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9 May 2024

## ESO Response to: Statutory consultation on National Energy System Operator licences and other impacted licences

Dear Sir or Madam,

We are pleased to submit our response to DESNZ and Ofgem's joint 'Statutory consultation on National Energy System Operator (NESO) licences and other impacted licences'. This letter provides a summary view of our response and key points, with further detail on some of the key points included in Appendix 1. Appendices 2 to 5 set out our specific comments on the electricity and gas licence drafting, and the other documents set out in the consultation, where applicable.

### Who we are

As the Electricity System Operator (**ESO**) for Great Britain, we are at the heart of the energy system, balancing electricity supply and demand second by second.

Our mission, as the UK moves towards its 2050 net zero target, is to drive the transformation to a fully decarbonised electricity system by 2035, one which is reliable, affordable, and fair for all. We play a central role in driving Great Britain's path to net zero and use our unique perspective and independent position to facilitate network and market-based solutions to the challenges posed by the energy trilemma.

As National Energy System Operator (**NESO**) we will continue to build on the ESO's position at the heart of the energy industry, acting as an enabler for greater industry collaboration and alignment. We will unlock value for current and future consumers through more effective strategic planning, management, and coordination across the whole energy system.

### Our general views on this consultation and the draft licences

This DESNZ and Ofgem licence statutory consultation draws together many aspects of policy development and licence drafting work from the last year, and we agree that it is a hugely significant milestone for the establishment of NESO. The process to develop the licence drafting between DESNZ, Ofgem and ESO has

been positive and collaborative, and continues to be so as we head toward Day 1 of NESO. We have some remaining concerns on the drafting presented in the consultation which are set out in the section below.

In general, the licence drafting for the financial framework accurately reflects the policy intent set out in DESNZ and Ofgem's consultation in December 2023<sup>1</sup>. We recognise that some aspects of the financial licence drafting, and other areas of the regulatory framework and licences, rely on the detail being set out in associated documents. As a result, and as a next step, there will need to be further work to draft and agree the level of detail required in the associated documents to the licence such as the financial Handbook and model. We look forward to working with DESNZ and Ofgem on this next stage of work.

We note that there are also other Ofgem documents which should be updated to take account of NESO's new status as a public corporation. One such example is the Enforcement Guidelines document which we consider should, for clarity, explain Ofgem's role in regulating NESO's statutory duties. Again, we look forward to continuing to work with Ofgem and DESNZ on these documents which will need to work holistically with the licence drafting.

### Our key points on the NESO licence conditions

Following DESNZ and Ofgem's informal licence consultation in September 2023<sup>2</sup>, we have worked closely with DESNZ and Ofgem to develop the previously published licence conditions as well as new drafting. We have some remaining concerns with the drafting that we consider should be resolved prior to Day 1 to ensure clarity around roles and responsibilities. We continue to believe, however, that the licences will need to remain flexible to further change as the NESO becomes more established and mature in its new roles. Our remaining key concerns on the drafting are as follows, and are set out in more detail where required in Appendix 1:

- **Future Energy Pathways** – we consider that Condition C15 covering the Future Energy Pathways (**FEP**) role should be reviewed and fundamentally re-drafted. It has not yet been determined how the FEP, the Centralised Strategic Network Plan (**CSNP**) and the Strategic Spatial Energy Plan (**SSEP**) as new outputs will feed into each other. We consider that the licence therefore should allow for flexibility in the timescales for these new outputs rather than locking them down. In terms of timescales, the FEP condition is currently drafted on the basis that the FEP is produced every three years, but we think this should be a minimum requirement to maintain flexibility for other NESO processes and to meet stakeholder expectations. As an alternative to setting timescales in the licence, these could be set out as part of a separate NESO publication such as within the FEP methodology (which will be approved by Ofgem).

It will also be important that there is sufficient time to carry out the FEP analysis and modelling work between publication of the methodology and production of the FEP. Lastly, the condition is currently prescriptive on the content of the methodology that NESO is required to produce ahead of the FEP publication. We consider that the licence drafting should aim to enhance flexibility on future development of the FEP methodology rather than setting fixed criteria.

- **Centralised Strategic Network Plan** – as for the FEP condition above, we consider that the timescales for development of the CSNP across a three-yearly development cycle should allow for the methodology to be agreed well in advance of production of the CSNP. Currently the drafting requires the methodology to be agreed in the year before the CSNP publication which does not allow sufficient time for the modelling and analysis work required.
- **Reference to statutory duties** - we set out in our response to DESNZ and Ofgem's informal licence consultation our concerns that drafting risked making the expectations on the FSO for Day 1 unclear through references to statutory duties in some areas of the licences. We note that Ofgem's revised approach to this in the latest drafting addresses many of these issues, but we have a remaining concern in particular around expectations for revision of the Balancing Principles Statement in Condition C9. While we welcome Ofgem's redrafting of this condition we propose a small change to the drafting, set out in Appendix 2 below, to ensure the expectation is clear.
- **General obligations on ISOP activities** - we note the significant change to Condition C1 in both licences since the informal consultation and that this licence condition, for electricity, was developed originally as the link between the licence and the incentive arrangements for ESO. It remains unclear to us from the

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<sup>1</sup> [Consultation on the policy direction for the Future System Operator's regulatory framework | Ofgem](#)

<sup>2</sup> [Future System Operator \(FSO\) draft licences consultation | Ofgem](#)

drafting whether some of the obligations in these licence conditions are simply summarising a list of activities found elsewhere in the licence or whether the intention is for the condition to set out standalone requirements in addition to other obligations. It is very important that Ofgem's expectations in this area are clear, for NESO and for the industry as a whole, and so we propose some additional drafting in Appendix 2 and 3 below. In any event, we consider that this licence condition will require further review as the regulatory framework for NESO is developed.

- **Information ring-fencing** – we think that there are still areas of the drafting in Condition B6 (in the GSP licence) and B7 (in the ESO licence) where changes should be made to prevent unintended consequences and drafting inconsistencies. In particular our understanding of the condition is that it is intended to capture information / data where unauthorised disclosure could lead to a detrimental impact, rather than to provide for a regime which duplicates other confidentiality obligations and controls.
- **Transitional services agreements** - we note that the requirements for Transitional Services Agreements (TSAs) in the licence will need to reflect the commercial / operational reality and timescales of the arrangements between the parties involved in the transition to NESO. We are currently concerned that the provisions around plans for exits from TSAs do not allow for the flexibility that will be needed to meet the reality.
- **Having regard to HM Treasury guidance** - we note the addition of drafting in Conditions F3 (in the GSP licence) and F4 (in the ESO licence) that requires NESO to have a system of internal controls to ensure it has regard to any published guidance issued by HM Treasury. While we agree with the substance of the requirement, we question whether this should be set out as a licence obligation, as the HM Treasury guidance will apply aside from the licence and NESO's following of that guidance is a matter for government. Unless clarified, the condition risks duplication.
- **References to 'post season analysis' role** - a 'post season analysis' deliverable is referenced in section 6.1.1 of the consultation document in relation to the security and resilience roles that NESO will undertake. We understand that the full detail around the requirements of the post-season analysis work, and any associated resource requirements, is still being discussed and agreed in detail between ESO, Ofgem and DESNZ, particularly for the first output identified in the consultation (post winter 2024).
- **Consistency in references across the licences** - following further development work on the NESO licences over the last few months, we think it will cause confusion to have condition references for equivalent conditions which differ between the FSO's two licences. We think it would be more appropriate to include blank conditions for a licence which does not have an equivalent to enable the common conditions to have consistent references.

We have included further detail on some of these points in Appendix 1 below. We set out our drafting proposals for issues we have raised and detailed drafting comments in Appendices 2 to 5.

We look forward to working with Ofgem and DESNZ further to implement the licences and develop the associated documents ahead of Day 1. Should you require further information on any of the points raised in our response please contact Gareth Davies, Head of Transformation, FSO Programme at [Gareth.Davies5@nationalgrideso.com](mailto:Gareth.Davies5@nationalgrideso.com).

Our response is not confidential.

Yours sincerely



Zoe Morrissey, Director of Legal and Regulation

## Appendix 1 – Further detail on our key points

### Future Energy Pathways

We recognise that the policy around the FEP has been developed and consulted upon relatively recently and, as such, the licence drafting is less mature than some other licence conditions. There is also ongoing development work around the interdependencies between FEP and other new NESO roles such as the SSEP and CSNP. This ongoing work should not be constrained by the licence drafting being finalised for Day 1 of NESO and therefore maintaining flexibility in this space is key. To this end, we do not consider that locking down specific timescales in the licence for these outputs is helpful at this stage.

We have the following key concerns with the FEP licence condition as drafted:

- The licence condition sets a requirement to produce the FEP on a three-year cycle to align with the CSNP. We consider that we should be maintaining the flexibility to produce the FEP more frequently than every three years to ensure that it can be used as an input, as required, into respective network planning processes but also to meet the needs of stakeholders. The drafting around the FEP methodology already requires NESO to set out the period to which the FEP relates. We propose that NESO could use the methodology document to set out a timetable for future FEP publications to ensure transparency for stakeholders and Ofgem without requiring dates to be static in the licences.

While the current FEP licence condition sets out provisions around reviewing the FEP annually outside of the three-yearly cycle, we think they are currently unclear and timescales are unrealistic between review and production of a revised FEP. We think that providing for flexibility around timescales for the FEP as set out above should negate the need for annual revision provisions in the licence.

- We propose that there should be a period of at least 18 months between publication of the FEP methodology and production of the FEP. This will ensure that the methodology has been approved by Ofgem and is transparent to stakeholders in sufficient time before the modelling and analysis work takes place.
- The FEP licence condition also sets out some criteria for the methodology that NESO will produce before undertaking FEP. We consider that the licence should not be too prescriptive on these criteria, particularly given that Ofgem can set out requirements for the methodology in its guidance document and has review and approval right of the methodology document itself. Stakeholder feedback on the methodology and the FEP process is likely to change across each development cycle and it is important to be able to adapt the methodology accordingly.

### Centralised Strategic Network Plan

As set out in our response letter above, the current timescales in the CSNP licence condition do not allow for sufficient development time between production of the CSNP methodology and the CSNP itself. We consider that for a CSNP publication to occur in financial year 2026, we would be looking to produce the methodology and submit it for Ofgem approval in financial year 2024 (and every three years in line with the CSNP three-year cycle).

We also note that the current Electricity Transmission Year Statement (**ETYS**) and Network Options Assessment (**NOA**) licence conditions are proposed to be retained in the NESO Electricity System Operator licence with, as set out by DESNZ/Ofgem in the consultation document, *'the expectation that their use will be phased out as the CSNP is further developed'*. The phasing out of these licence conditions is currently not prescribed in the drafting and we think it is confusing to retain these conditions in their current form. These two licence conditions could be removed or at least be more specific about the obligations falling away prior to delivery of the first CSNP.

As above, we note that maintaining flexibility in the licence around the development of CSNP as a new role is important. It will similarly be important that appropriate changes are made to other industry parties' licences to ensure clear roles and responsibilities moving forward.

## Appendix 2 – ESO specific comments on the Electricity System Operator licence conditions

This appendix sets out our comments on each licence condition, where applicable. The references in the tables below are in relation to 'Annex E – Electricity System Operator Licence Conditions' of the consultation.

