.* The legal effect of such a modification would be limited to that change identified in struck through and underlined text (i.e., the deletion of ‘Transmission’ and the inclusion of ‘ESO’ and ‘condition E4’) and the new obligations it creates, independent of the quality of the baseline to which the modification was applied.

<sup>20</sup> As an example, the May 2024 statutory consultation included a footnote in DCUSA s.3: “*DCP 435 ‘Party Novation Process’ is currently with the Authority for decision and proposes to introduce new Clauses 60.16 to 60.20 to Section 3 and therefore, if approved and implemented prior to these changes coming into effect, the numbering of these new Clauses will start at 60.21 and any cross references will be updated accordingly.*” So, where Day 1 comes after DCP435’s implementation, the new Clauses will require re-numbering.

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- f) For example, if a modification as decided changes a defined term in paragraph 30 of a document, but that paragraph in fact sits at paragraph number 31 in the ‘live’ document version at or up to Day 1, then the modification change should be read-in to that paragraph 31. In such instance, our decision is the change to the term in that paragraph 31.
- g) In these very limited instances, consolidation of code documents should be drafted to reflect the above, and housekeeping modification should be reserved for any cross-referencing corrections or similar required as a result. Please see ‘Housekeeping and Corrections after Day 1’ below where we set out powers and procedures.
- h) We request that if any instances are identified in consolidation exercises, that Ofgem are notified.
- i) Ofgem and the Department have made good faith efforts to assess any changes to the Codes since the May 2024 statutory consultation for required<sup>21</sup> ISOP-related modifications. These assessments are based on requests to the relevant code administrators, versions publicly available and modification proposals which are with GEMA for decision through the usual governance<sup>22,23</sup>. We have not identified any ISOP-related modifications not covered by this response document. We have not assessed changes to the Codes we have not seen.

*Housekeeping and Corrections after Day 1*

- j) If any ISOP-related modifications not covered in this response document are identified after Day 1, the Relevant Authorities may exercise their powers under section 169 and 170 of the Energy Act 2023 to modify the Codes during the three-year sunset period<sup>24</sup> or expect parties to propose changes through the usual governance. Any such potential modifications may be brought to our attention via our GEMA representatives, or by contacting the NESO regulation team (see document email address).

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<sup>21</sup> Required means “in preparation for the designation of a person (as the ISOP) under section 169, or in connection with or in consequence of the designation of a person under that provision.”

<sup>22</sup> Business-as-usual code modification process are those set out between the Standard Licence Conditions, Standard Special Conditions of electricity and gas licences and their corresponding processes implemented in the respective codes (the usual code modification process).

<sup>23</sup> Code modification/modification proposals with GEMA for decision - expected publication dates timetable <https://www.ofgem.gov.uk/publications/code-modificationmodification-proposals-ofgem-decision-expected-publication-dates-timetable>

<sup>24</sup> The power of a Relevant Authority to modify a Relevant Document is subject to a three-year sunset period following first designation of the ISOP under section 169(6) of the Energy Act 2023

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## 1. Modifications excluding National Security

This section addresses all modifications excluding those related to National Security, for which GEMA is the Relevant Authority. 'We', 'us' and 'our' are used interchangeably with Ofgem throughout this section. Where relevant, we will indicate if a consideration applies to another party.

We summarise the responses received, how we have considered them – setting out themes, a detailed response log and consolidated legal text. We provide general considerations inclusive of electricity codes and the UNC before separately setting our specific responses for the electricity codes and the UNC respectively.

### **May 2024 statutory consultation questions not related to National Security** (*The Relevant Authority is GEMA*)

#### On matters related to the overall consultation and the electricity codes

Q1. Does the package of proposed code changes meet the objectives of the FSO CCP?

Q2. Do you have any other views or comments relating to the proposed modifications to the Codes (excluding those modifications relating to National Security)?

#### On matters related to Gas roles and the UNC

Q3. Have we correctly identified and made all the necessary updates in the UNC and associated documents to enable the ISOP to execute its role as a Gas System Planner? If not, please elaborate what other specific changes are required?

Q4. What are your views on the proposed UNC code changes as set out in this document?

### **Summary of responses received**

There were 13 responses to the May 2024 statutory consultation, from a range of organisations including transmission and distribution network companies, generators, gas transporters, industry code administrators, data service providers and the system operator. Seven responses focussed on matters related to the electricity codes, and six on matters related to Gas roles and the UNC. We are grateful to respondents for taking the time to submit their views on our proposals.

Across the 13 responses we received more than two-hundred individual comments on various aspects of the proposed modifications. The comments ranged across consultation

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procedures, the objectives of the FSO CCP and CCWG, policy implementation, and drafting revisions. Many comments were of a cross-code and cross-vector nature, inclusive of electricity codes and the UNC.

Given the large number of comments, this document therefore focusses on themes, rather than summarising every comment received and provides cross-code and cross-vector considerations even where a comment was raised only in one or few of the codes. All responses including those marked confidential have informed our conclusions and next steps. *Annex A – Responses log excluding National Security.xlsx* is a log of all non-confidential responses and a response to each. Annexes of 'change-marked' legal text of the Codes set out the consolidated modifications.

In the remainder of this section, we provide our consideration of general comments and those of a cross-code and or cross-vector nature, namely:

- The FSO CCP and CCWG: Objectives and Process;
- Quality Control issues with the Codes' baseline;
- Ancillary documents; and
- Effect of the 'Boilerplate' clauses and UNC changes.

## **Cross-code and Cross-vector themes**

### **1.1 The FSO CCP and CCWG: Objectives and Process**

#### *Stakeholder feedback*

Several stakeholders agreed that the package of changes across the Codes was consistent with the objectives of the FSO CCP to establish the ISOP in industry codes and implement its Day 1 activities, and that the changes were aligned with the intent described in previous consultations. One stakeholder went further to express a desire for similar and continued engagement on future modifications after Day 1, as necessary.

Another stakeholder expressed concerns around the limited membership of the CCWG and what they perceived as restrictions on CCWG members in discussing potential options with their respective constituency and or additional parties. They highlighted the risk of unconscious bias, imbalance of outcomes in favour of individual organisations' perspectives versus those of the whole of industry.

#### *Ofgem's response*

To determine the modifications required for the establishment of the ISOP, Ofgem established the FSO CCP where its main delivery vehicle the CCWG was constituted from

industry representatives who responded to our Call for Volunteers (CfV). The design of the FSO CCP and the CCWG was characterised by:

- a) **Early engagement:** In the months leading up to the CfV, we took agenda items to two Energy Industry Panel Chairs (EIPC) meetings, two Code Administration Code of Practice (CACoP) forums and various code-specific review panels. Our aim was to (i) seek critical friend input on the bespoke approach in modifying the Codes using provisions in the then Energy Bill; (ii) share initial analysis on the expected changes; and (iii) share our ambition to convene industry codes experts to provide scrutiny of the proposed solutions.
- b) **Leveraging industry expertise:** For the industry and code administrator constituencies of the CCWG, we accepted all nominations we received in response to the CfV and made bilateral requests via the previously mentioned forums for volunteers to fill gaps which emerged at the end of the process<sup>25</sup>.
- c) **Transparency on progress:** We consulted on the CCWG terms of reference which allows attendance by non-CCWG members and “convening code-specific sub-workgroups, including pre-modification forums with impacted parties within or outside of the CCWG”. Our October 2023 response<sup>26</sup> highlighted the code administrator cohort of the CCWG as key to “keeping Code Panels notified with regard to any progress made within the CCWG”. Updates were provided to CCWG members and our GEMA representatives to share at panel meetings, and we took agenda items to panels from time to time.
- d) **Transparency on objectives:** We consulted on the CCWG objectives and scope, as governed by principles<sup>27</sup>, namely:
  - Provisions of the then Energy Bill, and Ofgem and the Department’s view of the appropriateness of implementing modifications via a legislative route.
  - Implementing the new institution; cascading licence modifications into the Codes; and having no betterment, with some case-by-case exceptions.
  - Being deliverable within the timeline of the wider project.
- e) **A statutory consultation on the proposed modifications.**

We are grateful for the expert input from several stakeholders, and their assurance that the objectives of the FSO CCP have been met for a successful establishment of the ISOP

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<sup>25</sup> [The CfV main document](#), 1.32 to 1.35 set out the selection criteria for CCWG membership, the sift process, and the opportunity for objections or omissions to be considered

<sup>26</sup> October 2023 Decision letter for Ofgem’s Call for Volunteers (CfV) – FSO Codes Change Programme: <https://www.ofgem.gov.uk/publications/decision-letter-ofgems-call-volunteers-fso-codes-change-programme>

<sup>27</sup> [The CfV main document](#), 1.40 to 1.45 set out the CCWG principles

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and its Day 1 activities. In respect of the challenge to our process, we are receptive to concerns on being vigilant to reflect the widest industry views in our change programmes. We believe we made good faith efforts in both our process and in its outcomes, but we will consider how to refresh the CCWG ways of working to continue to provide assurance to all stakeholders during the sunset period<sup>28</sup> in which we may propose further modifications.

## **1.2 Quality Control issues with the Codes' baseline**

### *Stakeholder feedback*

A few stakeholders highlighted quality control issues with the tracked change Codes provided as annexes to the May 2024 statutory consultation. Issues were broadly the following:

- a) Use of incorrect baselines, based on version markers in headers and footers.
- b) Accidental 'touching' of sections of documents which resulted in a registered tracked change but where no text was in fact changed.
- c) Inconsistent application of code-specific typography and formatting conventions.
- d) Other typographical errors such as spurious spaces.
- e) ISOP-related changes to defined terms which should not have been in use.
- f) Misuse of 'the' preceding the term 'NESO', which in all cases should be NESO.
- g) Referring to 'The Company's ESO Licence' rather than simply 'ESO Licence'.

One stakeholder argued for the ISOP-related modifications to be applied to the most up-to-date code documents and for changes to be correctly tracked via version control numbers and references. They argued that adapting to the frequent changes to the baseline to incorporate business-as-usual modifications and GEMA decisions is substantial work not aided by inaccuracies.

### *Ofgem's response*

In the weeks leading up to the May 2024 statutory consultation, proposed modifications were set out as tracked changes on the April 2024 versions of the Codes. Ofgem and the Department provided the rules for change and provisional legal text which the relevant code administrator applied onto the Codes. We reviewed those changes against the FSO

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<sup>28</sup> The power of a Relevant Authority to modify a Relevant Document is subject to a three-year sunset period following first designation of the ISOP under section 169(6) of the Energy Act 2023

CCP principles and objectives and amended where appropriate. Those documents were then annexed to the May 2024 statutory consultation.

