

Connections Reform - Policy Consultation on Required Licence Changes Response Form

We are consulting on conditions in the Electricity System Operator, Transmission and Distribution licences in relation to the ongoing connections reform process, which aims to enable quicker connection for ready-to-connect projects that align with strategic energy system plans and provide a more coordinated and efficient network design for connections.

We would like views from stakeholders with an interest in the electricity connections process and the ongoing reforms. We particularly welcome responses from connection customers, developers and network companies. We also welcome responses from other stakeholders including members of the public.

Your feedback is important to this process. Please take this opportunity to provide any feedback that you may have. To aid your response, each question is linked back to the relevant document for ease of reference.

We encourage you to read the Connections Reform - Policy Consultation on Required Licence Changes and the subsidiary documents:

- **Annex A:** Proposed NESO Licence Modifications; and
- **Annex B:** Proposed Transmission Standard Licence Modifications before responding to the consultation questions.

This document outlines the questions for this consultation and once the consultation is closed, we will consider all responses.

Please provide your feedback using this response form and sending a copy to connections@ofgem.gov.uk by 5pm on 6th January 2025.

We encourage early submission ahead of the deadline where possible to aid the processing of responses.

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Data and confidentiality

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Date of submission: 6 January 2025

Do you want your response treated as confidential? Please choose the option that is relevant to you.

Yes / No **NO**

Please tell us if parts of your responses or your whole response contains confidential information and explain why below.

N/A

Consultation questions

Proposed Electricity System Operator Licence Conditions

General approach to changes to the Electricity System Operator licence

1. Do you agree that licence changes are necessary to adequately facilitate the policy intent of the reformed Connection Process, if it is approved?

Please provide the reasons for your answer.

Yes/ No **YES**

[Write your response here]

2. Do you agree with the approach summarised in paragraphs 3.2 to 3.8?

Please provide the reasons for your answer.

Yes/ No **YES**

[Write your response here]

3. Do you agree that we have considered all relevant areas of the licence which might need modifications, and that we have proposed changes in relation to all relevant matters? If there are areas we need to consider further, please specify. Also, please specify any matters that we have addressed but which you do not think should be relevant.

Please provide the reasons for your answer.

Yes/ No **NO**

In our view the introduction of TMO4+, as we now understand it, is the most significant change to the arrangements for connection since the introduction of the CUSC in 2002 and also one of the most profound wider change since the restructuring and privatisation of the electricity industry in 1989. Many detailed process changes are being proposed by NESO under the CUSC and STC (ie via CMP434, CMP435 and CM095), however the Connection Methodologies, introduced formally as obligations in these proposed licence changes, lie at the heart of the new arrangements. They have been subject to only limited debate within industry and largely taken outside of the formal CUSC/STC change processes. We are concerned that the speed of development, and limited time to discuss the same will reduce the quality of the proposals and introduce costs and risks that have not been adequately assessed and will ultimately negatively impact on consumers by driving up the cost of development. See more detailed comments below.

We also documented what we believe to be drafting or typographical errors in a separate list at the end of this response

Section A: Definitions and Interpretation

Condition A1:

4. Do you agree that the new definitions as set out in paragraphs 3.12 to 3.19 and draft legal text in condition A1, as set out in Annex A, are necessary to and adequately facilitate the policy intent of the reformed Connection Process?

Please provide the reasons for your answer and any alternative suggestions if you disagree.

Yes/ No **NO**

Definition of "Connections Process": we believe that a more correct definition would required a change the last part, it should read "in accordance with the Electricity Act 1989 or a licence issued thereunder, and the CUSC, STC, DCUSA and Connections Methodologies."

We note that there is no definition of "reservation", given the significance of this concept such a definition may be required as noted below (see answer to question 6 below).

5. Do you agree that no changes are required to the existing definitions in condition A1, asset out in Annex A, and that the proposed new changes are enough?

Please provide the reasons for your answer and identify any changes you consider to be needed.

Yes/ No **YES**

[Write your response here]

Condition B3: Conduct of ISOP Business

6. Do you agree this clarification in paragraph 3.21 and proposed text in condition B3, as set out in Annex A, is required?

Please provide the reasons for your answer.

Yes/ No **YES**

We agree that it is helpful to clarify that the commercial advantage from the preferential and discriminatory arrangements for Designated projects should not be considered "unfair" for the purpose of this condition.

We note that you are not proposing the same for "reservations" of capacity and/or bays for projects pursuant to the CNDM which are also likely to result in commercial advantage, being preferential and/or discriminatory arrangements.

We also note that in the CNDM, "reservation" (in contrast to Designation, described in detail in its own Methodology), does not contain any objective criteria or published process by which projects may obtain these benefits (or the basis on which NESO may make "reservations" for potential future projects to take advantage of), nor are there any obligations as to transparency, for example on the basis on which capacity or bays may be reserved, or who is benefiting from reservation once granted. There is also no governance process for "reservation", nor any of the other protections that appear in the new condition E14 for Designation. Indeed the scope for "reservation" appears from the proposed CNDM to be unlimited, unfettered and could lead to a breach of condition B3.

Condition C11: Requirements of a Connect and Manage Connection

7. Do you agree with the policy intent behind the changes we are proposing that these types of "full" offers will only be made to the "non-gated" applications or "Gate 2" applications?