### Condition A1 Definitions

Reference	ESO comments
<b>General</b>	<p>Where a definition includes both a term and an acronym for the term, we suggest defining as the term 'or' the acronym, rather than having the acronym in brackets. We also note that most definitions end with a full stop and suggest that this is applied throughout.</p> <p>We also note that some references use 'Condition' (with a capital) 'condition' (lower case). Our preference would be to use the former throughout NESO's licences.</p>
<b>Part A, A1.4(j)</b>	For clarity, we suggest adding ' <i>...(where any reference to such a document...)</i> '
<b>AAHDCS Activity</b>	We suggest that the words following 'AAHDCS' can be deleted.
<b>AAHDCS Tariff</b>	After paragraph F8.9 ' <i>of Condition F8</i> ' should be added.
<b>Administration Allowance</b>	We suggest deleting '(AAHDCS)' as the standard formulation is not to include the term when quoting a condition heading.
<b>Allowed Security Costs</b>	Missing definition. Suggest ' <i>has the meaning given to the term in the Fuel Security Code.</i> ' As per the current ESO transmission licence.
<b>Asset Disposal</b>	Housekeeping issue: The indent in sub-paragraph (c) is not in line with sub-paras (a) and (b). The gap should be reduced. The spacing in the following paragraphs needs to be amended in a similar way: C17.4 (c); F6.3 (a); where the word ' <i>where</i> ' occurs between the formulae and the expressions in F3.8, F8.2, F8.3, F8.4, F8.5 and F8.6
<b>Assessment Period</b>	To clarify we suggest this is changed to ' <i>means the period over which the licensee's performance is assessed, as set out in the...</i> '
<b>Assistance for Areas with High Distribution Costs (AAHDC)</b>	In line with ESO's transmission licence, we suggest that there is no need to repeat the definition and this can be simplified to ' <i>means the scheme established pursuant to...</i> '
<b>Business Plan</b>	Given there will be more than one Business Plan in accordance with paragraph G1.3, we suggest replacing ' <i>the plan</i> ' with ' <i>a plan</i> '.
<b>Carbon Intensity</b>	We suggest 'CO <sub>2</sub> '.
<b>Connect and Manage Offer</b>	We note that there are two, slightly different definitions for this term in the definitions table.
<b>Cost Efficiency Notice</b>	We suggest changing this to ' <i>means a notice issued by the Authority in accordance with paragraph F1.5 of Condition F1 (Expenditure and allowed revenue)</i> '. The current wording we have deleted seems to duplicate paragraph F1.5, in some cases with slightly different wording.



<b>Cost Efficiency Plan</b>	For clarity we suggest 'as required by paragraphs F1.7 and F1.8 of Condition F1 (Expenditure and allowed revenue)'.
<b>CSNP Guidance</b>	On the basis that this is not solely a guidance document, we suggest changing the defined term to 'CSNP <u>Governance Document</u> '.
<b>Directly Attributable Costs</b>	We suggest that it should be '...Transmission Licensee <u>or</u> Licensed Distributor'.
<b>Disallowed Expenditure</b>	We suggest that it should be '...Transmission Licensee <u>or</u> Licensed Distributor'.
<b>Disapplication Notice</b>	We suggest change to '...Disapplication <u>and suspension</u> of Relevant Licence Conditions'.
<b>Disapplication Request</b>	We suggest change to '...(Disapplication <u>and suspension</u> of Relevant Licence Conditions) <u>for consent to</u> ...'.
<b>Early Model Tender Exercise</b>	We suggest considering whether preliminary works should use the defined term.
<b>Electricity Licence Expenditure</b>	We suggest this should be changed to 'means expenditure the licensee has allocated for recovery <u>through the terms set out in</u> Condition F1 (Expenditure and allowed revenue), according to the Total Cost Allocation Methodology'.
<b>Eligible NIC Project</b>	We suggest that 'or by a Licensed Distributor...' should be added.
<b>Emergency Processes Assessment</b>	We suggest updating the title of Condition C7.
<b>Expenses Policy</b>	We suggest that the words 'of this licence' can be deleted.
<b>Fuel Trading Business</b>	For clarity, we suggest that a comma should be added after 'Gas Transporter'.
<b>Funding Return</b>	We suggest deleting 'and other electricity'.
<b>Future Energy Pathways Guidance</b>	On the basis that this is not solely a guidance document, we suggest changing the defined term to 'Future Energy Pathways <u>Governance Document</u> '.
<b>Gas Supplier</b>	A new definition should be added to this term, which can be the same as the definition of 'Gas Shipper'.
<b>Gas Licence Expenditure</b>	The descriptive of Condition F1 is missing the word 'calculation'. Should read Condition F1 (Gas revenues <i>calculation</i> and notification process).
<b>Gas System Planner Licence</b>	We suggest that further consideration is given to whether the words 'or treated as <i>granted</i> ' should be included here. We are not clear that the legislation merits including those words.
<b>Innovation Project</b>	'Innovation Project' can be deleted from the definition.

<b>ISOP Business Plan Governance Document</b>	We understand that there will be one such document and suggest ' <i>means <u>the document...</u></i> '.
<b>Late Model Tender Exercise</b>	We suggest considering whether preliminary works should use the defined term.
<b>Late Payments</b>	We suggest ' <i>means payments <u>required to be made by...</u></i> ' as in the current ESO transmission licence.
<b>Total Legacy NIA Expenditure</b>	To ensure clarity for the formula in condition F2 we propose that the definition of Total Legacy NIA Expenditure is amended to ' <i>Total NIA Expenditure that was incurred by the licensee in any Financial Year at the end of which the special conditions of the Transmission Licence held by the licensee immediately prior to the designation of the ISOP were in effect.</i> '
<b>Legacy Revenues</b>	We suggest the drafting ' <i>...this licence <u>having effect</u></i> '. This better aligns with s.167(1) of the EA23.
<b>Major National Electricity Transmission System Reinforcements</b>	We suggest that the reference should be to para C13.6 (under which approval occurs).
<b>Meter Reading Services</b>	There is an extra full stop that can be removed at ' <i>system.</i> '.
<b>Meter-Related Services</b>	We have not been able to verify the reference to NGT's licence at 1 July 2018, but note that there are differences here to the definition of the term published on Ofgem's website for Standard Special Condition D17.
<b>Meter-Related Services Business</b>	We have not been able to find this definition in use in the drafting and suggest that it can be deleted.
<b>Potential Conflict Party</b>	Given the definition is lengthy, we suggest that the sentence beginning ' <i>This may include...</i> ' is then broken down into a numbered list, with the final sentence being separate below it.
<b>Relevant Licence Conditions</b>	We suggest updating the title of Condition F9 to refer to suspension.
<b>Remuneration Policy</b>	We suggest that the words ' <i>of this licence</i> ' can be deleted.
<b>Returned Royalty Income</b>	We suggest a change to ' <i>or any Transmission Licensee or Licensed Distributor</i> '.
<b>Security Period</b>	We suggest that this definition should be added from the current ESO transmission licence (with updated references).
<b>Solar Generation Output</b>	We note that it does not seem clear that this definition should refer to wind generation.

<b>SO-TO Threshold</b>	To maintain the same financial impact as the ESO transmission licence we believe that the definition should be amended to <i>'Means a financial value of £3,800,000 in 2018/19 prices (inflated according to the indexation methodology in the Financial Handbook) excluding any costs incurred by the licensee for payments to Transmission Owners or any successor company to each in respect of a Joint Works Projects where there has been a direction by the Authority to approve these Joint Work Projects or another value directed by the Authority'</i>
<b>Subsidiary</b>	Our understanding is that this definition should be changed so that it is the same as the definition of <i>'Holding Company'</i> .
<b>Total Legacy NIA Expenditure</b>	To ensure clarity for the formula in F2 we propose that the definition of Total Legacy NIA Expenditure is amended to <i>'Total NIA Expenditure that was incurred by the licensee in any Financial Year at the end of which the special conditions of the Transmission Licence held by the licensee immediately prior to the designation of the ISOP were in effect.'</i>
<b>Total NIA Expenditure</b>	To ensure clarity for the formula in F2 we propose that the definition of Total NIA Expenditure is amended to <i>'means expenditure by the licensee from the start of the financial year during which this licence comes into effect, that is recovered by the licensee under Condition F1 (Expenditure and allowed revenue), and which satisfies the requirements of the RIIO-2 NIA Governance Document and Condition F2 (Innovation Funding).'</i>
<b>Transmission Network Services</b>	It appears to us that <i>'...other than excluded services'</i> is not particularly clear. We suggest that this is updated in line with the DRS provisions of the transmission licences.

## Condition A2 Interpretation

Reference	ESO comments
<b>Part A, A2.4</b>	We note that this rule of interpretation alters the rule in the existing standard conditions by adding further pieces of legislation. We agree that references to the Utilities Act 2000, Electricity Act 1989 and Part 5 of the Energy Act 2023 should be in scope. We have not had an opportunity to do a comprehensive review of the legislation against the licence for the purposes of this response, but trust that DESNZ/Ofgem are content that there are no unintended consequences through adding this wording.
<b>Part A, A2.8 (b)</b>	<p>In keeping with the revised numbering style, we believe that as all paragraphs in the licence start with the condition number (for example A2) then the licence should not need to refer to <i>'of condition xx'</i> if a paragraph number is quoted and this could simplify the drafting.</p> <p>Therefore, we propose that sub-para (b) drafting is amended to remove the reference to <i>'paragraph'</i> since it no longer needs to be assumed what condition the paragraph refers to.</p> <p>The effect is that the phrase <i>'of condition xx (and name thereof)'</i> can be deleted from the drafting in all instances. If this change is agreed to, we can provide further detail to support implementation of the required changes. (We have not suggested detailed changes to the approach in this response.)</p>



<b>Part A, A2.9</b>	<p>We note that ‘<i>electricity supply licences</i>’ and ‘<i>electricity Interconnector licences</i>’ are not defined terms and that definitions could be added to Condition A1 as with other categories of licence.</p> <p>In any case, other than in for its first occurrence, the word ‘<i>electricity</i>’ should be deleted, since this is captured in the definition in each case.</p>
<b>Part B, A2.19(c)</b>	A space should be inserted at ‘ <i>B1of</i> ’.
<b>Part B, A2.19(d)</b>	In each case, we suggest that ‘ <i>requirements</i> ’ should be replaced with ‘ <i>obligations</i> ’ to be consistent with Condition B7.
<b>Part B, A2.19(j)</b>	We suggest changing ‘ <i>SSEP</i> ’ to ‘ <i>Strategic Spatial Energy Plan</i> ’, since this is the term used in Condition C16.
<b>Part B, A2.19(l)</b>	We suggest changing ‘ <i>CSNP</i> ’ to ‘ <i>Centralised Strategic Network Plan</i> ’, since this is the term used in Condition C17.
<b>Part C, A2.21</b>	We request that the words ‘ <i>or give it again under that power</i> ’ are deleted. This wording could be interpreted as meaning that giving a direction again would not involve the various procedural steps required by the licence, which we do not think is correct. If a direction on a particular matter is withdrawn or expires, Ofgem may issue a further such direction in accordance with the processes set out in the licence.
<b>Part C, A2.22(b)</b>	For the reasons set out set in our comments on para A.21 above, we request that this sub-paragraph is deleted.

### Condition A3 Housekeeping licence modifications

Reference	ESO comments
<b>Part A, A3.3</b>	The reoccurrence of paragraph reference ‘A3.2’ can be removed.

### Condition B1 Independence Requirements and compliance obligations

Reference	ESO comments
<b>Part A, B1.5</b>	<p>For clarity and consistency we suggest ‘...<i>or <u>engaging or cooperating with Potential Conflict Parties as required to act consistently with its duties under the Energy Act 2023 and the conditions of this licence</u></i>’.</p> <p>One of the reasons for this is that para B1.6 refers to TSAs, but there are a number of other arrangements with Potential Conflict Parties that NESO will need to enter into (including industry codes).</p>
<b>Part A, B1.7</b>	We suggest adding a comma after ‘ <i>B1. 16</i> ’.
<b>Part B, B1.16</b>	The wording here seems unnecessarily complicated and we suggest a change to ‘... <i>use its best endeavours to ensure that such new non-executive directors are appointed to fulfil...</i> ’.
<b>Part D, B1.20</b>	The words ‘ <i>to maintain the impartiality of its employees and the independence of the licensee</i> ’ are not consistent with para B1.3 and we suggest that these words should be replaced with ‘ <i>in accordance with paragraph B1.3</i> ’.