We remain grateful to our code administrator colleagues and their teams for their work in preparing the previous annexes and recognise the complexity of getting the volume of changes correct in and across multiple codes, as well as our responsibility in assessing those changes. We are sympathetic to the value we might add for code parties by issuing the final modifications on a consolidated and correct baseline of the Codes.

The consolidation of the modifications into the Codes as described in "The legal effect of the modifications, and Implementation" section of the Introduction provides our response to the issues raised in (a) through (c). Here, we believe the respective code administrators are best placed to reflect the correct version markers and applying code-specific typography and formatting conventions. Nevertheless, in preparation of the Annexes to this response, where we were able, we addressed many of the issues in (a) to (c), and *Appendix 2 – Baseline analysis* shows where we have used updated versions of the Codes. Issues (d) to (g) are addressed in this response.

#### *Modification and effect*

The effect of the varied corrections above are reflected in the response log, and generally improve the readability and coherence of the modifications in the Codes.

### **1.3 Ancillary documents**

#### *Stakeholder feedback*

In respect of the Distribution Code, one stakeholder stated their interpretation of the Annex 1 documents as forming part of the Distribution Code. They did not challenge our proposal that ISOP-related modifications to Annex 1 documents be taken through their usual code governance route rather than via powers under the Energy Act 2023.

However, they stated a need for the resolution of the Distribution Code Review Panel (DCRP) as a matter of priority, citing DGC4.2 which sets out the DCRP's obligations to keep the Distribution Code and its working under review, including the governance arrangements for Annex 1 documents.

#### *Consultation position*

'Appendix 3 – Ancillary Documents' in our May 2024 statutory consultation provided a table classifying documents as those considered part of an industry code or ancillary to one and our intended treatment of the modifications required for either group. For those documents listed as considered part of an industry code, we expressed an intent to use powers in the Energy Act 2023 to implement the modifications. For those listed as

considered ancillary to an industry code, we expressed a desire for their modifications to be implemented via their usual code governance route.

The defined term 'Annex 1 Standard' states that a "*standard [...] listed in Annex 1 [...] forms part of the Distribution Code*". In this respect the Annex 1 documents may have been candidates for code modifications using section 169 of the Energy Act 2023 to modify any Relevant Document for the purpose of establishing the ISOP.

A standard clause<sup>29</sup> on the face of Annex 1 was our proposed modification to make clear that for each of the Annex 1 documents references to NGESO, the NETS 'system operator', or holder of the licences NGESO currently holds is to be interpreted as NESO (as the ISOP), even without the consequential changes related to the new institution being made. This standard clause would bridge the period of Day 1 until the consequential changes to each of the Annex 1 documents were done in the usual way.

#### *Ofgem's response*

Based on the discretion of the Relevant Authority to use powers in the Energy Act 2023 to implement code modifications and the standard clause which should enable the correct interpretation of NGESO as the ISOP, we do not agree a need for the Relevant Authority's intervention in the prioritisation of the consequential changes to Annex 1 documents by the DCRP either for Day 1 or the period following it.

However, in informal discussions with the CCWG code administrator representative for the Distribution Code and our understanding of the frequency of updates to Annex 1 documents as being generally on a multi-year basis, we intend after Day 1 to work through the code administrator, the CCWG and or the DCRP to collectively determine options suitable for simultaneous 'block'<sup>30</sup> modifications to the Annex 1 documents. We have not yet set a timetable for such engagements.

#### *Modification and effect*

The modification and its effect are unchanged from that set out in the May 2024 statutory consultation. There are no differences between Ofgem's response and the modification set out in the May 2024 statutory consultation.

## **1.4 Effect of the 'Boilerplate' clauses and UNC changes**

### *Stakeholder feedback*

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<sup>29</sup> "The Annex 1 documents may make reference to NGESO, the Electricity System Operator (ESO), the Transmission System Operator etc. Any such reference will be updated to refer to the ISOP during the normal process for updating Annex 1 documents; in the meantime any such references should be interpreted as being a reference to the ISOP."

<sup>30</sup> Modifications choreographed to coincide in implementation.

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One stakeholder requested that this response document (and or the subsequent decision notice which it will evidence) should state that the UNC changes, the “National Security directions issued to the ISOP” and the “Advisory and Information Requests to the ISOP” do not have any substantive effective under the code and are included for transparency and to provide context.

*Ofgem’s response*

Annexes K and L of the May 2024 statutory consultation included “standard code text provided to administrators of the Codes in their provision of an initial baseline marked-up changes” and were examples modelled on the Grid Code with a request of respective administrators to adapt to their code. In that respect only Annexes K and L were included for transparency. The adaptation of Annexes K and L to each of the Codes shown in situ in the Codes are effective under each; reflect the licence obligations of NESO (as the ISOP) and National Gas Transmission plc (NGT); and the consequences of those obligations on any relevant party to the Codes.

Annex I of the May 2024 statutory consultation, containing the UNC changes, are the proposed modifications to the legal text of the UNC and are wholly effective under it.



## Modifications related to the electricity codes

This section addresses all modifications excluding those related to National Security, for which GEMA is the Relevant Authority. 'We', 'us' and 'our' are used interchangeably with Ofgem throughout this section. Where relevant, we will indicate if a consideration applies to another party.

We summarise the responses received, how we have considered them – setting out themes, a detailed response log and consolidated legal text. We provide our response to comments raised specific to the electricity codes.

### **May 2024 statutory consultation questions not related to National Security** (*The Relevant Authority is GEMA*)

Q1. Does the package of proposed code changes meet the objectives of the FSO CCP?

Q2. Do you have any other views or comments relating to the proposed modifications to the Codes (excluding those modifications relating to National Security)?

## Overview

In this section, we provide our consideration of comments specific to the electricity codes, namely:

- **References and definitions** as described in paragraph 1.3 of the “Package: Institutional” section of the May 2024 statutory consultation, which include
  - The defined term for the ISOP. This is how the *person* designated as the ISOP is to be referred to in the Codes.
  - The legal meaning of the defined term for the ISOP.
  - References to the ISOP’s new ESO and GSP licences.
  - As well as other definitions and revisions to them.
- **The “Advisory and Information Requests to the ISOP” clause.**
- **Other matters** including:
  - Transitional arrangements (for the rights, liabilities, and obligations of NGENSO to continue to have effect following the designation of the ISOP) covering British Electricity Trading and Transmission Arrangements (BETTA)

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and the legal separation of NGESO from National Grid Electricity Transmission plc (NGET).

- ISOP’s role in electricity restoration.
- Interactions between Exelon Ownership change and establishing the ISOP.
- CUSC provisions to reflect the removal of the small generator discount.

## References and definitions

### 1.5 Core Definitions

We received several comments regarding the defined terms

- a) “NESO”
- b) “Independent System Operator and Planner” or “ISOP”
- c) Defined terms being retained, that is “The Company” and “NETSO”
- d) “Electricity System Operator Licence” or “ESO Licence”
- e) “Gas System Planner Licence” or “GSP Licence”

and their legal meaning as set out in paragraph 1.23 of the May 2024 statutory consultation. Consolidated comments and our response for each term are set out below. The corresponding modifications and effects are consolidated in *Annex J – Core Definitions Modification and Effect*.

#### a) “NESO”

##### *Ofgem’s response*

- In the May 2024 statutory consultation, we proposed a new defined term ‘NESO’. It was defined with
  - the intended new name for the person to be designated as the ISOP, ‘National Energy System Operator Limited’,
  - the company number of NGESO, ‘11014226’,
  - the intended new company address, and
  - the licences which it will hold.
- To accommodate any period of name change from NGESO to NESO whilst ensuring certainty of legal body referenced at any point in time, we are revising the definition of ‘NESO’ across the Codes to mean “*the company with registered number 11014226, as the designated ISOP and holder of the ESO Licence and the GSP Licence*”. Drafting differs subtly as required in each instance.

#### b) “Independent System Operator and Planner” or “ISOP”

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*Stakeholder feedback*

- A stakeholder suggested that '*for the time being that person is the NESO*' should form a new sentence, as it did not form part of the definition of the defined term.
- Another proposed that 'the' should be deleted from, '*that person is the NESO*' for consistency with the name of the new entity.
- The combined revisions would result in the defined term meaning '*... a person designated by the Secretary of State under section 162 of the Energy Act 2023 as the holder of the ESO Licence, and the GSP Licence, ~~for,~~ For the time being that person is ~~the~~ NESO.*'.

*Ofgem's response*

- The purpose of this defined term is to recognise the establishment of the ISOP, and recognise the person, NESO, to be designated as the ISOP pursuant to section 162 of the Energy Act 2023.
- For both suggested revisions and based on the arguments made with respect to the legal meaning, we agree to apply those revisions. Moreover, those revisions will be applied equally to the Codes and not only to the individual codes to which the comments were raised for consistency across the Codes.

**c) Defined terms being retained: 'The Company', 'NETSO'**

*Stakeholder feedback*

- In the CUSC, Grid Code, and STC 'The Company' is defined as '*has the meaning given to NESO, in its role as the designated ISOP pursuant to section 162(1) of the Energy Act 2023 and the holder of the ESO Licence and GSP Licence*'.
- In the BSC, 'NETSO' is defined in the same way with the addition of ', and any reference to "NESO" or "NGC" shall have the same meaning'.
- A stakeholder suggested the removal of "*in its role as the designated ISOP pursuant to section 162(1) of the Energy Act 2023 and the holder of the ESO Licence and GSP Licence*" on the basis that NESO is already defined this way.
- Another stakeholder questioned whether 'NGC' should be retained in the definition of the BSC's 'NETSO' as 'NGC' relates to 'National Grid Company' in the BSC documents<sup>31</sup>.

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<sup>31</sup> The response was also made in respect of the following BSC documents:

- i. Section X-1, 'National Electricity Transmission System Operator (NETSO)'
  - ii. Code of Practice Eleven, 3.56
  - iii. Funds Administration Agent User Requirements Specification, definition of 'NETSO'
  - iv. Service Description for Transmission Loss Factor Agent Determination, definition of 'NETSO'
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*Ofgem's response*

- 1.15 to 1.20 of the May 2024 statutory consultation set out the discussion on selecting a single defined term to be used across the Codes to refer to the new publicly owned ISOP. The proposal was to retain 'The Company' and 'NETSO' for the CUSC, Grid Code, STC and BSC and to transition all other impacted codes to 'ISOP' (and or 'NESO'). We stated a desire to see all Codes harmonised to 'ISOP' at an appropriate time.
- 'NESO' and the language in legislation (*'...role as the designated ISOP pursuant to section 162(1) of the Energy Act 2023 and the holder of the ESO Licence and GSP Licence'*) were used in the definitions of 'The Company' and 'NETSO' to create cross-references as well as parity with the two other defined terms 'ISOP' and 'NESO'. In addition, the original definitions<sup>32</sup> of 'The Company' and 'NETSO' referred to the licences the entity held.
- While we agree that 'NESO' is defined to include the language in legislation, we believe users of the Codes benefit from the harmonisation of the definitions of whichever term or terms are used to refer to the new publicly owned ISOP, that is harmonisation among 'The Company', 'NETSO' and 'ISOP'. Therefore, we will retain reference to NESO and legislative language among them.
- In respect of 'NGC' in the definition of 'NETSO', NGC is carried over from the original definition under a no betterment principle. 'NGC' is used as system tagging to refer to NGESO Balancing Mechanism Units and has that meaning in other BSC documents where it is meant to be equivalent to NETSO. Therefore, we will retain reference to 'NGC' in the definition of 'NETSO'.