Please provide the reasons for your answer.

Yes/ No **YES**

[Write your response here]

8. Do you agree that proposed text in condition C11, as set out in Annex A, gives appropriate effect to the policy intent?

Please provide the reasons for your answer.

Yes/ No **YES**

We agree that the additional text in condition C11.3 makes the offer conditional upon condition E15.5 and by implication, conditional on the provisions in the Connections Methodologies. We are however unclear if this also means that the terms set out in the CUSC and/or STC are also conditional on (and thus subservient to) the Connections Methodologies and it would be helpful to understand if this is the policy intention and if so, the condition should be clarified accordingly.

Section E: Industry Codes and charging

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

9. Do you agree with the policy intent behind the changes we are proposing in paragraphs 3.28 and 3.29?

Please provide the reasons for your answer.

Yes/ No **YES**

[Write your response here]

10. Do you agree that proposed text in condition E2, as set out in Annex A, gives appropriate effect to the policy intent? Do you think any further changes would be appropriate?

Please provide the reasons for your answer.

Yes/ No **YES**

As noted in our response to question 8 above, the drafting implies that the terms set out in the CUSC are conditional on (and thus subservient to) the Connections Methodologies and it would be helpful to understand if this is the policy intention and if so, the condition should be clarified accordingly.

Condition E12 (New): Connection Criteria Methodology

11. Do you agree with the proposal for the licensee to create and maintain the Connections Criteria Methodology as in paragraphs 3.30 and 3.34?

Please provide the reasons for your answer.

Yes/ No **YES**

Whilst we agree in principle there are many concerns at a detailed level which we set out below.

12. Do you agree with the objectives and scope of the Connection Criteria Methodology as in paragraphs 3.32 and 3.33, respectively?

Please provide the reasons for your answer.

Yes/ No **NO**

We have considered the objectives and scope of the Connection Criteria Methodology ("CCM") along with the corresponding provisions for the Connection

Network Design Methodology ("CNDM") and Project Designation Methodology ("PDM") and are surprised to see a lack of consistency between them, specifically:

- The CCM is required to "enable" a Net Zero energy system and the CNDM is required ensure that it "facilitates" one. Neither is mentioned in the PDM objectives;*
- The CCM and PDM are required to take into consideration strategic energy plans, including the Clean Power 2030 plan and subsequently the SSEP, but this is not mentioned in the CNDM objectives;*
- The CCM is required to take into consideration the "readiness of applicants to connect", whereas in the CNDM it is just the "readiness of applicants". There is no mention of readiness in the PDM objectives;*
- The CCM and PDM are required to "maintain" security of supply, whereas the CNDM is required to "ensure" both safety and security of supply;*
- Only the CNDM is required to facilitate an economic, consistent, efficient, sustainable and coordinated network and facilitate appropriate anticipatory investment;*
- Only the CNDM is required to align with the obligations of the NESO in the Electricity Act 1989, licence, CUSC and STC; and*
- Only the PDM is required to consider the impact on consumers, enable innovation and facilitate competition in electricity markets.*

We do not understand the differences in drafting and why some obligations apply to some Methodologies and not to others. In particular why is the impact on consumers is not an overriding concern, and does their absence from the objectives mean that impact on consumers does not need to be taken into account in the other Methodologies? As to compliance with the Electricity Act, licences and other legal documents, we would have thought these to be overriding provisions that would apply in all cases. Equally, all three Methodologies should facilitate competition in electricity markets.

We would advocate that the drafting sets out one set of common objectives that all of the Methodologies have to meet and, if necessary, any specific objectives that are appropriate for only one or two Methodologies (for example only the PDM needs to be effective in assessing applications against the Designation Criteria or "enable" innovation).

In terms of the elements included in the CCM (condition E12.3), there should be an additional item (d) "the process that ISOP will require other licensees [ie TOs and DNO/IDNOs] to follow to verify the evidence submitted by applicants and confirm that their application has met the Connections Criteria".

As a more general comment the scope of the Methodologies should be drafted to be as limited as possible. This would ensure they only deal with matters that have already been consulted upon and to reduce the possibility of any conflict between them and the CSUC and/or STC. There should be express provisions to prevent the scope of the Methodologies becoming broader over time ie they should only deal with the matters expressly stated in the Licence.

13. Do you agree that the new condition E12, as set out in Annex A, provides the right level of governance and industry engagement to ensure that the Connections Criteria Methodology is developed and modified in a robust manner?

Please provide the reasons for your answer.

Yes/ No **NO**

As with our answer to question 12 above, this is a general comment that applies to all Methodologies. We are concerned both with the speed of creation of the first version of the Methodologies (and lack of engagement with network companies and users of the system) and for the future development of them and do not believe that the processes described are at all transparent or adequate to get proper feedback and challenge from interested parties.

Specifically in terms of NESO's consultation on the initial draft Methodologies, at the time they were issued the proposed licence conditions setting out the scope and objectives had not been published by the Authority and therefore comments made upon them will not have taken into account what is not now proposed.

Furthermore we note that in respect of the CCM, the proposed condition E12.15 (and conditions E13.3 and E14.11 in respect of the CNDM and PDM) that the requirements of Parts B and C of these licence conditions may be satisfied by actions taken by the licensee and/or the Authority before or after the licence conditions come into effect. Whilst such an approach has been used for other new licence conditions in the past, we do not see it as being appropriate in this case. Indeed it can be argued that such a provision cannot in fact be satisfied unless those commenting on the draft Methodologies will have seen the finally proposed scope and objectives for each Methodology.