<b>Part D, B1.21(c)</b>	This reads as inconsistent with the obligation in para B1.18, which is an obligation to use reasonable endeavours, rather than an absolute requirement. To remove the inconsistency we suggest replacing ' <i>...to ensure it is able to operate...</i> ' with ' <i>...as to how it intends to operate...</i> '.
<b>Part D, B1.21(d)(ii)</b>	As noted in the key issues of our response letter above, we are concerned that NESO will not be in a position to set out a clear binding timeline and milestones for exit of Transitional Services Arrangements at the time the Independence Statement is required for approval. The relevant exit plans continue to be developed. To match the practical reality, we suggest this is changed to ' <i>an indicative proposal of timeline and milestones to complete the transfer to the licensee or outsourcing (other than through Transitional Services Agreements) of services comprising Transitional Services...</i> '.
<b>Part D, B1.21(d)(iii)</b>	The term ' <i>relevant requirements</i> ' here seems very unclear and we suggest that this should either be made clear or deleted.
<b>Part D, B1.21(e)</b>	We are not completely clear what is intended by this provision. However, we appreciate that any arrangements referred to should not compromise NESO's independence and we will continue to work with Ofgem to understand its expectations.
<b>Part D, B1.22</b>	We cannot envisage any circumstances where a TSA Notice would be issued to show that Transitional Services are no longer being provided but where the TSA aspects of the Independence Statement would still be required. We would ask that consideration is given to whether ' <i>may</i> ' should be changed to ' <i>will</i> '.
<b>Part D, B1.25</b>	For clarity, we suggest changing to ' <i>... on its website <u>within a period of 15 Working Days</u> ...</i> '.
<b>Part E, B1.27, B1.32 and B1.33(g)</b>	For clarity, we suggest in each case changing to ' <i>...and <u>other obligations under this condition</u></i> ' (given that the Independence Requirements are not the only requirements under the condition).
<b>Part E, B1.33</b>	For clarity we suggest changing to ' <i><u>The licensee must ensure that the duties and tasks on the Compliance Officer...</u></i> '.

## Condition B2 Restriction on activity and financial ringfencing

Reference	ESO comments
<b>Part A, B2.2</b>	<p>In para B2.2, our main concern was that NESO should not be prohibited from undertaking activities which flow from its new statutory duties as the ISOP (noting that Ofgem retains a role in considering the efficiency of expenditure for any such activities where those costs are being paid by energy consumers).</p> <p>For example, NESO's new statutory objectives may lead it to undertake thought leadership or coordination activity which is not solely focussed on energy networks and markets (and could even be unrelated to electricity/gas).</p> <p>Our understanding is that such activity would fall within the definition of ISOP Business as drafted in Condition A1, being both: (a) activity which is in accordance with NESO's duty under s.163 of the Energy Act 2003 to act in the manner best calculated to promote its objectives; and (b) activity which is exercisable in connection with its other ISOP activities, such as being the adviser to government and Ofgem on net zero issues. On this basis, we do not propose any changes to this drafting.</p>
<b>Part A, B2.3</b>	We suggest changing ' <i>its ISOP Business</i> ' to ' <i>the ISOP Business</i> ', which is the formulation generally used.

<b>Part A, B2.4(c)</b>	The words 'set out in condition B1 ( <i>Independence Requirements and compliance obligations</i> )' duplicate the definition of 'Independence Requirements' and can be deleted.
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### Condition B3 Conduct of ISOP Business

Reference	ESO comments
<b>Part A, B3.1 and B3.2</b>	We suggest changing 'its ISOP Business' to 'the ISOP Business', which is the formulation generally used.
<b>Part A, B3.2(c)</b>	We note that the term 'Gas Shipper' is not included in the definitions list at A1.

### Condition B4 Compliance with directions related to national security

Reference	ESO comments
<b>Part A, B4.7</b>	<p>We retain the view set out in our response to the informal consultation that it would be clearer to refer to 'for so long as the direction has effect' rather than 'for the period set out in the direction'.</p> <p>If the current wording is retained, it will be important that each direction includes such a time period. Otherwise the framework created by this licence condition will be undermined.</p>
<b>Part A, B4.8</b>	<p>We suggest that the first instance of 'the conflict' should be replaced with 'any conflict'.</p> <p>We also suggest that the words '...between the obligations...' are unnecessary and potentially confusing and should be deleted.</p>

### Condition B6 Prohibition on discriminating between users

Reference	ESO comments
<b>Introduction, B6.1</b>	We suggest that, for clarity and consistency with the main body of the condition, the text should be changed to '...prohibition on the licensee <u>unduly discriminating between users...</u> '.
<b>Part A heading</b>	The Part A heading is currently not descriptive. We suggest changing to 'Licensee's duties to not unduly discriminate'.
<b>Part A, B6.3</b>	A space is required to be inserted between 'B6.5' and 'the'.

### Condition B7 Information ringfencing obligations

Reference	ESO comments
<b>Introduction, B7.1</b>	<p>We propose to add the drafting 'under this licence' at the end of this paragraph such that it reads:</p> <p><i>'The purpose of this condition is to ensure that the licensee appropriately manages and secures confidential data and information that relates to the licensee's performance of its functions <u>under this licence.</u>'</i></p>

<b>Part A, B7.2</b>	<p>As noted above, NESO will have confidentiality obligations which arise in a broad range of circumstances (e.g., industry codes and s.105 of the UA00). Our understanding is that this condition is intended to cover information with a particular impact of disclosure, rather than duplicating existing obligations and controls. We therefore propose additional wording intended to explain what is being identified:</p> <p><i><u>‘The licensee must identify any confidential data and confidential information it holds relating to the licensee’s performance of its functions under this licence, that in its opinion should not be disclosed or otherwise be accessible to persons other than its employees, agents, contractors and advisors (other than as set out in paragraph B7.6) due to the adverse impact which such disclosure or access may give rise to.’</u></i></p>
<b>Part A, B7.2</b>	<p>We propose to split this current paragraph into two, with the second new paragraph drafted as follows:</p> <p><i>‘B7.3 Confidential data and confidential information under paragraph B7.2 includes, but is not limited to:</i></p> <p style="padding-left: 40px;"><i>(a) data and information....’</i></p> <p>This proposed change will have an impact on subsequent paragraph referencing in the rest of the licence condition which would need to be amended accordingly.</p>
<b>Part A, B7.3</b>	<p>We consider that providing for Ofgem consent here could be read as being inconsistent with paragraph B7.5, which also has further exceptions. We propose to tweak the drafting of this paragraph to:</p> <p><i><u>‘Subject to paragraph B7.5, the licensee must ensure that appropriate protections are in place to secure that any information identified under paragraph B7.2 is appropriately protected from being directly or indirectly disclosed to, solicited or used by any person who:...’</u></i></p> <p>We also note that in para B7.3(c):</p> <ul style="list-style-type: none"> <li>• The NTS System Operator is not a legal entity that can enter into bilateral agreements and this should be replaced with <i>‘National Gas Transmission plc’</i>.</li> <li>• The words <i>‘members of’</i> are redundant and can be deleted.</li> </ul>
<b>Part A, B7.4</b>	<p>On further consideration, we are concerned about the breadth of the current drafting covered in this paragraph. Potential Conflict Parties can include material suppliers (including advisers) and so there seems to be a risk that NESO is prohibited from sharing information with advisers, even though this is captured within B7.2 as within the scope of what should be permitted. The below proposed wording of <i>“appropriately protected”</i> is intended to capture this, since where there is no risk of conflict NESO should be able to disclose confidential information to advisers to facilitate the advice needed. It also captures human error (which can never be completely ruled out).</p> <p>We propose that the paragraph be amended as follows (which also resolves the same issue flagged above on the reference to Ofgem consent):</p> <p><i><u>‘Subject to paragraph B7.6, the licensee must ensure that appropriate protections are in place to secure that any confidential data and confidential information identified under paragraph B7.2 is appropriately protected from being disclosed to or otherwise accessed by persons engaged in the management or operation of any Potential Conflict Party.’</u></i></p>

<b>Part A, B7.5(d)</b>	<p>For clarity we propose to take the final sentence of this paragraph and move it to a separate new paragraph in the list and amend this to:</p> <p><i>(e) 'where required by the Secretary of State or their advisors in their role as the shareholder of the licensee;'</i></p> <p>UKGI would be an adviser to the Secretary of State for this purpose. The subsequent items in the list would need to be relabelled accordingly.</p>
<b>Part A, B7.6(b)</b>	<p>We propose a minor change to the drafting here to mitigate our concern that a risk relevant to operation of the electricity system should not be prohibited from being shared with our control room if it is needed to better meet our operational requirements.</p> <p><i>'appropriate protections are in place to limit the disclosure of the information related to the delivery of the obligations in Part A and Part B of condition C7 (Energy resilience and resilience reporting) to the rest of the licensee's business to where such disclosure is necessary for the performance of <u>the conditions of its licences and its statutory duties</u>'</i></p>

### Condition C1 General obligations on ISOP activities

Reference	ESO comments
<b>General</b>	<p>Please see our comments on this condition above in our response letter.</p> <p>It remains unclear to us from the drafting whether some of the obligations in these licence conditions are simply summarising a list of activities found elsewhere in the licence or whether the intention is for the condition to set out standalone requirements in addition to other obligations.</p> <p>We continue to consider that this licence condition will require further review and development in line with future changes to NESO's regulatory model and as the NESO's new roles develop.</p>
<b>Heading</b>	<p>Noting that '<i>ISOP activities</i>' is not a defined term, we suggest the heading is changed to refer to '<i>... <u>the ISOP's activities</u></i>'.</p>
<b>Various - C1.2, C1.4, C1.5, C1.6 and C1.7</b>	<p>To mitigate our concern above, we propose that some further wording is added to these paragraphs in the condition to note the discretion that NESO has around the steps that must be taken to undertake a particular activity. We propose to add the following drafting to each paragraph:</p> <p><i>'...in accordance with the conditions of this licence <u>and otherwise taking steps as it considers appropriate in line with its statutory duties, the licensee must:...</u></i></p>
<b>Part A, C1.2</b>	<p>We are concerned that the change from the current wording in Standard Condition C28 of the ESO's licence to '<i>best endeavours to promote economic and efficient overall expenditure...</i>' may lead to a substantive change where we do not understand such a change to be intended. The proposed wording seems to change the focus of the obligation to whole electricity system expenditure, rather than being a balance of a range of factors involved in operating the National Electricity Transmission System. We do not see that sufficient consideration has been given to the impact of such a substantive change.</p> <p>We suggest either removing the wording above, on the basis that this obligation will now be captured within NESO's duty under s.163 of the Energy Act 2023 or changing</p>