**d) "Electricity System Operator Licence" or "ESO Licence"**

*Stakeholder feedback*

- A stakeholder suggested that, in the D Code, the 'ESO Licence' should be defined with its full name to read as 'Electricity System Operator (ESO) Licence'. Another suggested that as "Act" is a defined term, it should be in

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<sup>32</sup> **'The Company' original definition:** *National Grid Electricity System Operator Limited (No. 11014226) whose registered office is 1-3 Strand, London WC2N 5EH as the holder of the transmission licence granted, or treated as granted, pursuant to Section 6(1)(b) of the Act and in which section C of the standard transmission licence conditions applies.*

**'NETSO' original definition:** *National Electricity Transmission System Operator means National Grid Electricity System Operator Limited, registered number 11014226 whose registered office is 1-3 Strand, London WC2N 5EH, as the holder of the Transmission Licence in relation to which Section C (system operator standard conditions) of the standard Transmission Licence conditions applies and any reference to "NETSO", "NGESO", "National Grid Company" or "NGC" in the Code or any Code Subsidiary Document shall have the same meaning.*

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bold for consistency. The combined revisions would result in the defined term meaning '**Electricity System Operator (ESO) Licence ESO Licence**: A licence granted or treated as granted under section 6(1)(da) of the **Act**.'

- For SQSS, a stakeholder proposed the following amendment on the definition for consistency with the code convention.  
*'~~means a~~ **A** licence granted or treated as granted under section 6(1)(da) of the Electricity Act 1989.'*
- For CUSC, a stakeholder commented that the defined term 'ESO Licence' provided in Exhibit O Part 2B should be changed from 'The licence granted to the Company under Section 6 of the Act' to 'The licence granted or treated as granted under section 6(1)(da) of the Electricity Act 1989' for the sake of consistency. The same stakeholder also suggested inserting this definition in Exhibit O Parts 1B, 1C and 2C.

#### *Ofgem's response*

- We agree with the suggestions for the D Code as it enhances clarity of the defined term. Additionally, we consider that the full name should be included in its definition in BSC and SQSS for clarity. We therefore decide to modify the defined term in both BSC and SQSS accordingly.
- Regarding the suggestions for CUSC, it is pertinent to note that the defined term has been properly provided in CUSC Section 11 which is applicable to Exhibit O Parts 1B, 1C, 2B and 2C. As set out in their respective provisions: *'... unless otherwise provided to the contrary herein, defined terms used in this Agreement and not defined herein shall have the meaning set forth in the Connection and Use of System Code or the Bilateral Connection Agreement.'*
- We therefore decide to remove the 'ESO Licence' definition from Exhibit O, Part 2B, and not to include this definition in Exhibit O Parts 1B, 1C and 2C.

#### **e) "Gas System Planner Licence" or "GSP Licence"**

##### *Stakeholder feedback*

- A stakeholder expressed reservation about the necessity of including the defined term in the electricity codes.
- The stakeholder also pointed out that in the BSC, D Code and SQSS, 'GSP' generally means 'Grid Supply Point', which would possibly be confused with the term 'GSP Licence'. The stakeholder suggested providing the full name of the term 'GSP Licence' in its definition to read as 'Gas System Planner (GSP) Licence'.

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- Another stakeholder made a similar suggestion for BSC, D Code, and SQSS, and offered an alternate name - “Gas System Planner Licence” or “GSP Licence”.
- Additionally, the stakeholder questioned the inclusion of the phrase 'or treated as granted' in the definition of the 'GSP Licence', as they were uncertain about the legislative rationale behind the inclusion of this phrase.
- For SQSS, a stakeholder proposed the following amendment on the definition for consistency with the SQSS’s convention.  
*'means a A licence granted or treated as granted under section 7AA(1) of the Gas Act 1986.'*

*Ofgem’s response*

- Regarding the necessity of including this defined term in the electricity codes, we would like to reiterate our policy decision which had been mentioned in the May 2024 statutory consultation document. Particularly, the ISOP will take on the new role of gas system planner and the new responsibilities under the new GSP licence. With these expanded roles and responsibilities, the ISOP will adopt a ‘whole energy system approach’ in its operations and planning activities for the energy system. Therefore, including the term ‘GSP Licence’ in the electricity codes is essential to implement the whole energy system approach, ensuring connectivity between electricity and gas codes to achieve the objectives of the integrated energy system.
- As to the inclusion of the phrase 'or treated as granted' in the definition of the 'GSP Licence', we understand that the stakeholder’s response likely stemmed from the different granting processes of the ESO licence and the GSP licence. In contrast to the ESO licence<sup>33</sup>, the GSP licence will be freshly granted by the Secretary of State of the DESNZ. Despite this, both definitions include the phrase “granted or treated as granted”. This is because both licenses are potentially transferable to other entities in the future as long as they are concurrently transferred to the same entity, which in the case of the GSP licence would be according to sections 168(5) of the Energy Act 2023 and

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<sup>33</sup> Under section 167 of the Energy Act 2023, the Secretary of State may, rather than granting the ESO licence, direct that the transmission licence currently held by NGESO is converted into the new licence, thereby retaining associated documentation and previous decisions approved by Ofgem. In this case, the new ESO licence would be ‘treated as granted’. For details, please see section 4.5.1 of the Statutory consultation on National Energy System Operator licences and other impacted licences: <https://www.ofgem.gov.uk/consultation/national-energy-system-operator-neso-licences-and-other-impacted-licences-statutory-consultation>

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8AA(11ZA) of the Gas Act 1986. The inclusion of “or treated as granted” in the GSP Licence definition is therefore intended for futureproofing.

- Regarding the suggestion of renaming ‘GSP Licence’ in BSC, D Code, and SQSS as well as the suggested amendments for SQSS’s convention, we agree to the apply those revisions.

*Modification and effect*

The modifications and effects of all comments regarding the defined terms above are consolidated and set out in *Annex J – Core Definitions Modification and Effect*.

## **1.6 Transmission Licence definition**

*Stakeholder feedback*

For the definition of ‘Transmission Licence’ in BSC Section X-1, which means a licence granted or treated as granted to the NGET under section 6(1)(b) of the Electricity Act 1989, a stakeholder suggested revisiting whether it is relevant to retain reference to the Transmission Licence; and if so, whether this should encompass all transmission owners including Offshore Transmission Owners (OFTOs) and Competitively Appointed Transmission Owners (CATOs).

Regarding BSC’s Code of Practice Eleven, the stakeholder suggested the following deletion to be in line with proposed amendments to other parts of the BSC.

|  |   |
|--|---|
| <p>3.74 <i>Transmission System</i></p> | <p><i>Transmission System has the meaning given to the term ‘National Electricity Transmission System’ in the ESO Licence <del>except that prior to the BETTA Effective Date every reference to Great Britain and Offshore in such term shall be deemed to be a reference to England and Wales.</del></i></p> |
|--|---|

Regarding the definition of ‘Transmission Licensee’ in SQSS Section 11, a stakeholder suggested that it should be consistent with paragraph 5.2.6 in the SQSS Governance Framework. The suggested changes are as follows:

|                                     |   |
|-------------------------------------|---|
| <p><i>Transmission Licensee</i></p> | <p><i>Means an onshore transmission licensee or an offshore transmission licensee or the ISOP as the holder of the ESO Licence, and in each case being a party that is required by <del>their</del> <u>its</u> licence to comply with the <del>named</del> <u>most recent</u> version of this Security and Quality of Supply Standard <del>as published on the ISOP’s website</del>, and shall be construed accordingly</i></p> |
|-------------------------------------|---|

*Ofgem’s response*

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In connection with the definition of 'Transmission Licence' in BSC Section X-1, we are of the view that it is relevant to retain reference to the Transmission Licence and the definition covers all transmission owners, including OFTOs and CATOs.

As to the definition of 'Transmission System' in BSC's Code of Practice Eleven as well as the definition of 'Transmission Licensee' in SQSS Section 11, we agree that they should be amended as suggested.

*Modification and effect*

The amendments are applied and shown in *Annex B – BSC* and *Annex H – SQSS*.

### **1.7 Assimilated Law definition**

In paras.1.56-1.59 of the May 2024 statutory consultation document, typographical corrections were proposed to replace 'Retained EU Law' with the up-to-date term and definition of 'Assimilated Law'. The latter was defined as 'has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018.'

*Stakeholder feedback*

A stakeholder stated that in some Codes where the term 'Assimilated Law' is mentioned, it pertains to the Withdrawal Act 2018. The stakeholder suggested using formal title of the legislation - the European Union (Withdrawal) Act 2018 - across the Codes to ensure accuracy.

The stakeholder also raised that in Section 11 of CUSC, 'Associated Document' was defined as 'has the meaning given to the term in section 6(7) of the Withdrawal Act 2018'. It should read 'Assimilated Law' and the title of the legislation should be amended for accuracy.

Another stakeholder suggested changing the definition of 'Assimilated Law' provided in Glossary Definitions of Grid Code to "Has the same meaning given by ..." for consistency.

*Ofgem's response*

Having reviewed the definition across the relevant Codes, we consider that the definition proposed in the May 2024 statutory consultation should be adopted across the relevant Codes as far as possible, except for BSC which contains a pre-existing defined term 'Withdrawal Act'. This ensures accuracy and consistency across the Codes.

*Modification and effect*

The modifications and effects regarding the defined term are consolidated and set out below.