We also believe that proposed process lacks transparency, particularly when compared with the current processes under CUSC and STC. The ISOP should make public the statement issued to the Authority under condition E12.6, and the Authority should make public any statement issued to the ISOP under condition E12.8 (in each case redacted only where necessary to protect the commercial interests of any relevant party). ISOP should explain who it has consulted or how it determines should be consulted under condition E12.9(c). ISOP should also be required to publish the CCM issued to the Authority under condition E12.11, and changes made to any previous CCM or draft thereof should be clearly identified. We note that following NESO's consultation on the first draft of the Methodologies, the revised versions submitted to the Authority were accompanied by a document explaining the basis of changes being made. However, the actual drafting changes were not change-marked or otherwise readily available for comparison to the previous draft. It is also apparent that substantial changes were made in various areas of the Methodologies. Whilst these may have been made in response to issues raised in the consultation, interested parties have not had an opportunity to comment upon the changes.

It is suggested that condition E12.10 should additionally include the words "and in sufficient detail" prior to the words "as to reasonably allow all parties to provide appropriate representations".

In ISOPs submission under condition E12.11, an additional item is suggested for condition E12.12 "(e) the date on which the proposed new Connections Criteria Methodology would be implemented".

Condition E13 (New): Connection Network Design Methodology

14. Do you agree with the objectives of the Connections Network Design Methodology as in paragraph 3.38?

Please provide the reasons for your answer.

Yes/ No **NO**

See answers to question 12 for more general comments, in terms of the objectives of the CNDM in particular, we do not understand what is meant by "consistent" in condition E13.3(iii), and suggest adding "to connect" at the end of condition E13.3(v).

15. Do you agree with the scope of the Connections Network Design Methodology as set out in paragraph 3.35 and 3.37 is aligned with the TMO4+ connection reform process?

Please provide the reasons for your answer.

Yes/ No **NO**

Whilst we agree in principle there are many concerns at a detailed level which we set out below.

16. We have kept the licence change broad for 'preparing offers' as in paragraph 3.37. Should we be more specific with the scope to include further description in the licence that it will determine the queue order, study applications and assess the infrastructure required to enable/prepare offers to enter into a "Gate 2" agreement?

Please provide the reasons for your answer.

Yes/ No **NO**

As noted above the scope of the Methodologies should be drafted to be as limited as possible. This would ensure they only deal with matters that have already been consulted upon and to reduce the possibility of any conflict between them and the CSUC and/or STC and there should be express provisions to prevent the scope of the Methodologies becoming broader over time ie they should only deal with the matters expressly stated in the Licence.

The terms of the licence should be more specific with the scope narrowly defined as covering only the queue order, study applications and assessment of infrastructure required to for offers needed for users to enter into a "Gate 2" agreement.

17. Do you agree that the proposed addition of conditions E13 , as per Annex A, and in this section provides the right level of governance and industry engagement to ensure that the Connections Network Design Methodology is developed and modified in a robust manner?

Please provide the reasons for your answer.

Yes/ No **NO**

See answer to question 13.

We also believe that this proposed process lacks transparency, particularly when compared with the current processes under CUSC and STC. The ISOP should make public the statement issued to the Authority under condition E13.6, and the Authority should make public any statement issued to the ISOP under condition E13.8 (in each case redacted only where necessary to protect the commercial interests of any relevant party). ISOP should explain who it has consulted or how it determines should be consulted under condition E13.9(c). ISOP should also be required to publish the CNDM issued to the Authority under condition E13.11, and changes made to any previous CNDM or draft thereof should be identified.

It is suggested that condition E13.10 should additionally include the words "and in sufficient detail" prior to the words "as to reasonably allow all parties to provide appropriate representations".

In ISOPs submission under condition E13.11, an additional item is suggested for condition 13.12 "(e) the date on which the proposed new Connections Network Design Methodology would be implemented".

Condition E14 (New): Project Designation Methodology

18. Do you believe the NESO should be able to designate projects for prioritisation in the circumstances as specified in paragraph 3.42?

Please provide the reasons for your answer.

Yes/ No **YES, but subject to the comments below**

The ability to designate would seem a sensible and proportionate approach given the various constraints, checks and balances set out in the proposals. However, the concept of "reservation" would appear to be a more powerful tool for NESO to use to prioritise transmission access and which contains none of the provisions contained in the proposed condition E14 and we believe that there is a case for this Methodology to be extended to include "reservation" with appropriate terms introduced for the specific requirements that NESO has for this power.

In addition, the proposed condition E14 should be clearer about what it means to be "Designated". Whilst condition E14.2 states that such applications for connection that will be "subject to special conditions and processes as set out in the CUSC and the Connections Methodologies" it is not clear in the licence what these are and hence having a narrow limit in the licence on what may be Designated is at odds with an unlimited scope (in the licence) of what that

means in practice. We would advocate setting out at a high level the nature or effect of Designation in addition to the Designation Criteria.

19. Do you agree that the NESO should only be able to designate projects after a period of consultation as in paragraph 3.43, for existing agreements also in the first application window?