	<p>the opening paragraph of para C1.2 to <i>'In accordance with the conditions of this licence and otherwise taking steps as it considers appropriate in line with its statutory duties, the licensee must use its best endeavours to promote the effective operation of the National Electricity Transmission System including by...'</i>.</p> <p>(The use of <i>'effective'</i> here mirrors the use of that word in place of <i>'efficient, coordinated and economic'</i> in Condition C13.)</p>
<b>Part A, C1.2(a)</b>	Responding to operational requirements in a <i>'secure'</i> manner does not seem clear to us and we suggest that this is deleted. To the extent this is about system security, obligations on NESO to take steps to ensure the system remains secure apply separately.
<b>Part A, C1.2(c)</b>	The word <i>'electricity'</i> on the first line is redundant given the definition and can be deleted.
<b>Part A, C1.2(d)</b>	We note that the term <i>'Outage Plan'</i> is not included in the definitions list in Condition A1.
<b>Part A, C1.3</b>	We suggest a change to <i>'...developing its capability...'</i> and <i>'...provides a zero carbon energy mix'</i> (for clarity and consistency with other terminology used).
<b>Part B, C1.5(a)(i)(3)</b>	We believe that the word <i>'forecasts'</i> should not be in plural and read <i>'... reasonably possible the <u>forecast</u> volumes ...'</i>
<b>Part D, C1.6(b)</b>	We understand that reference to paragraph <i>'C1.5(a)'</i> can be deleted from the text.
<b>Part D, C1.6(g)</b>	<p>Although this obligation is being updated to refer to needs of the whole system, our understanding is that this paragraph is focussing on <i>'<u>electricity</u> network planning solutions'</i> and we suggest that it would be helpful to make this clear. (GSP para C1.4 contains an equivalent obligation for gas network planning solutions.)</p> <p>The word <i>'and'</i> can be removed from the end of the paragraph.</p>
<b>Para D, C1.7(a)</b>	<p>For clarity, we suggest <i>'take steps to <u>establish</u> a whole energy resilience function'</i>.</p> <p>The term <i>'...and preparation for emergencies'</i> could be misconstrued. We suggest changing this to <i>'and <u>coordinating</u> preparation for emergencies'</i>.</p>
<b>Para E, C1.7(b)</b>	In the event that the wording proposed above is adopted, this negates the need for the drafting <i>'...where the licensee believes this would be consistent with the licensee's duties in the Energy Act 2023...'</i> since this would become duplicative with the change above.
<b>Part F, C1.11</b>	We note that the requirement for Ofgem to publish the reasons for any amendments being proposed to the Guidance referred to in Part F of the condition has been removed from the existing ESO Condition C28. We consider this should be reinstated into the NESO's Condition C1 and exists elsewhere in other conditions such as C15 and C17.
<b>Part G, C1.13</b>	We suggest that the reference to C1.4(a)(i) should instead be to C1.5(a)(i)

### Condition C2 Licensee's regard to Strategy and Policy Statement

Reference	ESO comments
<b>Part A, C2.2</b>	For consistency with drafting elsewhere, we suggest that ' <i>pursuant to</i> ' could be changed to ' <i>in accordance with</i> '.

### Condition C4 Electricity System Restoration Standard

Reference	ESO comments
<b>Part C heading</b>	We do not believe that the word 'approval' should be capitalised in the heading.
<b>Part D, C4.16</b>	Ofgem will apply its own statutory objectives in any case, including consideration of economy and efficiency and value for money, we suggest that the criteria for Ofgem's direction may be removed as we are not clear that these are needed. However if the references are to be retained, we suggest changing to ' <i>...that the revision has been prepared in accordance with...</i> '.
<b>Part D, C4.18(b)</b>	For clarity, we suggest changing this to ' <i>... on its website <u>within a period of 7 Working Days</u> ...</i> '.

### Condition C6 Licensee's obligations regarding critical national infrastructure

Reference	ESO comments
<b>Introduction, C6.1</b>	For clarity we suggest changing the final words to ' <i>following a request from the Secretary of State</i> '.
<b>Part B, C6.4</b>	For clarity we suggest this is changed to ' <i>...apply any methodology provided under paragraph C6.2 <u>to identify sites and assets...</u></i> '.

### Condition C7 Energy resilience and resilience reporting

Reference	ESO comments
<b>Introduction, C7.1(g)</b>	We suggest moving this to a separate paragraph since the condition does not set out obligations related to derogations – We suggest ' <i>This condition also provides for the licensee to apply for a derogation for relief from its obligations under this condition</i> '. Other paragraph numbers would then be updated accordingly.
<b>Part B, C7.4</b>	It seems to us that the current wording is not completely clear as it is not clear that whether the reference to Electricity Generators is to all such generators or only those that operate across the NETS. We request that further consideration is given to the wording here.
<b>Part C, C7.8</b>	It is not clear whether the expectation is that gas infrastructure stakeholders should be consulted on the Energy Resilience Assessment Report in all cases or only where the Secretary of State has suggested specific gas infrastructure coverage under para C7.7(a). We suggest that this is made clear.

<b>Part D, C7.12</b>	The words ' <i>in respect of the following winter and summer seasons respectively</i> ' seem to duplicate requirements in para 7.13 and we suggest are redundant and can be deleted.
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## Condition C8 Electricity Market Reform (EMR) arrangements

Reference	ESO comments
<b>Intro C8.1</b>	For clarity, we think it would be helpful to add the words ' <i>relating to the EMR arrangements</i> ' at the end of this statement. Otherwise there seems no link between the heading and the wording of the condition.

## Condition C9 Procurement and use of Balancing Services

Reference	ESO comments
<b>General</b>	As set out in our response letter above, we have a remaining concern around expectations for revision of the Balancing Principles Statement in Condition C9 for Day 1. While we welcome Ofgem's redrafting of this condition we propose some small changes to the revised drafting, set out in further detail below, to ensure the expectation is clear.
<b>Part A, C9.3</b>	The word 'as' in this paragraph is not required. We propose to amend drafting to ' <i>..... must not discriminate between any persons.....</i> '.
<b>Part C, C9.6</b>	We propose to remove the reference to the Energy Act 2023 in this paragraph as this is now referenced in paragraph C9.7. The paragraph would therefore read as follows:  <i>'The licensee must have in place a statement approved by the Authority setting out (consistently with the licensee's obligation under paragraph C9.3 and consistently with its other duties under the Electricity Act 1989 and the Energy Act 2023 and the conditions of this licence) the principles and criteria by which the licensee will determine, at different times and in different circumstances, which Balancing Services the licensee will use to assist in coordinating and directing the flow of electricity onto and over the National Electricity Transmission System and when the licensee would resort to measures not involving the use of Balancing Services;'</i>
<b>Part C, C9.7</b>	We propose to move and renumber this paragraph (and other paragraphs accordingly) such that it follows and makes reference to the current numbered paragraph C9.8.  <i>'C9.87. The licensee must, if so directed by the Authority or when any modification should be made to the statement referred to in paragraph C9.6 to more closely reflect the intentions of the licensee but in any event at least once a year, review the statement prepared in accordance with paragraph C9.6 and promptly seek to establish a revised statement approved by the Authority, such revisions to be made in accordance with the terms of paragraphs C9.23 and C9.24.</i>  <i>C9.78. Where the licensee reviews the statement under paragraph C9.67, the licensee must update the statement to include how the licensee considers the principles and criteria identified in that statement are consistent with its duties under sections 163 and 164 of the Energy Act 2023.'</i>
<b>Part G, C9.22(b)</b>	We believe that the reference to 'paragraph C9.22' should instead be to C9.23.

## Condition C11 Requirements of a Connect and Manage Connection

Reference	ESO comments
<b>Part A, C11.3(c)</b>	Please standardise styling of the words <i>'Use of system charging methodology'</i> across the document as appropriate. It is also noted that the title to Condition E10 is <i>'Use of System charging and methodology'</i> , therefore any revision should consider this wording.

## Condition C12 Production of information about the National Electricity Transmission System

Reference	ESO comments
<b>General</b>	<p>As set out in Appendix 1 to our response letter above, we question the rationale for retaining this condition in the Electricity System Operator licence. We consider that the new Centralised Strategic Network Plan (<b>CSNP</b>) condition, and the associated Ofgem guidance to that condition, provides the mechanism to manage the network planning requirements between Day 1 and the first publication of CSNP.</p> <p>If it is retained, we note that a further consultation should be undertaken in future to remove this condition from the licence once the first CSNP cycle has commenced.</p> <p>Our comments below are subject to this general point.</p>
<b>Part A, C12.2</b>	For clarity, we suggest changing to <i>'In each Financial Year, the licensee must by 31 January'</i> . If considered necessary, the words <i>'in which this licence has effect'</i> , could also be added.
<b>Part A, C12.3(d)</b>	For clarity, we suggest adding a comma in between <i>'coordination'</i> and <i>'development'</i> .
<b>Part A, C12.3(e)</b>	For clarity, we suggest changing the wording to <i>'...how the ETYS is informed <u>by</u> and aligns with...'</i> .
<b>Part A, C12.4</b>	The words <i>'as set out in paragraph C12.5'</i> duplicate the defined term Development Information Objectives and can be deleted.
<b>Part A, C12.5(a)(i)</b>	It isn't clear to us why the word <i>'likely'</i> has been removed from the current transmission licence wording. We suggest adding <i>'...the <u>likely</u> development...'</i> or using <i>'probable'</i> as in para C12.5(a)(ii).
<b>Para A, C12.10</b>	<p>The text here seems unclear to us. Further, we do not see that the licence should include an obligation which needed to be complied with before the licence has effect (and that obligation will be met under the current licence). We suggest this should be changed to:</p> <p><i>'The licensee must submit to the Authority for approval any proposed revisions to the form of the EYTS by no later than by 1 June in the Financial Year commencing 1 April 2025 and every subsequent Financial Year or by such other date as directed by the Authority.'</i></p>

## Condition C13 The Network Options Assessment (NOA) process and reporting requirements

Reference	ESO comments
<b>General</b>	<p>As for C12 above, we question the rationale for retaining this condition in the Electricity System Operator licence. We consider that the new Centralised Strategic Network Plan (<b>CSNP</b>) condition, and the associated Ofgem guidance to that condition, provides the mechanism to manage the network planning requirements between Day 1 and the first publication of CSNP.</p> <p>If it is retained, we note that a further consultation should be undertaken in future to remove this condition from the licence once the first CSNP cycle has commenced.</p>
<b>Part B, C13.10</b>	For clarity, we suggest that ' <i>...amended accordingly...</i> ' should be changed to ' <i>...postponed accordingly...</i> '. Similarly ' <i>The amendment...</i> ' should be changed to ' <i>The postponement...</i> '.
<b>Part B, C13.13</b>	In the opening wording, it appears to us that it would be clearer to replace the reference to ' <i>paragraph C13.7</i> ' with ' <i>Part A</i> '. The methodology is not established under para C13.7.
<b>Part B, C13.13(b)</b>	<p>We suggest that the second reference here should be to '<i>paragraph C13.13(a)</i>'.</p> <p>For consistency with para 13.3(a), we suggest that the final wording should be '<i>... for facilitating the effective development of the National Electricity Transmission System</i>'.</p>
<b>Part B, C13.13(c)</b>	For consistency with para 13.3(a), we suggest that the final wording should be ' <i>... to facilitate the effective development of the National Electricity Transmission System</i> '.
<b>Part B, C13.13(d) and (e)</b>	We consider that, if this condition is retained, these sub-paragraphs could be removed given that a new licence condition on early competition is likely to be added to the licence in the near future and we suggest that the wording should be considered as a whole.
<b>Part D</b>	We consider that, if this condition is retained, Part D could be removed given that a new licence condition on early competition is likely to be added to the licence in the near future and we suggest that the wording should be considered as a whole.
<b>Part D, C13.20(a)</b>	If retained, the semi-colon at the end can be deleted.
<b>Part D, C13.21(b)(i)</b>	If retained, we suggest that the reference to para C13.21(b) is incorrect and should be to C13.13(b).
<b>Part D, C13.21(b)(ii)</b>	If retained, it appears to us that it would be clearer to replace the reference to ' <i>paragraph C13.7 and C13.8</i> ' with ' <i>Part A</i> '. The methodology is not established under para C13.7 and C13.8.



## Condition C14 Electricity Network Innovation Strategy

Reference	ESO comments
<b>Part D, C14.6(d)</b>	In the two instances, we suggest that 'gaps' is replaced with 'challenges', so that the wording is consistent with para C14.6(b) (which does not refer to 'gaps'). Given we understand that the intent is not to change the meaning of the provision, we also suggest in both places changing 'must' to 'should', in line with the existing wording in the transmission licence (and Condition C9.6(d) of the draft GSP licence).