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| <b>Code</b>   | <b>Modification and Effect</b>  |
|---|---|
| <b>BSC,<br/>Section X1<br/>General<br/>Glossary</b>                       | Change as follows: <ul style="list-style-type: none"> <li>• "Assimilated Law": has the <u>same</u> meaning <u>as that</u> given <u>by to the term in</u> section 6(7) of the Withdrawal Act 2018;</li> <li>• Pre-existing definition: "Withdrawal Act" means the European Union (Withdrawal) Act 2018, as amended by the European Union (Withdrawal Agreement) Act 2020;</li> </ul> |
| <b>D Code,<br/>Distribution<br/>Glossary and<br/>Definitions</b>          | No change <ul style="list-style-type: none"> <li>• 'Assimilated Law' Has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018.</li> </ul>   |
| <b>DCUSA,<br/>Section 1A -<br/>Definitions<br/>and<br/>Interpretation</b> | Not applicable <ul style="list-style-type: none"> <li>• Assimilated Law's definition is not inserted in this Code as the term "Retained EU Law" is not used in this Code.</li> </ul>  |
| <b>CUSC,<br/>Section 11 -<br/>Interpretation<br/>and<br/>Definitions</b>  | Change as follows: <ul style="list-style-type: none"> <li>• "<del>Associated Document</del> <u>Assimilated Law</u>" has the <u>same</u> meaning <u>as that</u> given <u>by to the term in</u> section 6(7) of the <del>Withdrawal Act 2018</del> <u>European Union (Withdrawal) Act 2018</u>;</li> </ul>  |
| <b>Grid Code,<br/>Glossary &amp;<br/>Definitions</b>                      | No change <ul style="list-style-type: none"> <li>• Assimilated Law Has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018.</li> </ul>   |
| <b>STC,<br/>Section J<br/>Interpretation<br/>and<br/>Definitions</b>      | No change <ul style="list-style-type: none"> <li>• "Assimilated Law" has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018;</li> </ul>   |
| <b>SQSS,<br/>Section 11<br/>Terms and<br/>Definitions</b>                 | Not applicable <ul style="list-style-type: none"> <li>• Assimilated Law's definition is not inserted in this Code as the term "Retained EU Law" is not used in this Code.</li> </ul>  |

**1.8 Electricity Ten Year Statement (ETYS) vs. Seven Year Statement (SYS)**

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As mentioned in paras.1.52-1.55 of the May 2024 consultation document, Condition C12 ‘Production of information about the National Electricity Transmission System’ of the ESO Licence refers to the Electricity Ten Year Statement (ETYS) which superseded the Seven Year Statement (SYS) in 2013. We proposed all references (and consequential changes) are made to replace SYS with ETYS.

*Stakeholder feedback*

Stakeholders suggested several consequential changes on Grid Code and CUSC as a result of the replacement of SYS with ETYS, including:

| <b>Codes</b>   | <b>Suggested Changes</b>  |
|--|---|
| Grid Code <ul style="list-style-type: none"> <li>• Connection Conditions, CC.6.2.1.2(e) and (f)</li> </ul>   | <ul style="list-style-type: none"> <li>• To change ‘Seven Year Statement’ to ‘Electricity Ten Year Statement’ in relation to technical specifications for future years.</li> </ul>  |
| Grid Code <ul style="list-style-type: none"> <li>• Planning Code – PC4.1(a); PC.4.3.1; PC5.4(b)(2nd instance), PC.5.5(c); PC.A.1.2; PC.A.4.2.2; PC.A.5.2.3</li> <li>• Data Registration Code – Schedule 5</li> </ul>             | <ul style="list-style-type: none"> <li>• References to seven years should be amended to nine years to align with provisions relating to the ETYS, for example, ‘for the current, and each of the <i>severnine</i> succeeding Financial Years’.</li> <li>• Other parts of Grid Code and other codes are also revised accordingly where appropriate.</li> </ul>   |
| CUSC <ul style="list-style-type: none"> <li>• Schedule 2, Exhibit 4, Mandatory Services Agreement - definition of ‘Reactive Power Zone’</li> <li>• Schedule 3 – Part 1, definition of ‘Reactive Power Zones’</li> </ul>          | <ul style="list-style-type: none"> <li>• To review the need for removing references to SYS provided in the definition of ‘Reactive Power Zones’, considering the historical context dating back to 1997.</li> </ul>   |
| CUSC <ul style="list-style-type: none"> <li>• Schedule 3 Appendix 9</li> </ul>   | <ul style="list-style-type: none"> <li>• To review if any amendment from ‘SYS’ to ‘ETYS’ is required as the Appendix contains redundant provisions for reference only.</li> </ul>   |
| CUSC <ul style="list-style-type: none"> <li>• Schedule 2, Exhibit 3, definition of ‘Electricity Ten Year Statement (ETYS) Works’</li> <li>• Schedule 2, Exhibit 3A, definition of ‘Electricity Ten Year (ETYS) Works’</li> </ul> | <ul style="list-style-type: none"> <li>• To rename and reframe the definition of ‘Electricity Ten Year Statement (ETYS) Works’</li> <li>• The stakeholder explained that: ‘<i>The information in Table B7 is currently captured in the document entitled “The Comprehensive List of the Onshore and Offshore Network” which forms part of the Network Options Assessment report prepared</i></li> </ul> |

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| Codes | Suggested Changes  |
|-------|--|
|       | <p><i>pursuant to standard licence condition C27 of the ESO's Transmission Licence and will be caught by the equivalent condition C13 in NESO's ESO Licence.'</i></p> <p>Suggestion was as follows:</p> <p><del>"Electricity Ten Year Statement (ETYS) Network Options Assessment Works"</del>: the works set out in <del>Table B7 of the statement Networks Options Assessment report</del> prepared by <b>The Company</b> pursuant to <del>C1213</del> of the <b>ESO Licence</b> and issued by <b>The Company</b> in [ ] which in <b>The Company's</b> reasonable opinion <del>(and in the absence of the Connect and Manage Derogation</del> are required to be completed before the <b>Completion Date</b> to ensure that the <b>National Electricity Transmission System</b> complies with the requirements of condition E7 of the <b>ESO Licence</b> and Standard Condition D3 of any <b>Relevant Transmission Licensee's</b> transmission licence prior to the <b>Connection</b> of the <b>User's Equipment</b> in terms of Clause 7.1 [or 7.2] of this <b>Construction Agreement</b>.</p> <ul style="list-style-type: none"> <li>• Associated references to 'ETYS Works' should then be appropriately amended in the remainder of the exhibit to capture this revised definition.</li> </ul> |

*Ofgem's response*

We agree to the suggested amendments on Grid Code Connection Conditions as the technical specifications are now covered by ETYS.

We also agree to the suggestions on Grid Code Planning Code and Data Registration Code. According to ESO Licence condition C12.3, *'The ETYS must set out in respect of the current Financial Year and each of the 9 succeeding Financial Years'*.

For CUSC Schedule 2 Exhibit 4 and Schedule 3 Part 1, 'Reactive Power Zone' is a defined term of the SYS97 and should remain so. Similarly, Schedule 3 Appendix 9 is only provided to retain the historical provisions which are of no continuing effect as explained in Paragraph 6 of Schedule 3 Part 1. As such, it is not required to change 'SYS' from 'ETYS'.

Regarding the definition of 'Electricity Ten Year Statement (ETYS) Works', we agree to the reasons given by the stakeholder and the proposed revision.

*Modification and effect*

The amendments are applied and shown in *Annex E – CUSC* and *Annex F – Grid Code*.

## **The “Advisory and Information Requests to the ISOP” clause**

In the package for Advisory and Information Requests provided in the May 2024 statutory consultation (i.e. paras.3.1-3.9 of the consultation document), we explained the ISOP’s new advisory role, and its power to request information from persons in fulfilling any of its functions, under Sections 171 and 172 of the Energy Act 2023, respectively.

For implementation of the ISOP’s new role and power in this regard, we proposed introducing a new standard clause to each of the Codes at the end of the corresponding section of the Code listed below. Additionally, three defined terms, namely, ‘Information Request Statement’, ‘Information Request Notice’ and ‘Minister of the Crown’, are included in the Codes accordingly. Code administrators were instructed to adapt the standard code clause to the respective Codes.

| <b>Code</b> | <b>Section</b>   |
|-------------|--|
| CUSC        | Section 6 – General Provisions (add new sub-sections to the end) |
| Grid Code   | General Conditions (add new sub-sections to the end)             |
| STC         | Section G – General Provisions                                   |
| SQSS        | Section 1 - Introduction   |
| BSC         | Section H - General  |
| D Code      | DISTRIBUTION GENERAL CONDITIONS (DGC)                            |
| DCUSA       | SECTION 3 GENERAL LEGAL PROVISIONS                               |
| UNC         | GENERAL TERMS SECTION B – GENERAL                                |

### **1.9 SQSS**

#### *Stakeholder feedback*

A stakeholder questioned the necessity and appropriateness of including the standard clause for Advisory and Information Requests in SQSS. The consultee stated:

*‘Given that the SQSS is a standard and not a code or ancillary document to a code it is questionable whether inclusion of the national security direction wording or wording relating to NESO’s information request powers is necessary or appropriate.*

*The same parties responsible for governance of the SQSS are parties to the STC where these provisions are already proposed to be situated. If the view is taken that the wording is necessary in the SQSS, we would suggest care is taken with use of the terminology referring to a “code” or to “Users” in the text – the latter*

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*term is not defined in the SQSS and perhaps a more appropriate way to express the arrangements here could be in reference to Transmission Licensees other than the ISOP.'*

Another stakeholder shared the same view, stating that 'User' definition should be provided in SQSS.

*Ofgem's response*

Regarding the necessity of including the standard clause for Advisory and Information Requests in SQSS, we are of the view that despite being a standard, SQSS is a document falling within the purview of modification under section 169 of the Energy Act 2023. Furthermore, SQSS holds significance within the regulatory framework and set out planning and operational criteria to determine the need for services provided to transmission licensees. By incorporating the standard clause in SQSS, clarity and consistency are upheld across all Codes, ensuring that essential provisions are uniformly applied where necessary.

As to the question about the definition of 'Users', we propose it means 'a Transmission Licensee other than the ISOP'. A new sub-paragraph would be inserted at the end of the standard clause for Advisory and Information Requests (i.e. paragraph 1.25) in SQSS, as shown below:

*'1.25.6 For the purposes of paragraph 1.25, "Users" means a Transmission Licensee other than the ISOP.'*

## **1.10 Distribution Code**

*Stakeholder feedback*

Regarding the recipient of an Information Request Notice mentioned in DGC6.3.3, a stakeholder suggested changing the phrase 'any Distribution Network Operators or Users' to 'any Distribution Network Operator or User' because the reference to this phrase (i.e. 'a recipient') is singular.

The stakeholder also stated that the term 'recipient' is used in other sections of D Code, suggesting that 'a recipient' be altered to 'an Information Request Notice Recipient' and the relevant references be changed accordingly.

The stakeholder also suggested the following amendment to the definition of 'Information Request Statement'.