If not, please explain your reasoning, along with alternative suggestions if appropriate.

Yes/ No **YES**

This would seem a sensible and proportionate approach. However, the concept of "reservation" would appear to be a more powerful tool for NESO to use to prioritise transmission access and we believe that there is a case for this approach to be extended to include "reservation" of capacity or bays for existing agreements also in the first application window.

20. Do you agree that the proposed additions of conditions E14, as set out in Annex A, provide the right level of governance and industry engagement to ensure that the Project Designation Methodology is developed and modified in a robust manner?

Please provide the reasons for your answer.

Yes/ No **NO**

See answer to question 13.

We also believe that this proposed process lacks transparency, particularly when compared with the current processes under CUSC and STC. The ISOP should make public the statement issued to the Authority under condition E14.10, and the Authority should make public any statement issued to the ISOP under condition E14.12 (in each case redacted only where necessary to protect the commercial interests of any relevant party). ISOP should explain who it has consulted or how it determines should be consulted under condition E14.13(c). ISOP should also be required to publish the PDM issued to the Authority under condition E14.15, and changes made to any previous PDM or draft thereof should be identified.

It is suggested that condition E14.14 should additionally include the words "and in sufficient detail" prior to the words "as to reasonably allow all parties to provide appropriate representations".

In ISOPs submission under condition E14.15, an additional item is suggested for condition 14.16 "(e) the date on which the proposed new Project Designation Methodology would be implemented".

Condition E15: Requirement to offer terms

21. Do you agree with the requirements that an application window as in paragraph 3.56 is practical and sufficient? Please provide the reason for your answer. What is the right maximum and/or minimum period prescribed in the licence for how long the application window should be open? Is the minimum requirement of at least once every year sufficient?

Please provide the reasons for your answer.

Yes/ No **YES**

NESO discretion seems appropriate in this case and the eventual system will be based on experience of the new arrangements.

22. Do you agree that 6 months as mentioned in paragraph 3.59 to provide an offer once the application window closes is adequate? Do you agree with our proposed option regarding timing for the NESO to make offers, or do you prefer any of the alternative options set out in paragraph 3.60? Are there any other options we should be considering? Please provide the reasons for your answer and suggest alternative.

Yes/ No **YES**

Six months is likely to be the minimum acceptable period which is already twice the time currently allowed. The new arrangements impose greater risks on applicants post acceptance of a Gate 2 offer and will therefore likely cause them to delay new applications until projects are more advanced. At that point users will then want to proceed as quickly as possible and any further delay should be minimised.

23. Do you agree with our proposed approach of specifying which type of applications get which type of offers as in paragraphs 3.52 to 3.55? Does this cover all type of applications?

Please provide the reason for your answer and mention if any type of applications is not captured in here.

Yes/ No **NO**

Whilst we agree in general see more detailed comments in our answer to question 24 below. Also there is no reference to an application by a user who is required to meet the Connections Criteria, and does not, but for whom NESO intends to make a full offer or otherwise "reserve" substation bays or transmission. As noted earlier, the policy and requirements for this needs to be clarified and appropriate licence drafting provided.

24. Do you agree that the proposed legal text in condition E14, as set out in Annex A, meets the policy intent above?

Please provide the reason for your answer.

Yes/ No **NO**

The new text adds complexity to the former condition E12 which was already quite complex, a simpler approach might be to provide definitions of Gate 1 and Gate 2 offers/agreements and then refer to the users' applications accordingly. As drafted condition E15.5 appears to say that a Gate 2 offer can only be made to an applicant that has requested all of the details in (a)-(g), this will only be the case if NESO amends the application forms (potentially via a CUSC mod) or the on-line portal. Otherwise does NESO only make a Gate 2 offer if all of these elements are requested? That is not how CMP434/435 will amend the CUSC drafting. As previously drafted (in condition E12.4) the details in (a)-(g) were to be included in the offer, not the applicants request for an offer. By turning the provision around it has become less clear (even for applicants who are not required to meet the Connections Criteria). A simpler and clearer approach would be to leave the existing licence condition(s) for applicants who are not required to meet the Connections Criteria and add new conditions for those who are.

In a similar vein, condition E15.9 is hard to follow and does not clearly differentiate the requirements for applicants who are not required to meet the Connections Criteria and implies that even they are subject to applications within the gated window periods. The cross reference to condition E15.9 from E15.13 is not clear (which we assume is meant to identify applicants who are not required to meet the Connections Criteria).

Also we are unclear of the value of specifying maximum and minimum periods in condition E15.9 if they can be varied by agreement between NESO and the Authority (and without any consultation with other interested parties). These maximum and minimum periods should be removed from the licence and placed in the Connection Methodologies where the periods can then be changed only following consultation.

Proposed Electricity Transmission Standard Licence Conditions

General approach to modification of the Electricity Transmission Standard Licence Conditions

25. Do you agree with our approach mentioned in paragraphs 4.1 to 4.3?

Please provide the reasons for your answer.

Yes/ No **YES**

[Write your response here]

26. Do you agree that we have considered all the areas of the licence which might need modifications?

Please provide the reasons for your answer and specify if you think we have missed some areas.

Yes/ No **YES**

[Write your response here]

Section D: Transmission Owner Standard Conditions

Condition D1: Interpretation of Section D

27. Do you think any other modifications to definitions are required for the transmission licence in addition to the ones proposed for the System Operator Licence in paragraphs 3.12 to 3.19, in the consultation document?