## Condition C15 Future Energy Pathways

Reference	ESO comments
<b>General</b>	<p>As we set out in our response letter and Appendix 1 above, we have concerns with the current drafting of this licence condition. Given that the development of new NESO network planning roles, and how they feed into one another, is still ongoing we think that the timescales for the respective outputs should remain flexible and not locked down in the licence. Timescales for publication of the Future Energy Pathways (FEP) can be transparently set out in the NESO methodology documents or separately as required. In addition, we consider that the licence should not be too prescriptive on the content of the Future Energy Pathways methodology given that this will evolve over time and in accordance with stakeholder views and NESO modelling approaches.</p> <p>We look forward to working with Ofgem to review and develop this drafting further but also, subject to our comments above, provide some further thoughts on specific aspects of the current drafting below.</p> <p>More specifically in relation to the drafting of this condition, we propose that the term 'Future Energy Pathways Guidance' is changed to 'Future Energy Pathways Governance Document' or similar throughout.</p>
<b>Part A, C15.3(d)</b>	We suggest adding the word 'plausible' before 'trajectories' to ensure consistency between ESO and GSP licence conditions
<b>Part A, C15.4</b>	<p>We suggest that the wording should be consistent with para C16.7 and should be changed to '<i>...that the licensee considers interested...</i>'. Identifying parties will necessarily require a judgement call.</p> <p>We note that the sub-paras should be (a) to (c), rather than (i) to (iii).</p>
<b>Part B, C15.8(b)</b>	We question why the FEP Guidance should contain instructions and guidance on the content for producing the FEP. NESO is required to produce, and submit to Ofgem for approval, the methodology that it proposes to use to produce the FEP. Ofgem should have the ability, through that route, to effect changes to the methodology and therefore the FEP.
<b>Part D, C15.11 (and C15.15)</b>	<p>This paragraph requires the NESO to develop and publish the FEP methodology in Financial Year commencing 1 April 2024. Paragraph C15.15 in the same Part D requires the NESO to submit the FEP methodology to Ofgem for approval in Financial Year commencing 1 April 2026.</p> <p>As we set out above in Appendix 1, we think that these timescales need to be reviewed but also that we should maintain flexibility around production of the FEP and associated methodology. We also consider that we will require at least 18</p>

	<p>months between approval of the methodology and publication of the FEP for undertaking the modelling and analysis work involved.</p> <p>These paragraphs also refer to a three-year cycle for production of the methodology. Again, we consider that the frequency of the FEP should remain flexible and not be locked down in licence. We propose that this could be drafted to say 'at least every 3 years' or similar.</p>
<b>Part D, C15.12</b>	<p>This sets out some criteria for inclusion in the FEP methodology, however, as we set out in our response above, we don't think that the licence condition should be too prescriptive on content of the methodology. We note that Ofgem will be reviewing and approving the methodology and can request further development of that methodology. We think this negates the need to set criteria for the methodology in the licence.</p> <p>We also note that some of the criteria set out in this paragraph would not necessarily be available at the time that the methodology is developed. Some aspects, such as around how the pathway decisions are made and data inputs, are not fully known until we have undertaken the analysis and modelling work.</p> <p>We look forward to discussing this further with Ofgem over the next few weeks.</p>
<b>Part D, C15.13</b>	<p>As above, we suggest that the wording should be consistent with para C16.7 and should be changed to '<i>...that the licensee considers might be interested...</i>'. Identifying parties will necessarily require a judgement call.</p>
<b>Part D, C15.15</b>	<p>Please see our comment above on C15.11</p>
<b>Part D, C15.16(b)</b>	<p>We suggest that the reference to 'paragraph C15.11' should be changed to C15.13</p>
<b>Part E, C15.18</b>	<p>We think that the timescales in this paragraph and the intent of Part E as a whole requires further consideration. Currently this requires NESO to review the FEP by 30 January, submit changes to the FEP methodology to Ofgem for approval and then produce an updated FEP by the end of the financial year. These will be challenging timescales. However, we also note, in relation to our previous comments that this licence condition should remain flexible around timescales and any 'cycle' of FEP publications. It would be helpful to discuss this further with Ofgem and DESNZ.</p>

## Condition C17 Centralised Strategic Network Plan

Reference	ESO comments
<b>General</b>	<p>As set out in our response letter and Appendix 1 above, we consider that the timescales for development of the Centralised Strategic Network Plan (<b>CSNP</b>) across a three-yearly development cycle should allow for the methodology to be agreed well in advance of production of the CSNP.</p> <p>More specifically, and as above, we propose that the terms '<i>Centralised Strategic Network Plan Guidance</i>' and '<i>CSNP Guidance</i>' are changed to '<i>CSNP Governance Document</i>' or similar throughout.</p>
<b>Part A, C17.2</b>	<p>This paragraph currently refers to the obligation to publish the CSNP (as in Part D), but not to the obligation to publish the CSNP Methodology (as in para C17.10). We suggest that the reference to publication could be removed. Otherwise, both should be included for clarity.</p>

<b>Part A, C17.3(a)</b>	We propose that the drafting ‘...a rolling 25-year time horizon;’ be replaced with ‘ <u>a period of 25 years from the time of publication</u> ’ to make the scope of the CSNP clear and to align with other similar obligations in the licences.
<b>Part A, C17.3(b)</b>	We suggest that this should refer to ‘ <i>legally binding carbon reduction targets</i> ’ consistent with Condition C15. We suggest that the reference to legally binding targets is important to ensure clarity.
<b>Part A, C17.3(c)</b>	We do not see that the CSNP can definitively determine which body would deliver a project. We suggest ‘ <i>an initial view of which party (including a Transmission Licensee or third party) is best placed to deliver a project that is...</i> ’.
<b>Part A, C17.4(c)</b>	As above, we suggest that the wording should be consistent with para C16.7 and should be changed to ‘... <i>that the licensee considers might be interested...</i> ’. Identifying parties will necessarily require a judgement call.
<b>Part B, C17.7(c)</b>	We are not clear what is intended here and suggested that this should be clarified. We suggest that any differences between this para and para C15.8 should be intentional and the two should otherwise be consistent.
<b>Part C heading</b>	The word ‘approval’ in the title of Part C ‘The approval process for the CSNP Methodology’ does not need to be capitalised as it is not a defined term included at A1. The full stop from the end can be deleted.
<b>Part C, C11.7(c)</b>	As above, we suggest that the wording should be consistent with para C16.7 and should be changed to ‘... <i>that the licensee considers might be interested...</i> ’. Identifying parties will necessarily require a judgement call.
<b>Part C, C17.13</b>	As we set out in our response letter and Appendix 1, we consider that a requirement to produce the CSNP methodology in 2025 for a CSNP to be produced in 2026 allows for insufficient development time for the CSNP. We propose that the CSNP methodology is produced two years ahead of the CSNP which would change the date in this paragraph to Financial Year commencing 1 April 2024.

### Condition D3 Provision of information to the Authority

Reference	ESO comments
<b>Part B, D3.6</b>	Consistent with standard condition B4 of ESO’s current licence, we suggest that ‘ <i>the power</i> ’ in the second line should be changed to ‘ <i>any power</i> ’ to make clear that this is referring to existing powers elsewhere.

### Condition D4 Provision of information and assistance to the Authority in relation to applications requiring the appointment of an Offshore Transmission Owner

Reference	ESO comments
<b>Part A, D4.2(c)</b>	We note that the words ‘ <u>or affected by</u> ’ are an addition to the obligation in ESO’s current transmission licence. Please confirm that this change is intended..

## Condition D5 Data assurance requirements

Reference	ESO comments
Part C, D5.12	This cross-references to para D5.11 whereas in the ESO's current licence this refers to paragraph 12 (so we propose this reference to be D5.10).
Part C, D5.13(f)	The word ' <i>license</i> ' should be amended to ' <i>licensee</i> '.

## Condition E1 Balancing and Settlement Code (BSC)

Reference	ESO comments
Part A, E1.6	Please check whether reference to E1.5 is required. Our interpretation is that this is an incorrect transposition from ESO's current licence obligation to establish a BSCCo in C3, para 1B which is not a provision retained in the proposed licence.
Part A, E1.12(b)(ii)	Please omit the hyphen from the words " <i>the quantities referred to in -paragraph</i> "
Part A, E1.13	Please check whether the reference to para E1.2(b) should be to para E1.3(b)
Part C, E1.19(a) (i)	We suggest that two of the commas are not required. We suggest amending drafting to <i>...proposal meets all of the Self-Governance Criteria and... )</i>
Part D, E1.24(d)	We consider there is a typo and that sub-para (d) is intended to be para E1.25. If that is correct it follows that cross-references across the licence condition should be revised to reflect the updated numbering.
Part D, E1.29	Please consider whether the reference to para E1.31(b) should be to E1.30(b).
Part D, E1.31(a)	For consistency with other paragraph references, please amend the reference to paragraph 20 to E1.20. Please also consider whether reference to E1.19(h)(viii) should be to E1.18(h)(viii).
Part E, E1.33	Please confirm whether retaining this provision is necessary given paragraph E1.2, and if it is considered necessary to retain whether the two references to para E1.2 are correct here.

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

Reference	ESO comments
Part A, E2.4(b)(i)	Please consider whether reference to the Energy Act 2023 is required in addition to the existing reference to the Electricity Act 1989.
Part A, E2.7	Please consider whether the words " <i>use of system</i> " should be capitalised.
Part A, E2.8(a)	We suggest capitalising the word " <i>user</i> ".
Part A, E2.10(i)	Please amend " <i>failing</i> " to " <i>falling</i> ". The paragraph here should also end with a colon rather than a comma to reflect that the items in sub-para (i)(i)-(i)-(x) fall under it.
Part B, E2.10(j)	Please amend references to " <i>paragraphs 10(c) and 11</i> " to read " <i>paragraphs E2.10(c) and E2.11</i> ".

<b>Part C, E2.11(d)</b>	Please lower-case the initial “ <i>The</i> ”. Please also correct the typo from “ <i>apliable</i> ” to “ <i>applicable</i> ”. Please also consider whether reference to para E2.10(i)(iv) should be to E2.10(i)(v).
<b>Part D, E2.20(d)(ii)</b>	Please consider whether reference to para E2.10(iii) should be to para E2.10(g)(iii).
<b>Part D, E2.23(b)(ii)</b>	Please consider whether reference to para E2.10(i)(ix) should be to E2.10(i)(x).

### Condition E3 Grid Code

Reference	ESO comments
<b>Part B, E3.6(f)</b>	Please close the set of brackets after the words “ <i>that falls within the scope of paragraph E3.20</i> ”.
<b>Part B, E3.6(g)(vii)(5)</b>	Please change the second instance of the word “ <i>with</i> ” to “ <i>which</i> ”.
<b>Part B, E3.6(g)(viii)</b>	For consistency in styling, please omit the word “ <i>and</i> ” at the end of this provision.
<b>Part D, E3.15(e)</b>	Please amend the reference to para E3.8(g)(vii) to read E3.6(g)(vii).

### Condition E4 System Operator – Transmission Owner Code

Reference	ESO comments
<b>Part A, E4.2</b>	Please consider whether “ <i>Transmission</i> ” should be lower-cased as it is not a defined term. This could be changed to ‘... <i>which standard condition B12 of the Transmission Licence applies</i> ’.
<b>Part A, E4.3(a)</b>	Please consider whether reference to Part C should be to Part G.
<b>Part B, E4.8(d)(i)(1)</b>	Please consider whether the reference to para E4.11 should be to para E4.9.
<b>Part B, E4.8(g)-(h)</b>	Please consider whether reference to paragraphs 9 to 22 in sub-para (g) should be styled appropriately i.e. paragraphs E4.9 to E4.22. Similar comment for references to paragraphs 8(d)(vii) and 8(d)(viii).
<b>Part C, E4.11(b)</b>	Please consider whether the second reference to para E4.9(d) should be to para E4.9(e).
<b>Part D, E4.19</b>	Please consider whether the reference to E4.20(b) and E4.20(c) should only refer to E4.20(b).
<b>Part G, E4.25(a)</b>	The wording “ <i>for admitting as an additional party to the STC Framework Agreement</i> ” should be moved before the words “ <i>any person</i> ” at the start of this provision.
<b>Part G, 4.25(b)</b>	It is unclear what the subject-matter of the dispute is as drafted – we suggest re-drafting to “ <i>for referring any dispute, which arises from whether a person seeking to be admitted...</i> ”



## Condition E8 SO:TO Optimisation Governance

Reference	ESO comments
Part A, E8.6	Please amend “SO-TO Optimisation Governance Document” to read “SO:TO Optimisation Governance Document”.
Part B, E8.10	We note that this paragraph appears to be redundant and can be deleted.