*'Information Request Statement A statement prepared and published by the ISOP, in accordance with section 172 of the*

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*Energy Act 2023 and condition D2(5) of ~~its~~ the ESO Licence, setting out the process that the ISOP will follow when requesting information from relevant parties by the issue of an Information Request Notice.*

*Ofgem's response*

Considering that there are multiple potential users who may receive information and advisory requests as outlined in DGC6.3.1, it is more appropriate for 'Users' to remain in plural form to encompass all possible recipients in such instances.

To enhance clarity of the term 'recipient' used in the standard clause in D Code, it is agreeable to change it to 'Information Request Notice Recipient'.

On the suggestion of revising the definition of 'Information Request Statement', we agree with the change as 'ESO Licence' is a defined term in all Codes and it is not necessary to specify 'its' to emphasise the owner. This change will apply to all Codes for consistency.

## **1.11 DCUSA**

*Stakeholder feedback*

For the purposes of the standard clause and the relevant definitions (namely, 'Information Request Notice' and 'Information Request Statement') in DCUSA, a stakeholder suggested replacing 'OTSO Party' with 'ISOP' as the latter would be a more appropriate reference to NESO's role in relation to the information gathering powers under the Energy Act 2023.

*Ofgem's response*

In Section J of the DCUSA, both 'OTSO Party' and 'Independent System Operator and Planner' are defined terms. 'OTSO Party' means *'the Independent System Operator and Planner in its capacity as the operator of Offshore Transmission Systems'*, whilst 'Independent System Operator and Planner' means *'a person designated by the Secretary of State under section 162 of the Energy Act 2023 as the holder of the Electricity System Operator Licence and the Gas System Planner Licence'*.

We consider that 'OTSO Party' is the appropriate reference for the standard clause as it specifically refers to the ISOP in its capacity as the operator of Offshore Transmission Systems. This precise terminology ensures clarity and aligns with the defined roles under the Energy Act 2023. Therefore, the initial proposal remains unchanged.

## 1.12 STC

### *Stakeholder feedback*

Regarding STC, para.23.2, a stakeholder suggested changing the term 'User' from singular to plural form. Reason was not given for the suggested change.

### *Ofgem's response*

Having examined the code text, it is noted that 'User' is a defined term and the ISOP might only request from a single 'User' rather than multiple 'Users' to provide information. 'User' at para.23.2 therefore should be amended to read 'a User' rather than 'Users'.

## 1.13 General

### *Stakeholder feedback*

A stakeholder suggested a slight amendment (as shown below) to the standard clause 'XX.Y.2' in Annex L<sup>34</sup> of the May 2024 statutory consultation document. The stakeholder considered that the current wording, which states '*in connection with the exercise of any of its functions, as set out in s.172(1) of the Energy Act 2023*', implies that NESO's functions are provided within section 172 of the Energy Act.

*'XX.Y.2 The Company may by notice request from Users such information as it reasonably requires in connection with the exercise of any of its functions, in accordance with section 172 as set out in section 172 (1) of the Energy Act 2023. It will do so by the issue of an Information Request Notice. The purposes of this may include to assist in the fulfilment of a request for advice, analysis or information as set out in XX.Y.1.'*

The stakeholder also suggested that, to maintain consistency with the styling used for paragraph references in the ESO licence, the corresponding references mentioned in the standard clause in BSC, Grid Code, STC and SQSS should be adjusted accordingly. For instance, conditions 'D2(5)' and 'D2(12)' should read 'D2.5' and 'D2.12'.

Two stakeholders suggested various typographical corrections for the standard clause in individual Codes. These corrections include adding or deleting punctuation marks and adjusting the use of bold for certain terms to align with the respective code conventions.

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<sup>34</sup> May 2024 statutory consultation, Annex L – Standard clause advisory and information requests: <https://www.ofgem.gov.uk/sites/default/files/2024-05/Annex%20L%20%E2%80%93%20Standard%20clause%20Advisory%20and%20Information%20Requests.pdf>

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*Ofgem's response*

In connection with the suggested amendment to clause 'XX.Y.2', we agree with the stakeholder and consider that the revised wording could more accurately reflect the drafting intention and should be applied in the standard clause for all Codes.

As to the suggestions concerning the paragraph references related to the ESO licence as well as the typographical corrections, we agree to apply those revisions. Moreover, those revisions will be applied equally to the Codes and not only to the individual codes to which the comments were raised for consistency across the Codes.

*Modification and effect*

The modifications and effects of all accepted comments regarding the "Advisory and Information Requests to the ISOP" clause above, that is 1.9 to 1.13 are consolidated and set out in the Codes.

## **Other matters**

### **1.14 Transitional Arrangements**

*Stakeholder feedback*

We received comments regarding

- a) The transitional arrangements leading up to and following regime change with respect to the 01-April-2005 implementation of British Electricity Trading and Transmission Arrangements (BETTA); and the 01-April-2019 transfer of the system operator role from National Grid Electricity Transmission plc (NGET) to National Grid Electricity System Operator Limited (NGESO).
- b) Treatment of Master Connection and Use of System Agreement (MCUSA) across the BSC and the CUSC; and managing changes to legacy terms.

*Issue a)*

One stakeholder sought confirmation that the retention of the term 'BETTA Effective Date' and its definition in the BSC was intentional. The response tested a possible reason for its retention as maintaining confidentiality in relation to historical information. Where there was no good reason, they suggested appropriate amendments be made to omit references related to BETTA in other parts of the BSC.



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Another stakeholder questioned the requirement of changes to Section 10 of the CUSC given the previous implementation of CMP293<sup>35</sup> and CMP294<sup>36</sup>. CMP293 and CMP294 collectively implemented modifications to the CUSC for charging and non-charging activities, described as proposals to "modify the CUSC to reflect the creation of a new NGESO that is legally separated from NGET". They also cited the implementation of CMP223<sup>37</sup> "Arrangements for Relevant Distributed Generators under the Enduring Generation User Commitment" as evidence of the transition having been completed.

With regard to the MCUSA, one stakeholder questioned why it is being retained in the CUSC where the legacy term is being removed from the BSC.

*Ofgem's response*

While our proposal in paragraphs 1.35 to 1.37 of the May 2024 statutory consultation concludes with "all references to BETTA should be deleted from the Codes" and consequential changes be made where required, the BSC's code administrator's analysis of consequential impacts on the BSC have shown provisions with continuing effect<sup>38</sup>, which need to refer to BETTA and or which include a reference to 'BETTA Effective Date'. We are therefore satisfied of the need to retain some remaining references to BETTA for continuity.

As set out in paragraph 1.39 of the May 2024 statutory consultation our Project Partners identified connection agreements which are live and therefore references to the 2019 legal separation of NGESO from NGET should be retained. Agreements which remain in effect post separation will need to be read as if they had been issued by NESO (as the ISOP). The consequential changes to Section 10 Part 2 of the CUSC are necessary to demonstrate that issues arising from CMP293 and CMP294 occurred in the past, relative to the change from NGESO to NESO. The consequential change to Section 10 Part 1, that is at paragraph 10.2.3 is to update licence references so that Section 10 is coherent in its entirety.

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*Issue b)*

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<sup>35</sup> <https://www.nationalgrideso.com/industry-information/codes/cusc/modifications/cmp293-national-grid-legal-separation-changes-cusc-sections-exhibits-schedules-non-charging>

<sup>36</sup> <https://www.nationalgrideso.com/industry-information/codes/cusc/modifications/cmp294-national-grid-legal-separation-changes-cusc-section-14>

<sup>37</sup> <https://www.nationalgrideso.com/industry-information/codes/cusc/modifications/cmp223-arrangements-relevant-distributed-generators-under-enduring-generation-user-commitment>

<sup>38</sup> Examples include K1.8.1(a)(ii) where the status at the BETTA Effective Date remains relevant to some Grid Supply Points; K3.1.4(f) addresses configurations of Plant and Apparatus that were recognised as BM Units at BETTA continue to be related as such; other examples are K3.1.7, L3.2.3, L3.4.6, R3.2.6(c).

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We described analysis by us, our Project Partners and the CCWG to determine the required code modifications ultimately proposed during the May 2024 statutory consultation. Part of that analysis looked at occurrences of defined terms like 'Transmission Licence' and standard conditions in that licence, and the term for the system operator ('The Company', 'NETSO', etc.) to determine the use case and if a change was required.

In some cases, the respective term appeared in the context of legacy definitions that had not yet been retired from the respective code. Our choices were to leave those legacy definitions as they were and therefore incorrect with the establishment of the ISOP (and the new licencing regime); amend them with updated references or condition numbers despite them no longer being in use; or deleting them and any consequential references.

We discussed in paragraph 1.1(d) of this document principles and objectives of the FSO CCP, and the case-by-case discretion we said we might exercise for drafting not strictly required for Day 1.

In the case of MCUSA in the BSC, we deemed the changes as appropriate to make. 'MCUSA' and 'Supplemental Agreement' are no longer used in the BSC and the consequential update to 'Connection Agreements' aligns with this. In the CUSC, MCUSA has been updated to the 'CUSC Framework Agreement', rather than retiring the defined term 'MCUSA' itself. Given the likely volume of consequential impacts to the CUSC we believe it more appropriate for industry to determine when and how 'MCUSA' should be replaced or renamed for consistency and clarity to code parties.

We have taken this case-by-case discretion to leave extensive consequential changes required to retire legacy terms to the usual governance. That includes the replacement of Offshore Development Information Statement (ODIS) by the Network Options Assessment (NOA).

*Modification and effect*

The modification and its effect are unchanged from that set out in the May 2024 statutory consultation. There are no differences between Ofgem's response and the modification set out in the May 2024 statutory consultation.

**1.15 ISOP's role in electricity contingency planning**

*Stakeholder feedback*

For the D Code, a stakeholder suggested that references to the ISOP should be included in the sections regarding the electricity contingency planning, including the system

restoration recovery procedure, Local Joint Restoration Plan (LJRP) operation, and interconnection of Power Islands<sup>39</sup>. The suggested amendments are as follows.

'DOC9.4.5.3 Where there are no **Power Generating Facilities** with a contracted **System Restoration** capability within the **DNO's Distribution System**, then restoration of supply may be substantially delayed while the **ISOP or** relevant **Transmission Licensee** re-establishes the **National Electricity Transmission System** or part of the **National Electricity Transmission System** from a restored **Power Island ...**'

'DOC9.4.9.1 The **DNO** may, in accordance with the **ISOP's or** relevant **Transmission Licensee's** requirements, as part of the activation of a **LJRP**, be required to issue instructions ...'