Please provide a reason for your answer.

Yes/ No **NO**

As noted above, a definition for "reservation" may be required.

28. Do you agree that the proposed text in SLC D1, as set out in Annex B, meets the policy intent?

Please provide a reason for your answer.

Yes/ No **NO**

As noted above, a definition for "reservation" may be required.

Also, we note that the new defined terms are not capitalised, this makes the text less clear in our view and would advocate consistent use of capitalisation of defined terms throughout the licence.

29. Would you suggest any changes to the new and existing definitions in SLC D1 that are pertinent to Connections Reform?

Please provide a reason for your answer.

Yes/ No **YES**

Definition of "connections process": we believe that a more correct definition would required a change the last part, it should read "in accordance with the Electricity Act 1989 or a licence issued thereunder, and the CUSC, STC, DCUSA and Connections Methodologies."

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

30. Do you agree with the policy intent and the rationale described in the paragraphs 4.6 to 4.10, in respect of the changes to SLC D4A.1, in the consultation document?

Please provide a reason for your answer.

Yes/ No **NO**

Whilst agreeing in general there is a clear omission: our understanding is that a "Gate 2" type offer will be made in response to applications where NESO is reserving substation bays or transmission capacity for either identified or non-identified future projects. There does not appear to be a licence requirement to provide the required TOCO. As noted earlier, the policy and requirements for this needs to be clarified and appropriate licence drafting provided.

31. Do you agree with the proposed changes to the text of SLC D4A.1, as set out in Annex B?

If you disagree or partially agree, please provide a reason for your answer.

Yes/ No **NO**

See comment above on offers to "reserve" substation bays or transmission.

D4A.2- New proposed Paragraph 2 – requirements to offer terms requirements to offer to enter into agreement with the ISOP and provisions for that offer

32. Do you agree with the policy intent and the rationale for the proposed changes described in the paragraphs 4.11 to 4.13, in respect of the changes to SLC D4A.2, in the consultation document?

Please provide a reason for your answer.

Yes/ No **NO**

See answer to question 30 above. Additionally, in the last sentence of paragraph 4.12 of the consultation notes an exception to the process, but non-project specific reservations are not discussed and neither exception is provided for in the drafting of the new paragraph 2 of SLC D4A. Concerns were expressed in the working groups considering CMP434 and CM095 about how the existing reservation arrangements were being used in practice.

33. Do you agree that the proposed changes to the text of the new paragraph 2 of SLC D4A, as set out in Annex B, effectively facilitate the policy intent?

Please provide a reason for your answer.

Yes/ No **NO**

See answer to question 32 above.

D4A.2, D4A.3, D4A.4, D4A.5- Proposed paragraphs 3, 4, 5 and 6 (formerly paragraphs 2, 3, 4 and 5)

34. Do you agree with the policy intent described in paragraph 4.17, in respect of the changes suggested in paragraphs 2, 3, 4 and 5, now amended to become paragraph 3, 4, 5 and 6, of SLC D4A, in the consultation document?

Please provide a reason for your answer.

Yes/ No **YES**

[Write your response here]

35. Do you agree that the proposed changes to the text of the amended paragraph 3, 4, 5 and 6 of SLC D4A, as set out in Annex B, effectively facilitate the policy intent?

Please provide a reason for your answer.

Yes/ No **YES**

[Write your response here]

Condition D16: Requirements of a connect and manage connection

36. Do you agree with the policy intent and the rationale in respect of the proposed changes to SLC D16 as described in paragraphs 4.19 to 4.23, in the consultation document?

Please provide a reason for your answer.

Yes/ No **YES**

[Write your response here]

37. Do you agree that the proposed changes to the text of SLC D16, as set out in Annex B, effectively facilitate the policy intent?

Please provide a reason for your answer.

Yes/ No **NO**

Whilst agreeing with the policy intent (as per our answer to question 36) the licence drafting does not correctly do this. In particular, the current licence obligation is on the TO to "use all reasonable endeavours to complete the enabling works identified ... in a timescale which allows for connect and manage connection consistent with the connect and manage applicant's reasonable expectations as to connection date, as notified to the licensee by the ISOP".

The new drafting in condition D16 paragraph 3 separates "the applicant's reasonable expectations as to connection date" from the obligation on the TO, who now only has to use reasonable endeavours to complete the enabling works in "the timelines required by the Connections Process". This has quite a different meaning and would mean that the connect and manage applicant will have no confidence as to the completion of the works in a reasonable time, once an offer has been made and accepted.

We also disagree with drafting that implies that the Connections Network Design Methodology would be "as agreed by ISOP and the licensee".

A simpler and more correct way of implementing the policy intent would be to add a qualifier to the existing licence drafting as follows:

"3. The licensee shall use all reasonable endeavours to complete the enabling works identified as required on the licensee's transmission system in relation to a connect and manage application in a timescale which allows for connect and manage connection consistent with the connect and manage applicant's reasonable expectations as to connection date, as notified to the licensee by the ISOP and where the enabling works on which connection is dependent will have reflected the requirements of the Connections Network Design Methodology."

