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CC: Paul Hawker; Steve McMahon

6th January 2025

Dear Jack,

Proposed licence changes to enable TMO4+ Connections Reform

We welcome the opportunity to respond to Ofgem's consultation on the proposed licence changes to enable TMO4+ and wider connections reform. This response is on behalf of Scottish Hydro Electric Power Distribution plc (SHEPD) and Southern Electric Power Distribution plc (SEPD), known collectively as SSEN Distribution. We have completed the template consultation response document; here we highlight what we believe are critical strategic points which Ofgem should consider alongside the detail.

1. Context

The existing connections queue (across Distribution and Transmission) works on a first come first served basis and has become vastly oversubscribed with a multitude of projects only a fraction of which are needed and will ever get built. It is clear that allocation process based on first come, first served is not the most effective mechanism to deliver Clean Power 2030 or Net Zero.

Many of our customers are frustrated by being held behind other generation projects which they do not see moving forward, preventing those more advanced projects from connecting to the network. Not only does this frustrate some of our customers but it leads to a complex and interactive queue management process which we need to manage. This is costly in terms of resource and also requires DNOs to update connection offers and contracts when customers fall out of the queue. The larger the queue, the more frequently offers need updating and the more complex the process becomes. Consequently, we view connections reform as a vehicle to reduce the connections queue to genuine applicants and reduce the complexity and workload of managing the connections queue. Nonetheless it is likely that customers who are adversely affected by connections reform may challenge the implementation of the changes.

Accordingly, in order for DNOs to operate within the new connection's framework, it is paramount that DNOs are empowered under statute and licence to implement the re-ordering of the queue and for DNOs to fulfil the direction

from the NESO following the NESO's decision in respect of new connection offers and existing contractual arrangements.

2. Legal risk for DNOs

DNOs are required to submit Distribution generation connection applications for a Transmission Impact Assessment (TIA) if the requested capacity is above 1MW in England and Wales, 200kW in Scotland and 50kW on the Scottish Islands. This covers a significant proportion of customers seeking to connect to our network and means that TMO4+ and wider connection reforms will have a substantive impact on our customers.

DNOs play a significant role in the connections process and for projects which trigger a TIA, hold the legal and regulatory relationship with the NESO and, separately, the legal relationship with the connecting customer. As such, DNOs require new powers to operate within the proposed TMO4+ framework. For example, when a connecting customer triggers a TIA, we currently have 65 days to issue a Distribution connection offer which outlines any Distribution works, times and costs to customers. This offer highlights that it is subject to the outcome of a TIA and, following acceptance of the offer by the customer, we subsequently submit the TIA to NESO. The NESO complete their TIA and issue an offer to DNOs confirming the costs, times, securities and/or liabilities for any Transmission works required to accommodate the connection request which are placed onto DNOs. Consequently, we reflect this offer to our customer in a contract variation and the customer elects whether to accept the offer or cancel the connection request. If the customer accepts, we accept the NESO offer.

As such, we have customers who have a binding agreement based on their acceptance of the connection offer which includes connection dates and costs based on the outcome of the TIA process and which does not allow for a further connections reform process. Implementation of TMO4+ and the wider connections reform is likely to lead to some customers requiring an updated connection date for access to the Transmission system. Where this is the case, we (as the party with the contract with the customer) will need to update the existing customer agreement to take account of the new Transmission date, but there is no current mechanism in the agreement with the customer allowing us to make changes to allow for connections reform.

Consequently, many of our affected customers whose connection dates are pushed back, may challenge us based on their contractual rights. These contracts were signed prior to any detail of connections reform. These contracts are not governed by industry codes, or solely by the obligations of the Distribution Licence. Consequently, we consider that it is imperative that broader consideration is given to this situation and DNOs are provided the proper powers to implement TMO4+ and connections reform. Without these powers, there is a significant risk that implementation of TMO4+, and ultimately a more efficient connections process, is held up in legal disputes and challenges at distribution.

3. Link to legislative changes

Given the risks above, we consider it is essential to understand how the proposed licence changes align with changes to legislation. We understand that DESNZ is working up changes to the Electricity Act 1989 (the Act) via the Planning and Infrastructure Bill, but we have not seen the detail of these or have any understanding of the timing to implement. It is challenging to comment on licence changes in isolation without seeing the broader legislative amendments.

Changes to Section 16 and 17 of the Act, may remove the need for some of the licence changes proposed by Ofgem in its consultation.

Further, it is important to note that the licence is given effect by Primary legislation in the form of the Act and subsequent amendments. The Act is the higher legal document and sets out obligations on DNOs, including to offer terms for connection. Given the interlinkages between the Act and the Distribution licence it is imperative that changes to legislation and licence are considered together and not in isolation.

Consequently, we would urge Ofgem to work closely with DESNZ and present a joined-up view of changes required for connections reform. Given the risks of legal challenge, we highlight above, its essential that the amendments to the Act are made prior to DNOs having to issue new and more importantly amend existing connections offers which reflect the connection reform proposals. Introducing licence conditions prior to the legislative change would likely lead to conflicting and/or contradictory obligations.

In addition to the points above, we consider its important to look at other policy areas which can impact delivery of CP2030. Firstly, we still see securities and liabilities for Transmission works as a barrier to our customers progressing with offers and are concerned that this could jeopardise delivery of CP2030. We urge Ofgem to look at the Policy approach in this area. Second, as we have highlighted to Ofgem previously, there are a range of different approaches taken by DNOs around charging for Transmission reinforcement. All DNOs are working through the ENA to develop a more consistent approach, and we'd welcome support and engagement from Ofgem in this policy area.

Further detail can be found in our full response, which is attached and completed in the form provided by Ofgem. If you have any questions on our response, please contact Louise.Muirhead@sse.com

Given the interconnection between the licence and legislative changes being proposed for connections reform I am copying in Paul Hawker at DESNZ as well as Steve McMahon.

Yours sincerely,



Patrick Erwin
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SSEN Distribution