'DOC9.4.11 **Interconnection of Power Islands**

*In accordance with the requirements of the **ISOP or** relevant **Transmission Licensee**, the **DNO** may be required to issue instructions to **Users** so as to establish, maintain and expand **Power Islands** and to interconnect **Power Islands** to achieve larger **Power Islands** and subsequently to form an integrated **System** and re-establishment of the **Total System ...**'*

#### *Ofgem's response*

Currently, in the event of a nationwide or partial power outage on the electricity system, NGENSO is obliged to restore electricity within specified timeframe and procedures in accordance with the Electricity System Restoration Standard<sup>40</sup> and Special Conditions 2.2 of its transmission licence. Both LJRP and interconnection of Power Islands are parts of the electricity restoration procedures. Such obligation will be carried on by NESO under Condition C4 of its ESO Licence.

For this reason, we agree to the suggested amendments.

#### *Modification and effect*

The amendments are applied and shown in *Annex C – Distribution Code*.

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<sup>39</sup> In the D Code, 'Power Island' is defined as 'Power Generating Modules at an isolated Power Station, together with complementary local Demand. In Scotland a Power Island may include more than one Power Station.'

<sup>40</sup> 'Electricity System Restoration Standard': <https://www.gov.uk/government/publications/introducing-a-new-electricity-system-restoration-standard>

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## 1.16 BSC – Interactions between Elexon ownership change and establishing the ISOP

### *Stakeholder feedback*

In Annex B of the May 2024 statutory consultation, the Excel lookup table for the proposed ISOP modifications across the BSC documents included the comment "2.1.5 being amended in drafting but will be deleted as part of Elexon ownership change" in relation to 'Section C - BSCCo and its Subsidiaries. This comment was noted by one stakeholder as being in line with legal text<sup>41</sup> proposed to Section C as a result of the Elexon ownership change.

### *Ofgem's response*

In the covering pages and introduction to this response we explain that final decisions on making the modifications to the Codes will be taken in sequence with (and subject to) a wider set of decisions. The wider set of decisions includes those with respect to BSC modifications for the Elexon ownership change which proposes to delete paragraph 2.1.5. The modifications to establish the ISOP as set out in the May 2024 statutory consultation proposed to amend paragraph 2.1.5. For the purposes of this response, we show below and in the corresponding *Annex B - BSC*, the modification as if the Elexon ownership change is to occur.

### *Modification and effect*

| Modification   | Effect  |
|--|---|
| 2.1.5— <del>For the purposes of the Articles of Association of BSCCo, the terms "NETSO" and "Transmission Licence" shall have the meaning given to those terms in Annex X-1 of the Code.</del> <sup>42</sup> | Context: if a decision is taken on the proposed BSC changes for Elexon ownership before or on the same day as a decision on these modifications.<br><br>Effect: The entire paragraph 2.1.5 will be deleted without the need for a modification for the establishment of the ISOP. |

<sup>41</sup> Appendix 4: Legal text for Elexon ownership change - Section C of the BSC  
[https://assets.publishing.service.gov.uk/media/65afb50370218e000cb41f7c/Appendix\\_4\\_-\\_Legal\\_Text\\_for\\_Elexon\\_Ownership\\_Change\\_-\\_Section\\_C\\_of\\_the\\_BSC.pdf](https://assets.publishing.service.gov.uk/media/65afb50370218e000cb41f7c/Appendix_4_-_Legal_Text_for_Elexon_Ownership_Change_-_Section_C_of_the_BSC.pdf)

<sup>42</sup> We show the change to this paragraph based on Appendix 2 (Amended BSC - Section C) in the August 2024 consultation outcome on the Future ownership of Elexon:  
<https://assets.publishing.service.gov.uk/media/66c48143057d859c0e8fa7af/elexon-consultation-govt-response-appendix-2-section-c-bscco.pdf>. Section C of *Annex – BSC* does not consolidate other changes proposed in the consultation outcome. If the Elexon Ownership change was not made, 2.1.5 would remain and be modified to 'For the purposes of the Articles of Association of BSCCo, the terms "NETSO" and "~~Transmission Licence~~ESO Licence" shall have the meaning given to those terms in Annex X-1 of the Code.'

## Modifications related to strategic gas planning and the UNC

This section addresses all modifications excluding those related to National Security, for which GEMA is the Relevant Authority. 'We', 'us' and 'our' are used interchangeably with Ofgem throughout this section. Where relevant, we will indicate if a consideration applies to another party.

We summarise the responses received, how we have considered them – setting out themes, a detailed response log and consolidated legal text. We provide our response to the comments raised specifically on strategic gas planning and the UNC.

### **May 2024 statutory consultation questions not related to National Security** (*The Relevant Authority is GEMA*)

Q3. Have we correctly identified and made all the necessary updates in the UNC and associated documents to enable the ISOP to execute its role as a Gas System Planner? If not, please elaborate what other specific changes are required?

Q4. What are your views on the proposed UNC code changes as set out in this document?

### **Overview**

Six consultees in total provided their comments in response to our proposed modifications on the UNC codes and/or the two questions above. We are grateful for their detailed and valuable feedback. Overall, they were supportive of most of the proposed modifications and agreed that these aligned with the FSO CCP objectives to facilitate the implementation of the ISOP and Day 1 activities.

The consultees expressed a wide range of comments which can be characterised into following four themes. Other comments involving positive feedback, typographical errors and general observations have been responded in *Annex A – Responses log excluding National Security.xlsx*.

- **ISOP's voting arrangements and balance within the UNC:**
  - Some consultees supported the current proposal of the ISOP being a non-voting member rather than a voting member; and
  - Some consultees suggested that the ISOP should be a voting member;

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Some consultees suggested that having the ISOP as a voting member could change the voting balance within the UNC.

- **Institutional change:**

One consultee suggested that updates of some references to Long Term Development Statement were missed in the UNC General Terms section.

Long Term Development Statement means a statement prepared by National Gas Transmission plc in accordance with Part A of Special Condition 9.10 (Licensee’s network planning).

We also intend to make some changes to the ISOP Framework Agreement. The ISOP Framework Agreement provides a mechanism for the ISOP (and more specifically NESO, acting in the role of ISOP pursuant to its ESO Licence and GSP Licence) to accede to the UNC and the relevant terms within this to be made binding between each Party. Changes include updating business addresses, general amendments to enhance clarity, and amending the Effective Date. These amendments will be shared with the industry in due course ahead of the Effective Date (i.e. ISOP Framework Agreement coming into effect).

We propose to modify the UNC pursuant to section 169 of the Energy Act 2023 to introduce NGESO in its capacity as ISOP (ISOP Modification). The Parties that are signatories to the ISOP Framework Agreement will be signing the Agreement on a date that is likely to precede the date when ISOP is designated. Thus, the Effective Date in the ISOP Framework Agreement is modified to be the date when ISOP Modification is effective. This means that the Parties can sign the ISOP Framework Agreement before the ISOP designation and the ISOP Framework Agreement will come into effect later.

- **Central Data Services Provider (CDSP) and UK Link:**

- Some consultees sought clarifications on the ISOP’s participation in the Data Services Contract (DSC) as a non-voting member;

We have amended our previous proposal to clarify the new arrangements for ISOP in the DSC.

- **Increased UNC Modification Proposals due to addition of ISOP:**

- A consultee noted that the addition of the ISOP to the UNC, with ability to raise UNC modification proposals, may lead to additional costs.

## **1.17 ISOP’s voting arrangements and balance within the UNC.**

*Consultation position*

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We proposed the ISOP should be included as a Party to the UNC with non-voting representation in the UNC panel. As a Party to the UNC, the ISOP will be permitted to raise UNC Modification Proposals, pursuant to the Modification Rules.

*Stakeholder feedback*

Some consultees suggested that the proposal for ISOP to become a non-voting member, with representation in the UNC panel, is more appropriate because they are concerned with the balance within the UNC panel. They asserted that there may be an aspiration for the ISOP to become a voting member in future. If so, they wanted Ofgem to consider the impact this would have on the balance of the panel.

One consultee suggested that ability to vote would promote stronger engagement between the ISOP and other panel members. As such, it proposed that the ISOP should be given voting rights in the UNC panel.

Another consultee was supportive of the voting rights proposed for the ISOP. The consultee suggested that all voting members have a duty to act in the best interest of the industry. The consultee also noted that the ISOP will have a key role in shaping the future of the industry and as such should have voting rights.

*Ofgem's response*

During discussions at the CCWG, it was considered if the ISOP should have voting rights in the UNC panel. Subject to later representations from all constituency groups who are party to the UNC, the CCWG was not yet persuaded of a proper consideration of the impact to the balance of the panel between shippers and transporters.

Currently, there are six transporter representatives, six shippers, and two consumer representatives. Some consultees are concerned that the ISOP, if it becomes a voting member, can have a 'swing vote' which could affect the balance at the UNC. However, we consider that a single ISOP vote is unlikely to affect the final outcome for the reasons below. Also, the ISOP, as an independent body with a strategic whole system planning role, is unlikely to side with a market participant to have a swing effect. Further, voting is only one of the criteria used by Ofgem to make evidence-based decisions on modification proposals.

However, in selecting the options to consider for Day 1, the CCWG considered the minimum changes to implement the current membership and voting arrangements for the ISOP. As such, the CCWG proposed that the new arrangements in the UNC do not include ISOP as having voting rights.

*Modification and Effect*

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In summary, having considered all responses, we believe that the pragmatic Day 1 solution is for the ISOP to have a non-voting membership at the UNC. This could be later revisited beyond Day 1 as the ISOP role evolves, if necessary.

### **1.18 Institutional change**

#### *Consultation position*

Institutional changes included updating the references from Ten Year Statement to Long Term Development Statement. References were updated in the UNC to reflect this change.

#### *Stakeholder feedback*

One consultee has identified four further instances in the 'UNC - General Terms' that still refer to the Ten Year Statement. These four references need to be updated in the UNC.

#### *Ofgem's response*

The Long Term Development Statement will be published by NGT each year pursuant to Part A of Special Condition 9.10 of its Gas Transporter's Licence and provide information on supply and demand for gas and total system use.

In 'Annex J – Gas Roles Package' of our May 2024 statutory consultation, we included Institutional changes to clarify that the document previously known as the 'Ten Year Statement' has been replaced by 'Long Term Development Statement'. This led to updating the references to the Ten Year Statement. These changes were included in Appendix 2 of the document.

We have reviewed the four new references that the consultee has identified and agree that they require updating.

#### *Modification and Effect*

The four new references have been updated in the UNC – General Terms.

### **1.19 CDSP and UK Link**

#### *Consultation position*

Changes were proposed in the UNC - General Terms Section D – 'CDSP AND UK LINK' to include the ISOP as a new Customer Class. As such, the ISOP could appoint an individual to each DSC Committee (called ISOP Representative).