New Condition D18: Requirements to comply with connection network design methodology for Use of System and connection (Transmission Owners)

38. Do you agree with the policy intent behind the proposed new licence condition as explained in paragraphs 4.24 to 4.26, in respect to the proposed SLC D18, in the consultation document?

Please provide a reason for your answer.

Yes/ No **YES**

[Write your response here]

39. Do you agree that the proposed text gives appropriate effect to the specific policy intent, as detailed in Annex B?

Please provide a reason for your answer.

Yes/ No **YES**

[Write your response here]

Section E: Offshore Transmission Owner Standard Conditions

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

40. Do you agree with the policy intent and rationale in respect of the changes proposed to SLC E17, in paragraphs 4.28 to 4.34, in the consultation document?

Please provide a reason for your answer.

Yes/ No **NO**

Whilst agreeing in general there is a clear omission: our understanding is that a "Gate 2" type offer will be made in response to applications where NESO is reserving substation bays or transmission capacity for either identified or non-identified future projects. There does not appear to be a licence requirement to provide the required TOCO. As noted earlier, the policy and requirements for this needs to be clarified and appropriate licence drafting provided.

41. Do you agree that the proposed changes to the text in SLC E17, as set out in Annex B, effectively facilitate the policy intent?

Please provide a reason for your answer.

Yes/ No **NO**

See comment above on offers to "reserve" substation bays or transmission.

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

42. Do you agree with the policy intent behind the proposed new licence condition as explained in paragraph 4.35, in respect of the SLC E25, in the consultation document?

Please provide a reason for your answer.

Yes/ No **YES**

Not considered relevant to our business

43. Do you agree that the proposed text of the new condition, as detailed in Annex B, gives effect to the policy intent?

Please provide a reason for your answer.

Yes/ No **YES**

Not considered relevant to our business

Distribution Standard Licence Conditions – Policy Intent

Chapter 1: Interpretation and application

Condition 1: Definitions for the standard conditions

44. Do you agree that changes are likely be required to some of the definitions within licence condition 1?

Please provide the reasons for your answer.

Yes/ No **YES**

Definition changes are likely to be required given the proposals and our responses below

Chapter 2: General obligations and arrangements

Condition 4: No abuse of the licensee's special position

45. Do you consider any modifications to licence condition 4 are required?

Please provide the reasons for your answer.

Yes/ No **YES**

Irrespective of whether Scenario 1 or Scenario 2 is followed DNOs and IDNOs will be acting to prioritise certain customers over others and any customer disadvantaged by the process may seek redress and/or claim that the network companies are abusing their special position. Therefore appropriate drafting will be needed to clarify that acting to implement TMO4+ is not a breach of SLC4. We would also suggest that Section 9(2) of the Electricity Act 1989 may need to be amended for similar reasons ie

"General duties of licence holders.

It shall be the duty of an electricity distributor—

(a) to develop and maintain an efficient, co-ordinated and economical system of electricity distribution;

(b) to facilitate competition in the supply and generation of electricity."

Prioritising certain customers over others might be regarded as failing to develop and maintain an efficient, co-ordinated and economical system of electricity distribution and/or facilitating competition in the supply and generation of electricity.

There is more risk of Scenario 2 being in breach of both SCL4 and Section 9(2)(b) of the Act, but even in the event of implementing Scenario 1 DNOs and IDNOs will still need to prioritise certain customers over others in order to achieve the policy intent.

As a further comment is that our understanding is that NESO was proposing in the CND Methodology that IDNOs and DNOs are treated differently as to the Strategic Alignment Checks and that whilst DNOs would be undertaking such

checks (as per Scenario 2), IDNOs would not (ie Scenario 1). This was most clearly seen in sections 9.4 and 9.5 of CNDM (draft as issued for consultation on 5 November 2024), although the Gate 2 Criteria methodology does not distinguish between DNOs and IDNOs in this way (see slide 8.7 on the Initial checks – Gate 2 Strategic Alignment Criteria). We do not fully understand why such a difference is proposed but note that the draft CNDM said at Sections 5.9.1 and 5.9.2:

"NESO expects the CP30 Plan to distinguish between Transmission and Distribution requirements for each technology. On this premise, the exercise in Section 5.7.1 will be conducted by each DNO for their zone, using sub-queues of embedded projects only. DNOs will then inform NESO of the outcome".

"Users who have an agreement with Transmission Connected Independent Distribution Network Operators will contribute towards the Transmission component of the pathways in the CP30 Plan".

The equivalent sections of the final version of the CNDM (in 5.8) now make the DNO's assessment of strategic alignment just a "recommendation" but still says that "The projects of Users who have an agreement with Transmission Connected IDNOs will contribute towards the distribution zone within which they are geographically sited". Furthermore, NESO will still conduct the CP30 Action Plan alignment on "behalf of IDNOs". We consider such differences to be potentially discriminatory as between different Licensees and their respective customers.

Chapter 4: Arrangements for the provision of services

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

46. Do you agree with the policy intent to modify licence conditions 12.1 and 12.4 under both scenarios?

Please provide the reasons for your answer.

Yes/ No **YES**

We agree that if DNOs and IDNOs are only making offers in accordance with the Connection Conditions and/or changing them to reflect the outcome of processes managed by NESO under the CNDM, then appropriate wording changes will be needed to these licence conditions. We would also suggest that Section 16 of the Electricity Act 1989 may need to be amended for similar reasons ie the "Duty to connect on request".