## Condition E9 Duty to cooperate

Reference	ESO comments
Part A, E9.4	Please amend reference to “paragraph 3” to read “paragraph E9.3”.

## Condition E10 Use of System charging and methodology

Reference	ESO comments
Part A, E10.10- E10.11	Please amend the three references to paragraphs to reflect the proposed styling (i.e. E10.3, E10.6, E10.10)

## Condition E12 Requirement to offer terms

Reference	ESO comments
Intro, E12.1	Please delete the second instance of the word “for”.
Part A, E12.3	Please consider whether the reference to para E12.2(a) should be to E12.2.
Part C, E12.13(a)- (b)	Please amend D4 paragraph references 14 and 17 in line with the proposed style, i.e. D4.14, D4.17.

## Condition E13 Functions of the Authority

Reference	ESO comments
Part A, E13.2	Please delete duplication of the words “Condition E12” and “Requirement to offer terms”. The same issue occurs in para E13.2(a)(i)-(ii) in relation to the words: “condition” (2 instances); “Use of System charging and methodology”; and “Connection Charging Methodology”. In para 13.2(b) there is a repetition of the word “condition”.
Part B, E13.3(a)(ii)	Please add the word “the” between the words “is subject”.
Part D, E13.9	Please specify whether the conditions noted in this paragraph relate to the Transmission Licence – please also check whether the following condition references are correct: C4A; C7 (labelled as Charges for Use of System in the drafting); C6A; C7B.

## Condition E14 Energy administration, energy supply company administration and smart meter communication licensee administration: Electricity System Operator shortfall contribution obligations

Reference	ESO comments
Part B, E14.6(a)	Please delete duplication of the words “ <i>Use of System charging and methodology</i> ”.

## Condition F1 Expenditure and allowed revenue

Reference	ESO comments
Introduction, F1.1	We note that the ESO licence does not include the wording in para F1.1(b) of the GSP licence around allocation of expenditure and we suggest that it would be helpful for this to be added.
Part A, F1.5	We suggest that for clarity ‘...for a specified activity or for specified expenditure’ should be changed to ‘... <u>relating to a specified activity or specified expenditure</u> ’.
Part B, F1.9	We suggest for clarity making the following change – ‘...no double recovery of expenditure through <u>Balancing Services Charges under Part C of this condition and through charges under condition F1...</u> ’.
Part B, F1.11	We suggest that for clarity ‘...revisions of them...’ should become ‘...revisions to it’. There is one Total Cost Allocation Methodology.
Part C, F1.15(b)	We suggest the drafting ‘...this licence having effect.’ at the end of this paragraph. This better aligns with s.167(1) of the EA23.
Part C, F1.16	We propose that the space before the close bracket following the algebraic term is removed ( <i>ESOArt</i> )
Part D, F1.18	Definition of ETE: The font of the algebraic term $OSC_t$ should be amended to normal text.  Means should not be capitalised in the definition of $OR_t$ . Suggest amending to ‘means’.  We suggest changing the definition of $OA_t$ to ‘means <u>the amount needed to adjust charges to ensure the licensee discharges...</u> ’.
Part D, F1.19	We note that paragraph F10.2 now broadens the potential parties for payments for FSO Transition Activities. On that basis, in the definition of $FSONG_t$ , we suggest that this should be updated to ‘payments from the licensee to National Grid plc or its Affiliates or Related Undertakings’.  In the definition of $FPEN_t$ , for clarity we suggest the wording is changed to ‘means <u>the aggregate value of financial fines, penalties...</u> ’.
Part D, F1.20	In the definition of $SOBDA_t$ , ‘Party’ should be changed to ‘Parties’. In the definition of $SORBD_t$ , we suggest changing ‘cash’ to ‘payment’. In the definition of $SORBD_t$ we suggest the font of algebraic term $SOBDA_t$ be changed to normal text.
Part D, F1.21	In the definition of $INTE^*_t$ , we suggest changing to ‘the <u>forecast total revenue allocated...</u> ’ for consistency with paragraph F1.17.

<b>Part D, F1.22 EXTK</b>	We believe that the word 'and' in the definition is incorrectly placed and should instead read ' <i>means adjustments to charges to reconcile differences between revenue collected through Balancing Services Charges <b>and</b> actual ESO Allowed Revenue, excluding adjustments made under INTAD<sub>t</sub> and RTNAD<sub>t</sub>, <del>and</del> as derived in accordance with paragraph F1.25.</i> ' We also suggest that the font of the algebraic terms INTAD <sub>t</sub> and RTNAD <sub>t</sub> be changed to normal text.
<b>Part E, F1.23</b>	In the definition of BS <sub>t</sub> we suggest the font of algebraic term SOTO <sub>t</sub> be changed to normal text.
<b>Part E, F1.25</b>	For clarity we suggest changing the definition of EXTE <sub>t</sub> to ' <i>has the value derived in accordance with paragraph F1.22.</i> '  In the definition of REVC <sub>t</sub> a space needs to be added before 'and'. The font of the algebraic terms should be normal text.
<b>Part F heading</b>	In line with the definition of RAV Return, we suggest that this heading should be changed to ' <i>Cost of Capital and Depreciation of RAV.</i> '
<b>Part F, F1.27</b>	The full stop at the end of the first line should be a colon.
<b>Part F, F1.28</b>	For clarity we suggest changing the definition of RTNO <sub>t</sub> to ' <i>has the value derived in accordance with paragraph F1.26.</i> '

## Condition F2 Innovation funding

Reference	ESO comments
<b>F2.1 (b)</b>	The font of the subscript t should be the same as the rest of the term (normal text)
<b>Part A heading</b>	For clarity, we propose changing to ' <i>Formula for <u>determining</u>...</i> ' given the formula determines a cap rather than calculating expenditure. We suggest that 't' is removed from the term, since it is setting an overall cap. The font of the algebraic term appears to be in a different text. We propose the formatting is aligned.
<b>Part A, F2.3</b>	In the definition of NIAD <sub>t</sub> the reference to algebraic term NIAE <sub>t</sub> should be amended to normal text.
<b>Part C, F2.9(f)</b>	This sentence does not read to us as being complete.
<b>Part D heading</b>	We suggest that this is changed to ' <i>...Innovation Fund term (SIFF<sub>t</sub>)</i> ' and the algebraic term formatting be aligned.
<b>Part D, F2.13</b>	We suggest adding at the beginning ' <i>The Strategic Innovation Fund term (SIFF<sub>t</sub>) is the amount...</i> '. Otherwise SIFF <sub>t</sub> is only defined in the heading. The font of the algebraic term should be normal text.
<b>Part F heading</b>	The font of the algebraic term appears to be in a different text. We propose the formatting is aligned.
<b>Part F, F2.24</b>	In the opening paragraph ' <i>electricity</i> ' can be deleted.
<b>Part F, F2.24(a)</b>	We suggest adding at the beginning ' <i>the value of the RIIO-1 Network Innovation Competition term (NICF<sub>t</sub>) for the licensee...</i> '. Otherwise NICF <sub>t</sub> is only defined in the heading.

## Condition F3 Recovery of transmission network revenues

Reference	ESO comments
<b>General</b>	Throughout this condition, ' <i>SP Transmission Ltd</i> ' should be changed to ' <i>SP Transmission plc</i> '.
<b>Part B heading</b>	The font of the algebraic term appears to be in a different text. We propose the formatting is aligned.
<b>Part B, F3.3</b>	<p>We suggest adding at the beginning '<i>The value of Maximum Revenue (<math>TO_t</math>) is derived...</i>'. Otherwise <math>TO_t</math> is only defined in the heading.</p> <p>We suggest changing the definition of <math>P_t</math> to '<i>means the allowed pass-through term and is derived...</i>' for consistency with the Part C heading.</p> <p>We suggest that in (b) the and between 'Scottish Hydro Electric Transmission Plc and SP Transmission Ltd' is changed to a comma to say '<i>Scottish Hydro Electric Transmission Plc, SP Transmission Ltd</i>'.</p> <p>Site-Specific Charges is currently a defined term in SpC 1.1 of ESO's transmission licence as '<i>means charges defined in Schedule Ten of STC</i>'. We suggest that this should be retained rather than having a capitalised term with no definition.</p> <p>We suggest that the wording in brackets in (a) of the definition of <math>TS_t</math> should be moved to a new definition '<i>Transmission Owner Final Sums has the meaning set out in Schedule 9 of the STC</i>'.</p>
<b>Part B, F3.4</b>	We suggest it should be made clear that the opening wording is subject to the final wording by changing to ' <i>on 31 March <u>2021</u>, but for Regulatory Years commencing...</i> '.
<b>Part C</b>	The font of the algebraic term appears to be in a different text. We propose the formatting is aligned.
<b>Part C, F3.7</b>	<p>In the first line the word the can be removed before <math>BD_t</math>' and should read '<i>The value of <math>BD_t</math></i>'</p> <p>In the definition of RBD the reference to algebraic term <math>BDA_t</math> should be amended to normal text.</p>
<b>Part C, F3.8</b>	To make the definition of NGET consistent with definitions of SP and SHE add 'company' after the word successor to read ' <i>... or any successor company pursuant to ...</i> '
<b>Part D</b>	The font of the algebraic term appears to be in a different text. We propose the formatting is aligned.
<b>Part D, F3.10</b>	We propose that the paragraph numbering 'F3.10' is removed as the content is a continuation of F3.9.
<b>Part D, F3.10</b>	We suggest that the definition of $PTE_t$ can be simplified to ' <i>has the meaning in paragraph F3.5</i> '.

## Condition F4 Assets and resources

Reference	ESO comments
Part A, F4.2(a)	We note that the definition of 'ISOP Business' includes activities which NESO is required to undertake and also those that it may choose to carry out (which are connected to its main functions). Our understanding is that this obligation is focussing on ensuring that NESO has sufficient resources to undertake activities it is required to undertake as ISOP and that it generally resources its ISOP activities in a proper and efficient manner. This is not intended to regulate NESO's choice of what discretionary activities within the ISOP Business are undertaken provided they are resourced appropriately.
Part B, F4.6	Our understanding is that Part 3 of the Energy Act 2004 will not be applied to the ISOP. We do not object to the requirement to maintain an Intervention Plan but suggest that the wording in brackets is removed.
Part D, F4.10	We suggest deleting ' <i>in regard thereto</i> ', which seems like unnecessary wording.
Part D, F4.12	<p>As set out in our response letter above, this paragraph sets out that the licensee must have a system of internal controls which ensures it has regard to any published guidance issued from time to time by HM Treasury. While we agree with substance of the drafting, we do not consider that it is required in the licence. This is because HM Treasury guidance will apply aside from the licence and NESO's following of that guidance is a matter for government.</p> <p>If this is considered necessary, to avoid duplication and blurring of accountabilities we propose that '<i>controls which ensures</i>' is changed to '<i>controls for the purpose of ensuring</i>'. This would make clear that the concern of the licence condition is that processes are in place, rather than the substance of having regard to the guidance in question.</p>

## Condition F5 Financial Model and Handbook

Reference	ESO comments
Part A, F5.2	There should be a full stop at the end of the sentence after Financial Handbook.
Part A, F5.6	For clarity, we suggest that ' <i>certain</i> ' is changed to ' <i>specified</i> ' .

## Condition F6 Payments by licensee to the Authority

Reference	ESO comments
Part A, F6.2	Our understanding is that the current drafting leaves a gap in payment obligations and that the opening line should read ' <i>In respect of each Relevant Year <u>during which the licensee holds this licence...</u></i> '.

