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Sent by email to: connections@ofgem.gov.uk

Ørsted response to Ofgem's Policy Consultation on Required Licence Changes

6 January 2025

Our ref. Ofgem Licence Changes

Dear Connections Team,

Ørsted welcomes the opportunity to contribute to discussions on reforming the electricity connections process. It is now commonplace for grid connection dates to stretch out over a decade or more into the future, with the total connections queue (across transmission and distribution) nearing 800GW by the end of 2024. While there is evidently support for improving the existing network regime, through Government commitments for increased grid investment, Ørsted is supportive of the additional package of reforms that have been formed through 2024, to ensure the future system is truly fit for purpose.

Below we outline our views on Ofgem's Licence Changes proposals, with a focus on seven core themes, see below:

- Implementation – Process ahead of go-live
- Implementation and codification of methodology content
- Role of Ofgem and accountability
- Governance of the methodologies – Review and first iteration
- Application Windows
- Project Designation
- Distribution – Process and Governance

Where possible, we have attempted to highlight which questions and licence conditions from the consultation document are applicable to the feedback we have provided.

Implementation – Process ahead of go-live

Relevant throughout, but primarily in relation to Conditions E12-E14

- It is critical that the core framework for the reformed connections is in place ahead of go-live. This includes all license and legislative changes, as well as the new detailed processes that underpin the practical workings of the new framework. Each of these elements must be functioning and well understood by relevant stakeholders.

- Attempting to rush through implementation prior to decisions being made would be an unacceptable outcome, potentially adding to investment concerns and putting the delivery of Clean Power 2030 (CP2030) at risk.
- In addition, the role of developers should not be forgotten. Despite the National Energy System Operator's (NESO) expanded role as the Independent System Operator (ISOP) – and a move towards strategic planning rather than a market led approach – collaboration with industry must be a key aspect of the new process, given the ambitious targets set out in CP2030. Connections reform must allow for reasonable and practical development and delivery of projects and allow investors to have a reasonable degree of confidence in the UK market.

Implementation – Codification

Relevant throughout, but primarily in relation to Conditions E12-E14

- Ørsted continues to strongly disagree with the proposed level of codification regarding the methodologies. Although the use of methodologies, and content of them, may be preferable in the very short-term, we do not believe that an enduring framework can, or should, be pursued without amendments to the industry codes. Codification would provide a legal standing to the new framework, providing developers with the necessary certainty to progress and invest in renewable generation.
- In the absence of this, we anticipate a significant impact on investor confidence, leading to an increase in development costs – which ultimately feed through to consumers.
- In addition, we are concerned that removing core elements and principles from the Connection and Use of System Code (CUSC) – or any other relevant codes – can lead to a lack of consistency and over-reliance on particular personnel. Organisational shifts could lead to significant impacts down the line, given the relative complexity of content of the methodologies and relative ease by which they can be amended.
- Although we would expect codification to improve certainty for developers, Ørsted notes that some elements of the CUSC aren't followed at present. For example, timescales (of five working days) to provide competencies for Grid Applications and Modification Applications (ModApps) are not adhered to. It's therefore critical that procedures are set to ensure that all parties are accountable under the new framework.

Role of Ofgem and accountability

- When considering the licence changes, there is a lack of detail relating to the checks that will take place, as well as how NESO will be held accountable and evaluated. The methodologies – and licence conditions that will underpin them – are critical to the successful development of renewable energy in the UK and a clear and robust framework is required.
- Though this may be picked up by the E2E review, it's important that Ofgem has a strong, deliberate and consistent voice. The role of the Regulator within the connections framework should be clarified and published.

- As part of Ofgem's role and remit, the delivery of connections reform must be considered in the wider context. Most notably, all changes must align with CP2030 and ensure that investor confidence is maintained.
- With this in mind, we have some concern with wording used in paragraph 2.26, and the reference made to "Maintain" a connection offer when outlining the purpose of the Connections Criteria Methodology. We don't think that this inclusion is necessary, as once a Gate 2 has been achieved, a connection agreement should only fall away if milestones are not met. In our view, this falls beyond the content of the licence conditions, and are concerned that this language would be damaging to investor confidence if included.

