

Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

Email to: connections@ofgem.gov.uk

6th January 2024

Dear Ofgem,

Response to the consultation on TMO4+ licence conditions

EDF is the largest low carbon energy generator, as well as the only nuclear generator in the UK. EDF operates low carbon nuclear power stations and has a large and growing portfolio of renewables, including onshore and offshore wind, solar and energy storage. EDF has a large customer base and will be integral to Britain achieving net zero by building a smarter energy future that will support delivery of net zero carbon emissions, including through digital innovations and new customer offerings that encourage the transition to low carbon electric transport and heating.

We welcome the opportunity to respond to this consultation.

TMO4+ licence conditions

We have set out below our key points of feedback on the specific licence conditions consultation, based on our understanding on the date of this response. We note that different parts of the overall reform package are being consulted on with overlapping periods. This makes it difficult for us to assess the implications in the round and may lead to problems arising from different parts of the framework not properly interfacing. We would encourage Ofgem to read this response alongside our response to the NESO's consultation.

Key points of feedback on the specific proposed licence conditions:

- **Process for appeals** – The NESO's proposed methodologies contain elements where affected parties can appeal or challenge the NESO's decisions. Ofgem should ensure the condition explicitly requires these elements in the methodologies and provide suitable guardrails for NESO's exercise of its discretion. We also note that this should also be revisited in light of industry comments in relation to appeals in Ofgem's separate, ongoing and overlapping End-to-End review of connections. We also consider that only the affected party should be able to appeal any NESO decision to prevent other commercial parties appealing to gain advantage or external groups to disrupt individual projects.
- **Conduct amendments** – At condition B3.2 in the ISOP licence Ofgem are proposing to amend the conduct provisions to include "*A commercial advantage is not unfair where it results from a project designation by the ISOP pursuant to the Connections Methodologies*". We are concerned with establishing a precedent where the licences can declare outcomes such as this. The strict following of a process by NESO does not in itself guarantee that an outcome is fair. We agree that it is important that the connection reform process is robust

and we recognise, given the scale of the connections queue, that implementation of these reforms is likely to have material consequences for parties, but it is not clear that a declaration of this nature is appropriate. We would welcome further information from Ofgem on the legal underpinnings of its proposed text and the rationale for the specific form of words provided – this section of the consultation is very light.

- **Codification of the methodologies** – The licence conditions set out provide for a short consultation period in relation to proposed changes by the NESO and ultimately approval by Ofgem. This new process is a less robust approach compared to the existing code modifications process. Given the methodologies are a core part of the CUSC, we would like to re-iterate our feedback given to the NESO that the target should be to codify the methodologies formally into the CUSC. We consider that an additional licence condition should be included that requires the NESO to raise a modification to codify the methodologies within a prescribed period, for example 2 years from first implementation.
- **Consultation windows for changes to methodologies** – In the absence of formal codification the conditions E12/13/14 provide for a consultation period “...no fewer than 28 calendar days” with the period itself left to the discretion of the NESO. We consider that 28 days is an insufficient minimum period given the complexity of the new arrangements and the knock-on consequences for commercial viability from even minor potential amendments. 56 days, in line with other Ofgem processes, is a more suitable minimum period to allow for industry to properly work through any amendments.
- **Designation process** – The new process for designation involves multiple steps and ultimate approval by Ofgem. We would welcome further input from Ofgem on the scope of its role here. For example, how will Ofgem consider the NESO’s decisions in light of different statutory duties? Will Ofgem’s decisions be appealable, and under which scheme? Will Ofgem be able to over-turn negative designation decisions by NESO? We also note that NESO intends to run the first designation process before the first ‘gate 2 to whole queue exercise’ in 2025 – can Ofgem guarantee that all steps will be resolved before the first Gate 2 window opens? We have asked for the same commitment from NESO through our response to it’s recent consultation. We would ask Ofgem to reconsider whether it needs to have a role here if the NESO’s process is sufficiently robust and contains appropriate appeal rights.
- **Objectives of the methodologies** – Each methodology has a prescribed set of objectives, copied out in the annex to this response. We would encourage Ofgem to seek to rationalise the objectives where possible to maximise consistency between these and avoid overlaps with other conditions and legislative documents.

We look forward to continuing to work with Ofgem in the post-consultation stages. Should you wish to discuss any of the issues raised in our response or have any queries, please contact me or Matthew Ball at Matthew.Ball2@edfenergy.com.

Yours sincerely,



Mark Cox
Head of Nuclear and Wholesale Market Policy

ANNEX 1

The ISOP must ensure that the [Criteria document]...	The CNDM must...	The ISOP must ensure that the [PD document]...
is clear, transparent, and objective;	be clear, transparent, and objective	is clear, transparent, and objective;
facilitates a net zero energy system;	-	-
takes into consideration strategic energy plans, including the Clean Power 2030 Action Plan and subsequently the Strategic Spatial Energy Plan;	-	takes into consideration strategic energy plans, including the Clean Power 2030 Action Plan and subsequently the Strategic Spatial Energy Plan.
takes into consideration the readiness of applicants to connect	take into consideration the readiness of applicants	-
maintains security of supply	ensure safety and security of supply	maintains security of supply
-	facilitate an economic, consistent, efficient, sustainable and coordinated network	-
-	facilitate appropriate anticipatory investment	-
-	align with the obligations of the ISOP and electricity system operators in the Electricity Act 1989, licence, CUSC and STC.	-
-	-	effectively assesses applicants and CUSC Users against the Designation Criteria
-	-	considers the impact on the interest of consumers
-	-	enables innovation and facilitates competition in electricity markets