## Condition F8 Assistance for Areas with High Distribution Costs Scheme (AAHDCS)

Reference	ESO comments
Part A, F8.2	There is an extra space at ' <i>...derived by...'</i> '.

<b>Part A, F8.4</b>	A space should be inserted at ' <i>...paragraphF8.2...</i> '.  In the definitions the term CPIH should be realigned with the remainder of the text.
<b>Part A, F8.6</b>	The definition of $HBC_{t-1}$ refers to ' <i>...Relevant Year t-1 accordance with F8.7 (d)Part B: of this condition</i> '. We suggest this should be changed to ' <i>...Relevant Year t-1 <u>in</u> accordance with Part B</i> '.
<b>Part A, F8.7</b>	There is an extra space at ' <i>...accordance with...</i> '.
<b>Part B, F8.8</b>	For ease of reference we suggest that ' <i>condition</i> ' could be changed to ' <i>Part</i> '.
<b>Part B, F8.12</b>	There is an extra space at ' <i>...pursuant to...</i> '.
<b>Part B, F8.13</b>	There is an extra space at ' <i>...F8.11 may...</i> '.
<b>Part B, F8.16</b>	A space should be inserted at ' <i>...1month...</i> '.
<b>Part B, F8.18</b>	Given the removal of the sending obligation to be replaced by a publication obligation, we suggest that this paragraph is redundant and can be deleted.
<b>Part B, F8.21</b>	The sentence appears incomplete as there is a phrase missing after "... Total Scheme amount and the mechanism for".

### Condition F9 Disapplication and suspension of Relevant Licence Conditions

Reference	ESO comments
<b>Part A, F9.3(e)</b>	Please consider whether reference to Part C should be to Part B.
<b>Part C, F9.10</b>	We suggest that the word 'to' is deleted after consented to read ' <i>to which the Authority may have consented under Part B</i> '
<b>Part D, F9.11</b>	We suggest that the word "circumstance" should be plural

### Condition F10 ISOP Implementation Funding

Reference	ESO comments
<b>Part A, F10.2</b>	<p>We agree that it seems appropriate to include provision for Ofgem to consent to another agreement under para F10.2(b). However, to the extent that an agreement might involve the payment of separation costs after FSO Day 1 which are distinct from any service provided to NESO, we consider that the same principles should apply and this should be a licence requirement, since NESO would be covering costs of the separation which has been enacted through legislation, rather than paying for a service. We propose adding a new (b) as below and reordering accordingly:</p> <p><i>'(b) a legally executed contract relating to such payments which is entered into in accordance with a direction issued by the Authority after consultation with the licensee and approved by the Authority prior to its execution;'</i></p> <p>We agree that Ofgem should determine whether the agreement is suitable. However, we suggest that '<i>commercial</i>' is removed from what will become (c). These are unique arrangements rather than standard commercial contracts.</p>
<b>Part A, F10.3 (d)</b>	We suggest that the reference here should more closely follow the current licence requirement. We suggest changing this to ' <i>...has provided the information the</i>



	<i>licensee requires under paragraph F10.8(b) to ensure compliance with this condition and any information which was required to comply with Part F of Special Condition 2.15 of the Transmission Licence held by the licensee, immediately prior to this licence having effect.</i>
<b>Part B, F10.5</b>	The full stop from 'plc.' should be deleted.
<b>Part B, F10.8(b)</b>	In line with our comment above, we suggest this is changed to ' <i>Details of the information National Grid Holdings One plc must provide to the licensee to support the licensee's requirements under part C of this condition and Part F of Special Condition 2.15 of the Transmission Licence held by the licensee, immediately prior to this licence having effect.</i> '
<b>Part C, F10.10</b>	We suggest that the two sentences are separated into two paragraphs and numbering updated accordingly.
<b>Part C, F10.12(a)</b>	<p>This currently captures a broader range of costs than included in the current requirements for the FSO Day 1 Report and we consider that the provision should be consistent. We suggest this is changed to:</p> <p><i>'the licensee's expected final values to be recovered through FSOESOA<sub>t</sub>, with that term given the meaning in Special Condition 4.2.18 of the Transmission Licence held by the licensee, immediately prior to this licence having effect, and to be recovered through FSONG<sub>t</sub> in respect of FSO Transmission Activities carried out prior to FSO Day 1;...'</i></p> <p>This acknowledges that FSONG<sub>t</sub> may capture costs for later activities, but these are not to be captured in the FSO Day 1 Report.</p>
<b>Part D, F10.16(d)</b>	To allow for flexibility given the other changes to this condition from the current provision, we propose that ' <i>National Grid Holdings One plc</i> ' is replaced with ' <i>National Grid plc or its Affiliates or Related Undertakings</i> '.
<b>Part D, F10.16(d)</b>	The font of the algebraic term (FSONG) is italicised and should be amended to be in normal text.

## Condition G1 Business Plan

Reference	ESO comments
<b>Part C, G1.8</b>	We suggest that the word 'Website' needs to be capitalised as the term 'Authority's Website' is a defined term.
<b>Part C, G1.9</b>	For consistency with para G1.4, we suggest this is changed to ' <i>...views and conclusions on key strategic aims...</i> '.

## Condition G2 Performance reports and assessments

Reference	ESO comments
<b>Part A, G2.2</b>	To avoid confusion, we suggest that the defined term ' <i>ISOPRI Arrangements Governance Document</i> ' is used here and the longer ' <i>Independent System Operator and Planner Reporting and Incentives</i> ' wording is moved to the definition.
<b>Part A, G2.3</b>	We suggest a comma is inserted after the word 'publish'.

<b>Part A, G2.4</b>	We suggest the word “the” should be inserted before ISOPRI.
<b>Part B, G2.7</b>	We suggest the word “the” should be inserted before ISOPRI.
<b>Part B, G2.9(a)</b>	We suggest that it should be made clearer what is intended here. We suggest adding at the end ‘...in carrying out the ISOP Business’.
<b>Part B, G2.9(b)</b>	Following our comment above, for clarity ‘the performance’ should be changed to ‘ <u>that</u> performance’.
<b>Part B, G2.9(c) and (d)</b>	For clarity, we suggest ‘any <u>such</u> assessment...’ in both sub-paragraphs.

### Condition G3 Regulatory Instructions and Guidance (RIGs)

Reference	ESO comments
<b>Part A, G3.6</b>	The equivalent provision in ESO’s transmission licence excludes a reference to paragraph 5 of Condition B4. The updated reference is para D3.3. We are not clear why there is a reference to para D3.5 here and we suggest it should be deleted – the limitation around legally privileged material should apply to Specified Information as it does currently.

## Appendix 3 – ESO specific comments on the Gas System Planner licence conditions

This sets out our comments on each licence condition, where applicable. The references in the tables below are in relation to ‘Annex G – Gas System Planner licence conditions’ of DESNZ and Ofgem’s statutory licences consultation.

While our comments below are with specific reference to the Gas System Planner (GSP) Licence, there are comments made in Appendix 2 above that are relevant to the conditions in both the Electricity System Operator Licence and the Gas System Planner Licence (where applicable). Comments in Appendix 2 on the conditions listed below should also be read as equally applying to the corresponding conditions in the Gas System Planner Licence in Appendix 3:

- Section A
  - Condition A1 Definitions (for those definitions that are covered in each licence);
  - Condition A2 Interpretation; and
  - Condition A3 Housekeeping licence modifications.
- Section B
  - B1 Independence Requirements and compliance obligations;
  - B2 Restriction on activity and financial ring fencing;
  - B3 Conduct of ISOP Business;
  - B4 Compliance with directions related to national security; and
  - B7 Information ring fencing requirements (B6 in GSP Licence).
- Section C
  - C1 General Obligations of ISOP activity;
  - C2 Licensee’s regard to Strategy and Policy Statement;
  - C6 Licensee’s obligations regarding critical national infrastructure (C5 in GSP Licence);
  - C7 Energy resilience and resilience reporting (C6 in GSP Licence);
  - C15 Future Energy Pathways (C10 in GSP Licence); and
  - C17 Centralised Strategic Network Plan (C12 in GSP Licence).
- Section D
  - D3 Provision of information to the Authority; and
  - D5 Data assurance requirements (D4 in GSP Licence).
- Section F
  - F2 Innovation Funding;
  - F4 Assets and resources (F3 in GSP Licence);
  - F5 Financial Model and Handbook (F4 in GSP Licence); and
  - F7 Remuneration Policy and Expenses Policy (F5 in GSP Licence).
- Section G
  - G1 Business Plan;
  - G2 Performance reports and assessments; and
  - G3 Regulatory Instructions and Guidance (RIGs).

## Condition A1 Definitions

Reference	ESO comments
<b>Various</b>	<p>The following definitions are required in the GSP Licence as the term is included in the body of the licence and so these should be added:</p> <ul style="list-style-type: none"> <li>- Ancillary Services</li> <li>- Authorised Electricity Operator</li> <li>- Authorised Distributor</li> <li>- Balancing Services</li> <li>- Generator Licence</li> <li>- Interconnector</li> <li>- NTS Transportation Owner Charges</li> <li>- Prince Control Deliverable</li> <li>- Re-Opener</li> <li>- Restoration Services</li> <li>- Transmission System</li> </ul> <p>Alternatively, provision needs to be made to cross-refer to the ESO licence or NGT's transporter licence for the above.</p> <p>The following definitions are not required in the GSP Licence as the term is not included in the body of the licence:</p> <ul style="list-style-type: none"> <li>- Disposal</li> <li>- ESO Allowed Revenue</li> <li>- Funding Return</li> <li>- Funding Return Mechanism</li> <li>- Halted Project Revenues</li> <li>- Innovation Project</li> <li>- Project Direction</li> <li>- Returned Project Revenues</li> <li>- Returned Royalty Income.</li> </ul>
<b>CSNP Guidance</b>	The reference can be updated to condition C12.
<b>CSNP Methodology</b>	The reference can be updated to condition C12.
<b>Distribution Network</b>	We presume this will be in a table format in the final version, as it is currently quite difficult to read.
<b>Emergency Processes Assessment</b>	The condition title should be updated to ' <i>Energy resilience and resilience reporting</i> '.
<b>Entry Capacity Substitution</b>	We suggest ' <i>...in Special Condition 9.17... of the Transporter Licence held by...</i> '.
<b>Exit Capacity Substitution</b>	We suggest ' <i>...in Special Condition 9.17... of the Transporter Licence held by...</i> '.
<b>Funded Incremental Obligated Entry Capacity</b>	t in the terms should be subscript

<b>Funded Incremental Obligated Exit Capacity</b>	t in the terms should be subscript
<b>Future Energy Pathways Guidance</b>	As above we suggest that the label is changed. In any case, the reference can be updated to condition C10.
<b>Licence Baseline Entry Capacity</b>	We suggest ' <i>...the Special Condition 9.13... of the Transporter Licence held by...</i> '.
<b>Licence Baseline Exit Capacity</b>	We suggest ' <i>...the Special Condition 9.13... of the Transporter Licence held by...</i> '.
<b>RIO Gas Distribution Licence</b>	We propose the definition be amended to ' <i>... Utilities Ltd or any relevant successor companies</i> '
<b>Gas Licence Expenditure</b>	<p>We suggest this should be changed to '<i>means expenditure the licensee has allocated for recovery through <u>the terms set out in</u> Condition F1 (Gas <u>revenue calculations</u> and notification process), according to the Total Cost Allocation Methodology</i>'.</p> <p>We also suggest removing '<i>any interest</i>' from sub-para (c). interest is included in the formula in paragraph F1.17.</p>
<b>Gas System Planner Licence</b>	So far as we are aware, the legislation does not allow a licence to be ' <i>treated as granted</i> ' under section 7AA and so we suggest that this wording is deleted.
<b>Gas Transporter Licensee</b>	Converse to the above, our understanding is that this definition should include the words ' <i>or treated as granted under</i> '.
<b>Grid Code</b>	Amend to: ' <i>means the Grid Code required to be drawn up by the licensee pursuant to condition E3 (Grid Code), in the Electricity System Operator licence as from time to time modified in accordance with that condition.</i> '
<b>Incremental Obligated Entry Capacity</b>	We suggest ' <i>...in Special Condition 9.18... of the Transporter Licence held by...</i> '.
<b>Incremental Obligated Exit Capacity</b>	We suggest ' <i>...in Special Condition 9.18... of the Transporter Licence held by...</i> '.
<b>Relevant Gas Market Participant</b>	We suggest deleting ' <i>...would and...</i> ' as being redundant.
<b>Metering Services</b>	Please consider whether the words ' <i>to which this licence relate</i> ' are necessary after the full-stop.
<b>SIF</b>	Strategic Innovation Fund (SIF) is defined separately therefore we suggest this definition is not required.
<b>SIF Disallowed Expenditure</b>	This definition appears to be incorrect and we suggest that it should be aligned with the definition in the ESO licence, with relevant changes for gas.
<b>System Operator - Transmission Owner Code (STC)</b>	We suggest that this definition should make reference to the Electricity System Operator Licence.