#### *Stakeholder feedback*

Two consultees noted that some further discussions had happened between them; with one consultee being the CDSP and the other NGESO. They elaborated that further



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discussions have revealed that limited data services are required by the ISOP and that the requirement to become a DSC Party could be reconsidered based on the above discussions.

*Ofgem's response*

In 'Annex J – Gas Roles Package' of our May 2024 statutory consultation, we proposed to include the ISOP as a Core Customer in the UNC alongside Shipper Users, DN Operators, National Gas Transmission and Independent Gas Transporters (each a Customer Class).

"Core Customer" means a Party to the Code, other than a Trader User, in the capacity of a party to the DSC.

As per the terms of the UNC, each DSC Committee comprises of representatives (Committee Representatives) of each Customer Class. As such, the ISOP could appoint one representative to each DSC Committee as a non-voting member.

Xoserve is the CDSP and provides a suite of data services to gas Suppliers, Shippers and Transporters. Following the review of consultation responses, and further discussions with NGESO and the CDSP, we understand that the Day 1 services required from the CDSP by the ISOP are minimal and primarily related to reporting services.

The ISOP's accession to the DSC as a Core Customer would provide access to extensive suite of services at significantly higher cost. However, given that the required services are minimal, disproportionately higher cost can be avoided by exploring alternative routes of access.

Following our discussions with NGESO and the CDSP, we have determined that a better option is for the ISOP to access CDSP Services as a Third Party Customer. This will require the ISOP to sign a Third Party Services Agreement with the CDSP as a DSC Third Party Customer.

This arrangement would ensure that the ISOP incurs comparatively lower CDSP costs, and the arrangements are proportional to the level of services required by the ISOP for Day 1. This also aligns with our minimum change approach to selecting options to consider for Day 1.

As per the UNC, each DSC Committee comprises of representatives of each Customer Class with six individuals appointed as representatives of Shipper Users (Shipper User Representatives) and six individuals appointed as representatives of Transporters and IGTs. As a consequence, since the ISOP will not be a Core Customer (i.e. included as a Customer Class), it will not have automatic rights to appoint a representative to the DSC Committees on Day 1.

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*Modification and Effect*

The ISOP will not be included as a new DSC Customer Class. Instead, the ISOP will have access to the required data as a DSC Third Party by signing an agreement with Xoserve as per the Third Party and Additional Services Policy.

**1.20 Increased UNC Modification Proposals due to addition of ISOP.**

*Consultation position*

Our consultation position proposed for the ISOP to accede to the UNC and become a Code Party. The ISOP was included 'as a Relevant Person' in the UNC with the ability to raise modification proposals. The ISOP would be able to participate in Modification Procedures for consultation and panel recommendations and in Appeal Procedures within UNC.

*Stakeholder feedback*

One consultee responded by welcoming our proposal for the ISOP to have the ability to raise UNC modifications but noted that the ISOP's inclusion may lead to more modification proposals and hence additional cost burden on Gas Transporters.

*Ofgem's response*

The code administration function for the UNC governance is performed by the Joint Office of Gas Transporters and is funded by Gas Transporters as per their licence obligation under Standard Special Condition A12 (Joint Office Governance Arrangements).

Each Gas Transporter typically includes projected Joint Office costs into their respective Business Plans for the relevant price control. DSC costs for provision of Central Data Services are recovered from all the DSC parties. Xoserve, in its role as CDSP, undertakes an annual budgeting process to apportion the DSC costs.

The addition of one new party in ISOP, particularly given its independent nature, is unlikely to lead to any significant cost changes in the existing multilateral UNC and DSC contracts with more than 50 existing parties. Also, any potential additional cost due to increased modification proposals (introduced by ISOP), will be projected in the Joint Office costs and included in the respective Business Plans of the Gas Transporters and eventually recovered via their gas Transportation Charges; in turn effectively managing the process as before without any detrimental cost impact to the involved parties.

*Modification and Effect*

In view of the above, our position remains unaltered from the consultation position. This means that the ISOP will accede to the UNC and become a Code Party. ISOP will be

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included as a Relevant Person in the UNC with the ability to make modification proposals. Consequently, the ISOP would be able to participate in Modification Procedures for consultation and panel recommendations and in Appeal Procedures within the UNC.

## 2. Modifications relating to National Security

Throughout this section 'we', 'us' and 'our' are used interchangeably to mean either the Department or the Government. Where relevant, we will indicate whether a consideration applies to another body.

### **May 2024 statutory consultation questions related to National Security**

*(The Relevant Authority is the Secretary of State for the Department)*

- Q1. Do you have any views on the representation of licence condition B4 (Compliance with directions related to national security) in the Codes?
- Q2. Can you give examples where exceptional cost would be incurred by a 'bystander' party (wholly unrelated to the subject of the direction), which would not have been incurred but for a direction given by the Secretary of State to NESO?
- Q3. Do you have any other views or comments relating to the proposed modifications to the Codes relating to National Security?

### **Summary of responses received**

Stakeholders felt the proposed drafting clearly and accurately reflects the national security licence condition in the industry codes.

Some stakeholders were divided on the need for the codes to reflect the power of direction related to National Security, and the temporary relief for National Energy System Operator (NESO) from code liabilities for this purpose.

Several stakeholders expressed support for the DESNZ position on third (bystander) party costs, welcoming that DESNZ would be open to reconsidering the necessity for such a provision in the codes.

### **Cost recovery mechanisms**

Several stakeholders expressed support for the DESNZ position on third (bystander) party costs. None of the responses identified credible scenarios in which exceptional loss might be incurred by bystander parties, unrelated to the subject of the direction.

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However, some stakeholders welcomed that DESNZ would be open to reconsidering the necessity for such a provision in the codes if, once NESO is in operation, it becomes clear that there are situations in which there was a genuine risk to bystander parties.

*The Government's response*

We are glad stakeholders understood and supported the position of the Department on cost recovery. In the absence of credible scenarios, the position of the Department remains to not include provisions for exceptional costs as to avoid introducing unintended compensation for a malicious actor who posed a national security threat and endangered the system. If, once NESO is in operation, it becomes clear that there are situations in which there was a genuine risk of a bystander User suffering exceptional loss as a result of the national security direction power being used, the Department would be open to reconsidering the necessity for such a provision in the codes at that time.

**National security directions during emergencies**

One stakeholder was concerned that NESO could be relieved of its short-term code obligations during an energy supply emergency, and this uncertainty would undermine market function.

*The Government's response*

We acknowledge the concerns raised over market function in an emergency. The need for a direction under this licence condition during an energy supply emergency is remote, given there are well established powers and procedures for managing such an event, and a decision to direct would consider the impacts on other Users.

The existing provisions for an energy supply emergency remain the central mechanism for such a scenario. However, those powers are not designed to be used pre-emptively before an emergency has taken place, whereas national security concerns may not necessarily be urgent, but rather arise out of a long-term risk that government is managing.

In the remote likelihood of Secretary of State issuing a direction related to national security during an emergency, as per XX.Y.5, suspension of code obligations for The Company is only where and to the extent they are incompatible with the direction, thus all obligations not in direct conflict with the direction continue to be in effect.

### **Coordination of Users to support NESO while under direction**

One stakeholder welcomed the provision to suspend obligations for Users where and to the extent they are rendered unable to comply due to the action taken by the ISOP to comply with a direction. Engagement across the code parties was suggested to put in place coordination processes where necessary to support NESO when under direction.

#### *The Government's response*

Where NESO is under direction and subject to the approval of the Secretary of State, clause XX.Y.4 requires NESO to inform the Users affected of the directed actions and the potential impact on the Users. Coordination to facilitate this communication is welcomed, though the nature of the process will depend on the details of the risk and the direction.

### **Code obligations for Transmission Owners**

One stakeholder raised concern over the lack of protection from liability for Transmission Owners (TOs) in a situation whereby compliance by the NESO with a direction results in a TO being unable to comply with its obligations under the Code. The proposed code modifications allow such protection for Users, using the standard definition for Users in the codes, but this definition excludes the TOs.

#### *The Government's response*

In the case where NESO's compliance with a direction renders a TO unable to comply with its obligations under the codes, those obligations should be suspended without liability where and to the extent they are incompatible with the actions taken, or not taken, by NESO under direction. We will reflect this provision in the codes.

## Appendix 1 – Glossary

| Glossary  |   |
|---|---|
| <b>BETTA</b>  | British Electricity Trading and Transmission Arrangements   |
| <b>BSC</b>  | Balancing and Settlement Code   |
| <b>CCWG</b>   | Cross-Code Workgroup, workgroup constituted under the FSO CCP by decision on 18 October 2023 available at <a href="https://www.ofgem.gov.uk/publications/decision-letter-ofgems-call-volunteers-fso-codes-change-programme">https://www.ofgem.gov.uk/publications/decision-letter-ofgems-call-volunteers-fso-codes-change-programme</a> |
| <b>CDSP</b>   | Central Data Services Provider  |
| <b>CUSC</b>   | Connection and Use of System Code   |
| <b>Day 1</b>  | Day 1 is the effective date of designation of the ISOP and when the new ISOP Gas System Planner and Electricity System Operator licences come into effect   |
| <b>D CODE</b>   | Distribution Code   |
| <b>DCUSA</b>  | Distribution Connection and Use of System Agreement   |
| <b>Department, DESNZ</b>                                  | Department for Energy Security and Net Zero, previously known as the Department for Business, Energy and Industrial Strategy  |
| <b>DNO</b>  | Distribution Network Operator   |
| <b>DSC</b>  | Data Services Contract  |
| <b>Effective Date</b>                                     | Means the date that the ISOP code modifications come into effect, as specified in the Relevant Authorities’ notice of decision on the code modifications issued in accordance with section 170(4) and (5) of the Energy Act 2023. It is expected to fall on or following Day 1  |
| <b>Elxon</b>  | Elxon Limited   |
| <b>Energy Act 2023</b>                                    | The Energy Act 2023 available at <a href="https://www.legislation.gov.uk/ukpga/2023/52/enacted">https://www.legislation.gov.uk/ukpga/2023/52/enacted</a>  |
| <b>Electricity System Operator Licence or ESO Licence</b> | The licence which will be held by the ISOP and treated as granted by the Secretary of State pursuant to a direction issued under section 167 of the Energy Act 2023.  |
| <b>ETYS</b>   | Electricity Ten Year Statement  |
| <b>FSO</b>  | Future System Operator, see ISOP definition.<br>This is the name previously given to the body that will be designated as the ISOP under Part 5 of the Energy Act 2023. References to the FSO in this document should be read as referring to that body.   |
| <b>FSO CCP</b>  | Future System Operator Codes Change Programme   |
| <b>GDPR</b>   | The General Data Protection Regulation (Regulation (EU) 2016/679) as assimilated in domestic law following the UK’s withdrawal from the European Union (“UK GDPR”)  |
| <b>GEMA</b>   | Gas and Electricity Markets Authority. The terms “GEMA”, and “Ofgem” are used interchangeably in this document.   |
| <b>GSP</b>  | Gas System Planner  |
| <b>Gas roles</b>  | Policy related to the ISOP’s role in gas networks and markets   |