Governance of the methodologies – Review and first iteration

Principles and review process

- At present, it is not clear how the review process would happen, how it would be triggered, and the controls behind it. In addition, some form of success criteria are needed, that allow NESO – as the owner of the methodologies – to be measured against. It would be very difficult, or impossible, to know if the process is working as required otherwise.
- In Ørsted's view, it is not appropriate for *only* Ofgem and NESO to have the ability to trigger reviews for amendments of the methodology documents, as set out in 2.24. While we understand the reluctance to have open governance, we believe a compromise exists – for example, to set up a Connections Delivery Board-like structure, where representatives of different stakeholders (TO's, DNO's, developers, industry trade bodies etc.) could also trigger a review by majority vote. We would be happy to develop this thinking further with Ofgem.
- While we are supportive of the requirement to review the methodologies once a year, we would welcome further clarity on how this will work in practice. For example, it would be useful to understand:
 - As part of preparing the annual statement, if NESO would be required to consult wider industry on whether a change is required;
 - NESO would use certain criteria to review the suitability of the methodologies, and how 'measurable' this would be;
 - How many changes would be "allowed" and to what extent the existing methodology can be modified; and
 - If and how industry be informed of the planned changes and the level of scrutiny that would be applied when compared against the original scope of the reform.
- Further assurance is also requested on transitional and/or grandfathering arrangements in the event of future changes to the methodologies. This is particularly important when considering the Connections Criteria methodology, which could lead to projects dropping in or out of the queue if there are subsequent changes to the methodology.
 - Given the lack of codification this is likely to be viewed as an implied and enduring risk by potential investors in renewable generation, potentially impacting on confidence in the market. While the government suggested in their Clean Power 2030 Action

- Plan that this was not their intent, we would welcome further assurance from Ofgem.
- In order to hit targets, it's vital that a clear and consistent framework is followed.
- Finally, we are supportive of principle (6) in 2.24; we welcome greater transparency in the process with regards to considering identified issues and impact assessments.

First iteration – relevant to Conditions E12.4 to E12.16

- While we understand that Ofgem intends to exempt the first publication of the methodologies from the consultation and approval process (given that NESO have recently held a consultation) – we believe there would be merit in having a “check point” circa 6 months after go-live.
- As per our response to NESO’s consultation, given the magnitude of change and complexity of the challenge, and due to the fact the consultation ran alongside multiple others parallel, there was limited opportunity to meaningfully engage with the detail. Furthermore, NESO will have had limited time to review consultation response and take on board feedback in a meaningful way prior to submitting them to Ofgem.
- We would therefore argue that this is – potentially – the most important version to be justified, given that it will set the grounding for the future.

Application Windows

Relevant to Condition E15, and questions 21 and 22

- With regard to frequency of windows, we note that the applicable CUSC clause states that there should be a window at least once a year, which Ofgem has reflected in the proposed licence wording.
- From a developer view, this is not adequate. We are concerned that there is an insufficient commitment within the CUSC and proposed license changes for NESO to push to run the application windows any more than once a year.
- We also note that the application windows will impact projects much further along in the development phase which may need to submit a “significant” ModApp – for these projects to wait for an annual application window (and then another 6 months to receive their connection offers) could have a detrimental impact on their delivery programmes.
- Maintaining this as the status quo could lead to significant project delays. We anticipate delays of 12-18 months, with offshore projects likely to feel this most keenly, particularly if a newly awarded site misses an application window and has to then wait for the subsequent window.
- Ofgem should be pushing NESO to be ambitious, and we would suggest that the licence should contain stronger language that, at the very least, states that multiple Gate 2 windows should be run per year.
- With regards to providing 3 months’ notice ahead of an upcoming window; we believe this would not provide sufficient time for new projects to conduct development activities to meet Gate 2 requirements from scratch (i.e. secure land rights for a specific technology / zone). We therefore

believe there needs to be greater commitment for NESO to run application windows at a defined frequency, such as alternative option 2 in 3.60.