Condition 19. Prohibition of discrimination under Chapters 4 and 5

47. Do you agree with our view that no changes to licence condition 19 are necessary under any of the two scenarios?

If no or you partially agree, please provide the reasons for your answer.

Yes/ No **NO**

We think that there is a clear risk that parties who are disadvantaged under the processes to be employed under TMO4+ will regard the actions of the DNO or IDNO as discriminatory. This is not only in the case of new applications for connections, but for existing parties who for many years have been offered connections under "first come-first served" principles and may be subject to retrospective changes to their queue position and/or loss of access entirely. Similarly for projects that have actually connected Last-in First-out (LIFO) principle is well understand and widely used for prioritisation of access on a non-discriminatory basis.

48. If you disagree, what kind of change to the licence condition 19 do you believe is necessary?

Please provide the reasons for your answer.

As a minimum the obligation should be changed to a prohibition of "undue" discrimination, or else a more explicit carve-out given in respect of compliance with the Methodologies and other relevant documents such as SSEP and the CP30 plan. Changes to the Electricity Act 1989 might also be considered necessary as mentioned elsewhere.

Chapter 5: Industry codes and agreements

Condition 20. Compliance with Core Industry Documents

49. Do you see any risk related to introducing an obligation for DCUSA licensees to comply with the Clean Power 2030 Action Plan and SSEP?

Please provide the reasons for your answer.

Yes/ No **YES**

We assume that in this question reference to "DCUSA licensees" should be to "Distribution licensees", and that the proposal is to have an express obligation to comply with relevant sections of the CP30 Plan and SSEP. Clearly there are risks to investor confidence the more that Licensees are impacted by documents which they are not party to and/or over which they have no control, and/or only limited input. Nevertheless it seems an inevitable consequence of the way that these changes are being introduced. In the event that there is such an obligation then we question if it should be in condition 20.3 since the other documents there are ones which the licensee must be a party to. Compliance with CP30 Plan and SSEP is more akin to compliance with the Fuel Security Code (Condition 20.8) and therefore the CP30 Plan and SSEP obligation would be better placed separately from the documents in 20.3, and with a clear statement which excludes those sections that might not be relevant, as proposed in the consultation in paragraph 5.32.

50. Do you agree with the changes suggested to licence condition 20?

If no or you partially agree, please provide the reasons for your answer.

Yes/ No **YES**

Subject to the reservations noted above.

Condition 12A. Requirement to progress User applications into the Gated Window process

51. Do you agree with the proposal to define a new licence condition 12A.1 – requirement to perform “Gate 2” checks in line with the NESO methodology?

Please provide the reasons for your answer.

Yes/ No **YES**

We agree in principle but are concerned that IDNOs and/or their representative body, the INA, has had only limited involvement in the development of the Methodologies, and that the detailed processes for embedded generation have yet to be fully detailed (even for some really significant points as evidenced by the earlier references to Scenarios 1 and 2 and which does not appear consistent with the Methodologies submitted by NESO to the Authority on 20 December 2024). Much of the earlier work for embedded generation was developed in groups convened by the ENA, a body dominated by DNOs and into which neither IDNOs nor INA have had much access or input. If IDNOs are to be bound by Licence conditions into the Methodologies then they should be afforded a formal role in the review and development of the Methodologies in the future. This is especially important because the Methodologies can be modified by NESO at relatively short notice and with limited consultation. As noted in our answer to question 13, it is apparent that substantial changes were made in various areas of the proposed Connection Methodologies between NESO’s consultation on 5 November 2024 and those submitted to the Authority in December. Whilst these may have been made in response to issues raised in the consultation, we have not had an opportunity to comment upon the changes or the final form of the Methodologies (and to which both DNOs and IDNOs would be bound to comply by Licence).

52. Do you agree with the proposal to define a new licence condition 12A.2 – requirement to perform “Gate 2” checks in a timely manner? If so, do you consider the approach to the condition should be principles-based or prescriptive?

Please provide any information / evidence you can to support your response.

Yes/ No **YES**

We agree in principle but see comment on question 51 above.

New Conditions

New Conditions 12A.3 and 12A.4 - Submission of projects for transmission assessment

53. Do you agree with the proposal to define new licence conditions 12A.3 and 12A.4 - this would introduce a requirement to submit projects for transmission assessment within a timely manner?

Please provide any information / evidence you can to support your response.

Yes/ No **NO**

The requirement to do this is clearly set out in NESO's proposed legal text for CMP434 and CMP435 and we do not see the need to provide additional text in the Licence. The Licence would be very long if it repeated every obligation set out in the CUSC. We understand that some smaller generators are dissatisfied with the conduct of the DNOs in the current environment, but the CUSC does not have any clear obligations as to timing of submission of Project Progressions, this was a defect that could have been fixed sooner, but was not. However as it will be clear in the CUSC we do not understand why it would need to be repeated in the Licence.

Proposed Electricity Transmission Special Licence Conditions

54. Do you think any Electricity Transmission Special Licence Conditions changes are required?

If you think that changes are required, please provide the reasons for your answer.

[Write response answer here]

Proposed Electricity Distribution Special Licence Conditions

55. Do you think any Electricity Interconnector Standard Licence Conditions changes are required?

[Note we assume you mean Electricity Distribution Special Licence Conditions]

If you think that changes are required, please provide the reasons for your answer.