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| <b>Glossary</b>                                  |   |
|--|---|
| <b>Gas System Planner Licence or GSP Licence</b> | The licence which will be held by the ISOP, and first granted by the Secretary of State pursuant to section 7AA of the Gas Act 1986   |
| <b>IGT</b>                                       | Independent Gas Transporters  |
| <b>IGT UNC</b>                                   | Independent Gas Transporters Uniform Network Code   |
| <b>ISOP</b>                                      | Independent System Operator and Planner, see FSO definition<br>The Energy Act 2023 provides for the ISOP to have statutory functions and duties. After the ISOP is designated, the ISOP will take on some functions that already exist (e.g., the role of electricity transmission system operator), but many of its responsibilities (including those related to the provision of advice to government and Ofgem, and gas system planning) will be completely new. |
| <b>LJRP</b>                                      | Local Joint Restoration Plan  |
| <b>NETS</b>                                      | National Electricity Transmission System  |
| <b>NESO</b>                                      | National Energy System Operator Limited   |
| <b>NGESO</b>                                     | National Grid Electricity System Operator Limited   |
| <b>NGET</b>                                      | National Grid Electricity Transmission plc  |
| <b>NGT</b>                                       | National Gas Transmission plc   |
| <b>Ofgem</b>                                     | Office of Gas and Electricity Markets, see also the definition of “GEMA”  |
| <b>Project Partners</b>                          | include NGESO, NGT and Elexon   |
| <b>REC</b>                                       | Retail Energy Code  |
| <b>Relevant Authority</b>                        | Means the Secretary of State of the Department or the Gas and Electricity Markets Authority (GEMA), per section 169(7) and section 170(9) of the Energy Act 2023. Additionally, under section 169(5) the Secretary of State may direct GEMA to exercise the section 169(1)(c) modification power  |
| <b>Relevant Document</b>                         | A Relevant Document is defined by section 169(7) of the Energy Act 2023 to mean a document maintained in accordance with the conditions of a relevant licence, e.g., such as industry codes   |
| <b>SQSS</b>                                      | Security and Quality of Supply Standard   |
| <b>STC</b>                                       | System Operator - Transmission Owner Code   |
| <b>SYS</b>                                       | Seven Year Statement  |
| <b>UNC</b>                                       | Uniform Network Code  |



## Appendix 2 – Baseline analysis

- A2.1 The below table provides a code-specific accounting of baseline changes from the May 2024 statutory consultation to publication of this document, and the versions of the Codes considered for the purposes of the responses in this document.
- A2.2 We assessed modifications (implemented and or approved for implementation into the Codes) for required<sup>43</sup> ISOP-related modifications, based on requests to the relevant code administrators, versions publicly available and modification proposals which are with GEMA for decision through the usual governance<sup>44,45</sup>. We have not identified any ISOP-related modifications not covered in this response document. We have not assessed changes to the Codes we have not seen.
- A2.3 As set out in the 'The legal effect of the modifications, and Implementation', it will be for relevant code administrators to (respectively) update the consolidated published versions of the Codes with the modifications decided upon and the correct baseline.

| Code          | Changes between the statutory consultation and this response document   | Version used for this response document    |
|---------------|---|--|
| <b>BSC</b>    | <p>No interactions or conflicts with ISOP modifications</p> <ul style="list-style-type: none"> <li>P467<sup>46, 47</sup>: Section T, Annex T-1, amendments to 'Settlement and Trading Charges' and meaning of System Sell Action (QSS)</li> </ul> | The <i>May 2024 statutory consultation</i> |
| <b>D Code</b> | None  | The <i>May 2024 statutory consultation</i> |

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<sup>43</sup> Required means "in preparation for the designation of a person (as the ISOP) under section 169, or in connection with or in consequence of the designation of a person under that provision."

<sup>44</sup> Business-as-usual code modification process are those set out between the Standard Licence Conditions, Standard Special Conditions of electricity and gas licences and their corresponding processes implemented in the respective codes (the usual code modification process).

<sup>45</sup> Code modification/modification proposals with Ofgem for decision - expected publication dates timetable <https://www.ofgem.gov.uk/publications/code-modificationmodification-proposals-ofgem-decision-expected-publication-dates-timetable>

<sup>46</sup> P467 Enduring Solution in an event of a Gas Deficit Emergency (GDE) <https://www.elexon.co.uk/mod-proposal/p467/>

<sup>47</sup> BSC Section T: Settlement and Trading Charges <https://bscdocs.elexon.co.uk/bsc/bsc-section-t-settlement-and-trading-charges>

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| <b>Code</b>      | <b>Changes between the statutory consultation and this response document</b>   | <b>Version used for this response document</b>  |
|------------------|--|---|
| <b>DCUSA</b>     | <p>None</p> <ul style="list-style-type: none"> <li>DCP 435<sup>48, 49</sup> was expected to be implemented in July, but is now scheduled for November</li> </ul>   | The <i>May 2024 statutory consultation</i>  |
| <b>CUSC</b>      | <p>No interactions or conflicts with ISOP modifications</p> <ul style="list-style-type: none"> <li>CMP428<sup>50, 51</sup> <ul style="list-style-type: none"> <li>Section 11 - Interpretation and definitions, amendments to 'Attributable Works' and the introduction of a new term, 'Excepted Works'</li> </ul> </li> <li>Code administrator-led review<sup>52, 53</sup> with updates to Section 14</li> </ul>   | <p>The <i>May 2024 statutory consultation</i>, except for:</p> <ul style="list-style-type: none"> <li>"Section 11 - Interpretation and Definitions" which includes CMP428</li> </ul>                    |
| <b>Grid Code</b> | <p>No interactions or conflicts with ISOP modifications</p> <ul style="list-style-type: none"> <li>GC0163<sup>54, 55, 56</sup> <ul style="list-style-type: none"> <li>06_European_Connection_Conditions, amendments on ECC.6.3.19.3(ii), ECC.6.3.19.3(v)(b)</li> <li>04_Glossary_Definitions, amendments on 'Internal Voltage Source or IVS'</li> </ul> </li> <li>27_General_Conditions, amendment to include the Distribution Restoration Zone Control System (DRZCS) Standard document in the Annex</li> </ul> | <p>The <i>May 2024 statutory consultation</i>, except for:</p> <ul style="list-style-type: none"> <li>"06_European_Connection_Conditions" and "04_Glossary_Definitions" which include GC0163</li> </ul> |

<sup>48</sup> <https://www.dcosa.co.uk/change/party-novation-process-p1/>

<sup>49</sup> Footnoted in the May 2024 statutory consultation, ~pg374. "DCP 435 'Party Novation Process' is currently with the Authority for decision and proposes to introduce new Clauses 60.16 to 60.20 to Section 3 and therefore, if approved and implemented prior to these changes coming into effect, the numbering of these new Clauses will start at 60.21 and any cross references will be updated accordingly."

<sup>50</sup> CMP428 - Final Modification Report and Annexes: <https://www.nationalgrideso.com/document/317406/download>

<sup>51</sup> CUSC, Section 11 - Interpretation and Definitions v1.97: <https://www.nationalgrideso.com/document/300991/download>

<sup>52</sup> CUSC, Section 14 - Charging Methodologies v1.41c: <https://www.nationalgrideso.com/document/301931/download>

<sup>53</sup> CUSC, Index of Revisions: <https://www.nationalgrideso.com/document/301021/download>

<sup>54</sup> GC0163 - Final Modification Report and Annexes: <https://www.nationalgrideso.com/document/319251/download>

<sup>55</sup> Issue 6 Revisions 25 - 5 July 2024: <https://www.nationalgrideso.com/document/271721/download>

<sup>56</sup> Issue 6 Revisions 24 - 4 June 2024: <https://www.nationalgrideso.com/document/319366/download>

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| <b>Code</b>  | <b>Changes between the statutory consultation and this response document</b>  | <b>Version used for this response document</b>  |
|--------------|---|---|
| <b>STC</b>   | <p>No interactions or conflicts with ISOP modifications</p> <ul style="list-style-type: none"> <li>Sections C, J, K, D and Schedules 3, 5 were transposed on the incorrect baselines and missed the changes following the implementation of CM089, CM091 and CM090 (Schedule 5 only).</li> <li>Sections K and Schedule 5 did not require ISOP changes; Sections C, D and J, and Schedule 3 ISOP changes do not conflict with the correct baseline.</li> </ul>         | <i>The May 2024 statutory consultation</i>  |
| <b>STCPs</b> | <p>No interactions or conflicts with ISOP modifications</p> <ul style="list-style-type: none"> <li>PM0140<sup>57, 58</sup>: STCP19-3 minor housekeeping changes from the original implementation of PM0135.</li> <li>PM0126<sup>59, 60</sup>: STCP 18-4 changes to the roles of NGESO and Transmission Owners in certain processes.</li> </ul>  | <p><i>Not applicable.</i></p> <p>Housekeeping changes to facilitate the transition to the ISOP were implemented in 2023 under PM0130.</p> |
| <b>SQSS</b>  | None  | <i>The May 2024 statutory consultation</i>  |
| <b>UNC</b>   | <p>No interactions or conflicts with ISOP modifications</p> <ul style="list-style-type: none"> <li>Various from v6.02, up to and including <ul style="list-style-type: none"> <li>v6.07, released 12 August 2024</li> <li>v6.08, expected to be released on 09 September 2024, to include 0888FT, approved<sup>61</sup> on 15 August 2024; Future Notification of Implementation (FNIs) for 0875S, 0864S and 0874S, approved on 15 August 2024</li> </ul> </li> </ul> | <i>The 'pending release' v6.08</i>  |

<sup>57</sup> PM0140: <https://www.nationalgrideso.com/industry-information/codes/stc/modifications/pm0140-housekeeping-changes-following-implementation-pm0135>

<sup>58</sup> STCP 19-3 with Change Control History: <https://www.nationalgrideso.com/document/303911/download>

<sup>59</sup> PM0126: <https://www.nationalgrideso.com/industry-information/codes/stc/modifications/pm0126-transmission-impact-assessment-process-relation-cmp298>

<sup>60</sup> STCP 18-4 with Change Control History: <https://www.nationalgrideso.com/document/41106/download>

<sup>61</sup> Post Panel Summary (15 August 2024): <https://www.gasgovernance.co.uk/sites/default/files/related-files/2024-08/Post%20Panel%20Document.pdf>