- In addition, NESO should endeavour to have set windows, with a predictable pipeline (as we're seeing in the CfD). This would help to alleviate certain concerns, and also create the opportunity to align with wider policy. Tie-in with Clean Power 2030 (and all other spatial plans), seabed leasing, market design changes (REMA), and CfD rounds, should all be considered.

Project Designation

Relevant to Condition E14 and questions 18 and 19

- We are supportive of the governance process set out for Project Designation, particularly with process as set out in E14.4 and 14.5. We encourage proposals that increase the transparency of the designation process but can also see value in further refining the criteria definitions. For example, the "materiality" of a risk or mitigation is mentioned numerous times in the methodologies (and consultation) but is not well defined. We are concerned that loosely defined criteria and categories could lead to a risk of unequal treatment between Users seeking designation.

Distribution

Of relevance to all of section 5, but primarily question 46

Overview

- As we have mentioned, Ørsted believes it is critical to have all aspects of the reformed framework – including those at distribution level – developed and in place at the point of go-live. Not doing so could put a large portion of the 60GW generation required on the distribution network by 2030 at risk – and would have a proportionally larger impact on solar projects.
- The distribution and transmission interface has been highlighted as a key concern across industry throughout the CMP434/435 process and was voted the second-top priority for connectees in the first stages of Connections Reform (Design Sprints held in early 2023). It is therefore disappointing to see this has not yet been developed further and that key elements of this process remain uncertain.

Process

- With regards to the scenarios under consideration, our preference would lie with Scenario 1.
- Although this would be more resource-intensive for NESO and would require a robust process for information exchange to be set up between DNOs and NESO, we believe this is more practical to allow reforms to be delivered at pace.
- We agree with Ofgem's view that Scenario 2 is likely to require more substantial changes to DNO license and legislation – and would question whether this is plausible to achieve by Q2 2025. We would again emphasise that it is imperative to have all required license changes and processes set up by go-live.

- To also highlight, within recent centralised planning exercises (including Clean Power 2030) we have seen that some of the DNO zones have been amalgamated. Under Scenario 2, there would be a requirement for multiple DNO license areas (which are, strictly speaking, separate from each other) to set up collaboration and reporting structures in time for the CMP435 exercise to reorder the queue – which in our view will also be challenging in time for Q2 2025.
- If Scenario 1 is progressed, Ofgem and NESO would need to consider whether any changes to the Connection Network Design Methodology (CNDM) would be required. Our understanding is that DNOs would assess the queue for embedded projects under the current CNDM, however, this may not align with the process set out in Scenario 1.

Governance

- It is vital that comparable requirements on accountability are in place on the distribution side and we strongly support introducing timeliness requirements for DNO's to progress Users to Gate 2 applications. We note that that an alternative proposal was put forward under CMP434 (WACM2) to try and address this issue, however, there was debate on the appropriateness of it sitting within the CUSC (given that small embedded generators are not party to the CUSC and therefore have no direct avenue to dispute it). Ultimately, even if this WACM is approved, we do not view it as mutually exclusive with having a license condition and therefore believe it is necessary to introduce such a license condition.
- We agree that both LC 12A.1 and 12A.2 are required. On LC12A.2, we would welcome a more prescriptive condition e.g. 10 working days. We believe that there needs to be a measurable approach for the DNO to undertake these checks. We would also welcome further clarity on which checks LC 12A.1 is intended to cover; whether only the initial checks, or detailed checks (noting that for transmission connected generators, the latter can be done following application window closure). We note this is not covered in the methodology documents drafted by NESO and was raised as a concern in the CMP434/435 working groups but not resolved.
- Finally, we are unclear whether a change to paragraph 12.4 (c) is required and would welcome further discussion on this. It is our understanding that existing provisions allow for any connection date (or required works) given in distribution connection offers to be revised following the Statement of Works outcome and are therefore not “finalised”.

We look forward to engaging with Ofgem and NESO further on reform proposals. If you would like to discuss any of these concerns further, please feel free to reach out to me at JAMJC@orsted.com.

Yours sincerely,

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