We are not aware of any changes needed to the "Special Licence Conditions" where they apply. As for the "Amended Standard Conditions" that apply only to DNOs we do not see any need for change here either.

Proposed Electricity Interconnector Standard Licence Conditions

56. Do you think any Electricity Interconnector Standard Licence Conditions changes are required?

If you think that changes are required, please provide the reasons for your answer.

Not considered relevant to our business

Proposed Electricity Generation Standard Licence Conditions

57. Do you think any Electricity Generation Standard Licence Conditions changes are required?

If you think that changes are required, please provide the reasons for your answer.

Not considered relevant to our business

General feedback

We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

Do you have any comments about the overall process of this consultation?

We understand that one of the main aims of this consultation was to set out the policy framework and the "objectives" for the new Methodologies, drafts of which NESO consulted on from 5 November to 2 December 2024. As this consultation on licence conditions for TMO4+ only came out on 27 November, there was no time to consider the stated "objectives" set out in this consultation against what NESO was proposing. However we can now see that most of the draft Methodologies did not contain a statement of the objectives for what NESO was trying to achieve, and were there was (in the CNDM, section 2.2) NESO's "Framework Objectives" were different to those being proposed for new Licence Condition E13.3. Whilst we had assumed that NESO will update the Methodologies to align with and fully reflect the Licence Conditions, this has not happened in the revised versions submitted to the Authority on 20 December, which remain either inconsistent, in the case of the CNDM, or otherwise silent as to the objectives. It would have been more logical to issue this consultation prior to NESO consulting on the draft Methodologies.

Do you have any comments about its tone and content?

We noticed that paragraph 5.31 included an extract from an out of date licence condition, since standard condition 5.31(d) (which used to refer to the MRA) is "no longer used" and has been replaced by 5.31(e) (the REC).

Was it easy to read and understand? Or could it have been better written?

The section dealing with the new conditions for the System Operator Licence was confusing as some of the existing conditions were re-numbered. The text of the consultation then used the new numbers to refer to "changes" to the existing conditions. For example, section 3.57 is describing the "existing purpose" of condition E15.14, but there is no E15.14 in the existing licence. Paragraph 3.58 then goes on to say that "we are changing the clause E15.14(b)". Only after careful searching did we realise that in fact the existing condition E12.10(b) was now renumbered as condition E15.14(b), and could see the change being made. A further comment is that it was unhelpful to have the marked-up versions of the Licences in "simple" mark-up form (ie only showing new text double-underlined, and not showing the words that had been deleted as "struck out" text). This meant that we had to cross check each modified condition with the original text, rather than reading in one place both the deletions and additions.

Were its conclusions balanced?

There were no conclusions

Did it make reasoned recommendations for improvement?

Yes

Any further comments?

We noted that in respect of the Electricity System Operator licence conditions, there was an overarching question at 3 "Do you agree that we have considered all relevant areas of the licence which might need modifications, and that we have proposed changes in relation to all relevant matters? If there are areas we need to consider further, please specify. Also, please specify any matters that we have addressed but which you do not think should be relevant." There was also a similar question for the Electricity Transmission licence conditions. However there was no such question in respect of the Distribution Licence, there should have been an explicit opportunity to comment similarly in respect of Distribution as well as in terms of the consultation overall.

Typographical Errors noted in Annex A

We note that in Condition A1 the capitalised (but not defined) term "Distribution Operators" is used in the definition of "Connections Process". This term is also used without capitalisation in Condition E13.2. We suggest the correct term to use is "Licensed Distributor", which is defined and used elsewhere.

Condition C13.13(e), the word "condition" is duplicated.

At various places in condition D4, we note the proposed text replaces "condition E12" with "condition E15.5". For consistency with the wording elsewhere, the new text should be either "condition E15" or "paragraph E15.5".

Condition E2.2, a space is missing in "andCondition E16".

Conditions E2.8(b)(i) and (ii), change "consistent with E15.5" to "consistent with paragraph E15.5".

Condition E17.2(g), delete the spurious "E17.2(b)".

Condition E17.6, delete the spurious "E17.3".

In Conditions E12, E13 and E14, and the associated definitions, references to "ISOP" should be to "the licensee" for consistency with other conditions.

In Condition 14.5 for consistency "designate an applicant" should be "designate an application".

In Condition 14.7(b) change "they" to "their applications".

In Condition 14.8(b) change "applicants" to "applications".

In Condition 14.8(e) consider changing "enables" to "facilitates".

In Condition E15.3, "Connections Process" is a defined term therefore delete "defined in the CUSC and the Connections Methodologies".

Typographical Errors noted in Annex B

In Condition D1 the definitions of "connections criteria methodology", "connections network design methodology" and "project designation methodology" refer to "Electricity System Operator licence" rather than the uncapitalised words in the definition ("electricity system operator licence").

The same comment applies to the capitalised term "Electricity System Operator Licence" in condition D4A.1 paragraphs 1 and 2, condition D16 paragraph 1 and condition D18 paragraphs 1 and 2. There is also an incorrect capitalised term "System Operator Licence" in condition D16 paragraph 1.

The same comment applies more generally to the use of capitalised terms (for example "Connections Network Design Methodology" in conditions D18 and E25).