## Condition A2 Interpretation

Reference	ESO comments
Part A, A2.4	Our comment on para A2.4 in the ESO licence applies equally here. In addition, although we agree with adding the Gas Act 1986, we suggest that the Electricity Act 1989 should still be included.
Part A, A2.10	As above, we suggest that the words ' <i>or is to be treated as granted</i> ' are irrelevant and should be deleted.
Part A, A2.19(d)	In each case, we suggest that ' <i>requirements</i> ' should be replaced with ' <i>obligations</i> ' to be consistent with Condition B6.

## Condition C1 General obligations on ISOP activities

Reference	ESO comments
General	<p>Please see our comments on this condition above in our response letter.</p> <p>It remains unclear to us from the drafting whether some of the obligations in these licence conditions are simply summarising a list of activities found elsewhere in the licence or whether the intention is for the condition to set out standalone requirements in addition to other obligations.</p> <p>We continue to consider that this licence condition will require further review and development in line with future changes to NESO's regulatory model and as the NESO's new roles develop.</p>
Heading	Noting that ' <i>ISOP activities</i> ' is not a defined term, we suggest the heading is changed to refer to ' <i>... the ISOP's activities</i> '.
Various - C1.2, C1.3, C1.4 and C1.5	<p>To mitigate our concern above, we propose that some further wording is added to these paragraphs in the condition to note the discretion that NESO has around the steps that must be taken to undertake a particular activity. We therefore propose to add the following drafting to each paragraph:</p> <p><i>'...in accordance with the conditions of this licence and otherwise taking steps as it considers appropriate in line with its statutory duties, the licensee must:...'</i></p> <p>This is particularly relevant to references to strategic planning of gas pipeline systems, where the wording is broader than the NTS.</p>
Para A, C1.2(c)	<p>For consistency with Condition C4, we suggest that this paragraph should be changed to refer to '<i>...produce and publish unbiased assessments of gas supply security, including assessments of levels of supply and demand at relevant intervals</i>'.</p> <p>The current wording is aligned with wording in the ESO licence but does not reflect the non-operational role that NESO will have in relation to the gas network.</p>
Para B, C1.3(a)	We note that ' <i>whole energy system</i> ' is not a defined term. NESO will need to retain considerable discretion to determine the appropriate priorities here in terms of actions and processes that should be progressed in partnership with others.



<b>Para B, C1.3(c)</b>	For consistency, we suggest deleting the reference to 'scenarios' here, since this is not included in condition C4.
<b>Part C, C1.4</b>	<p>We note that 'energy system' is not a defined term. NESO will need to retain considerable discretion to determine the appropriate activities that should be progressed in partnership with others.</p> <p>We suggest a change to 'pipeline' throughout (i.e. no hyphen).</p> <p>We also suggest deleting 'and appropriate' in paragraph C1.4(b) since this seems unclear.</p>
<b>Part C, C1.4(c)</b>	As for C1 in the ESO licence, while this obligation is being updated to refer to needs of the whole system, our understanding is that this paragraph is focussing on ' <u>gas network planning and development solutions</u> ' and we suggest that it would be helpful to make this clear.
<b>Para D, C1.7(a)</b>	<p>For clarity, we suggest '<u>take steps to establish a whole energy resilience function</u>'.</p> <p>The term '<u>...and preparation for emergencies</u>' could be misconstrued. We suggest changing this to '<u>and coordinating preparation for emergencies</u>'.</p>
<b>Para D, C1.7(b)</b>	In the event that the wording proposed above is adopted, this negates the need for the drafting ' <u>...where the licensee believes this would be consistent with the licensee's duties in the Energy Act 2023...</u> ' since this would become duplicative with the change above.

### Condition C4 Licensee's assessment of gas supply security

Reference	ESO comments
<b>General</b>	<p>We understand that the original intent for this condition and new output was that the assessment undertaken by NESO should be in relation to supply security of natural gas specifically. However, we note that the condition as currently drafted may be interpreted as equally applying to an assessment of hydrogen. We propose some minor changes to make this requirement clearer in this licence condition.</p> <p>We also consider that the drafting around the timescales covered by the Gas Supply Security Assessment, currently referred to as 'intervals' could be made consistent with other conditions in the licence which set a clearer expectation on the output.</p>
<b>Part A, C4.3(a)</b>	<p>In line with our general comments above, we propose to redraft this paragraph such that it reads as follows:</p> <p><i>'consideration of <u>natural</u> gas supplies according to availability, reliability and deliverability at 5 years' and 10 years' time from the date the assessment is due to the Authority under paragraph A1.2; and <u>natural</u> gas supplies judged against future scenarios and a peak aggregate demand scenario (based on 1-in-20 year analysis) at 5 years' and 10 years' time from the date the assessment is due,'</i></p>
<b>Part A, C4.3(b)</b>	<p>As above, we propose that this paragraph be amended to the following:</p> <p><i>'events and issues related to <u>natural</u> gas supplies identified by the licensee that may, over 5 years' and 10 years' time from the date the assessment is due, impact:</i></p> <p><i>(i) the conveyance or supply of <u>natural</u> gas; or</i></p>

	<i>(ii) the safety and security of the National Transmission System;</i>
<b>Part A, C4.3(d) – (f)</b>	<p>We also propose to qualify that the assessment should apply to natural gas in these paragraphs as below.</p> <p><i>(d) where necessary, how the licensee has employed, or its assessment of, any relevant methodologies in relation to <u>natural</u> gas supply security issued to the licensee by the Secretary of State;</i></p> <p><i>(e) any view, as appropriate, on long-term arrangements that may impact the licensee's consideration of <u>natural</u> gas supplies and <u>natural</u> gas supply security under paragraph C4.3(a); and</i></p> <p><i>(f) any such data or information related to <u>natural</u> gas supply security that the Authority or Secretary of State requests.</i></p>

### Condition C7 Arrangements in coordinating market strategy

Reference	ESO comments
<b>Part A, C7.3(a)</b>	The words in brackets seem to make the provision circular, given its purpose is to set out what should be in the Future Market Plan. We suggest changing to ' <i>...(referred to in paragraph C7.2)...</i> '.
<b>Part A, C7.3(c)</b>	The wording here does not seem to align with other parts of the condition. To align the wording, we suggest changing this to ' <i>...a summary of the progress on actions, projects and plans set out in the most recent Future Market Plan</i> '.
<b>Part B, C7.4</b>	<p>In the opening paragraph, we suggest changing to '<i>...in <u>the</u> development...</i>'.</p> <p>To align with the opening wording, we suggest that '<i>establishing</i>', '<i>coordinating</i>' and '<i>holding</i>' should be used in place of the current equivalent words.</p>

### Condition C8 Gas strategic network planning

Reference	ESO comments
<b>General</b>	We note that there is no clear interaction between this licence condition and the CSNP C12 licence condition. It would be helpful to understand if the intention is for this condition to be amended or superseded by the first CSNP cycle in the same way that the electricity NOA and ETYS conditions are anticipated to be.
<b>Part B, C8.3</b>	We understand that, for these purposes, ' <i>requirements not to disclose information</i> ' will include requirements under Condition B7 relating to information identified under that condition.
<b>Part B, C8.4(b)</b>	This obligation is covered in para C8.8 and so we suggest should be deleted here. We agree that this should be a ' <i>reasonable endeavours</i> ' obligation as in para C8.8. (Para C8.4(b) is currently inconsistent with this.)
<b>Part B, C8.5</b>	This paragraph states that the licensee must prepare the Gas Network Capability Needs Report by 31 December in every 2 regulatory years but omits the year from the date. This should read ' <i>by 31 December in the Regulatory Year commencing on 1 April 2024 and every second Regulatory Year thereafter</i> '.

	<p>We also note a difference here in drafting compared to the ESO licence and the 'Network Options Assessment reporting and process requirements' licence condition C13. Where this condition refers to delivery timescales it states '<i>...or such other date as directed by the Authority in a form approved by the Authority</i>'. The GSP licence condition does not have the same flexibility around dates.</p> <p>The second sentence in this paragraph is a repetition of the first and can be removed.</p>
<b>Part B, C8.7(a)</b>	For consistency with other parts of the condition, we suggest replacing ' <i>system</i> ' with ' <i>National Transmission System</i> '.
<b>Part B, C8.7(d)</b>	There is an additional space between two words that can be deleted ' <i>...to the NTS System Operator...</i> '
<b>Part B, C8.9</b>	Our comment above on para C8.5 around start date applies equally in this para and we suggest that a similar change is made.
<b>Part B, C8.9</b>	For consistency, we suggest replacing ' <i>report</i> ' with ' <i>Gas Network Capability Needs Report</i> '.
<b>Part B, C8.12(c) and (d)</b>	For clarity, in each sub-paragraph, we suggest ' <i>...drivers for change <u>identified</u> under paragraph...</i> '.
<b>Part B, C8.13</b>	We remain unclear on what is intended by ' <i>where appropriate</i> ' here. We suggest replacing this with ' <i>where such analysis can be carried out and will assist in determining the relevant suitability of options</i> '.
<b>Part D, C8.17</b>	We suggest that ' <i>after consulting the licensee</i> ' is added here. This is included in para C13.22 of the ESO licence.

## Condition E1 Obligations regarding the Uniform Network Code

Reference	ESO comments
<b>Part A, E1.2</b>	The inclusion of an explicit requirement to accede to the UNC is welcome, however we consider that this should not be in substitution of the position that NESO can raise a modification proposal. We would therefore suggest reinstating this provision which was included in the informal consultation as E1.3 under the current wording of E1.2.

## Condition F1 Gas revenue calculations and notification process

Reference	ESO comments
<b>General</b>	To ensure consistency throughout this condition and the licence, we suggest that all algebra should be formatted in the normal style (ie. non-bold) where the algebra is not included in a Part title.
<b>Part A, F1.8</b>	There is a typo at ' <i>F1.4for</i> '.
<b>Part C, F1.15</b>	We suggest that ' <i>gas revenue provision term</i> ' should be added before ' <i>ARGSP<sub>i</sub></i> '.
<b>Part C, F1.16</b>	The second line of the definition (beginning with ' <i>in</i> ') should be indented to look the same as the first line.
<b>Part D, F1.17</b>	The words in the definition of $I_t$ should be indented to start at the same vertical point as the definition of RGSP in the term below.

<b>Part E, F1.19</b>	The term ' <i>significantly different</i> ' is not particularly clear and we welcome further clarification of this provision or discussion on how it should be applied.
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### Condition F2 Innovation funding

Reference	ESO comments
<b>Part A heading</b>	The t in the algebraic term should be subscript
<b>Part A, F2.3</b>	The t in the algebraic term should be subscript
<b>Part A, F2.4 (a)</b>	The t in the algebraic term should be subscript

### Condition F3 Assets and resources

Reference	ESO comments
<b>Part D F3.11</b>	The last paragraph starting ' <i>Except where</i> ' should be indented in line with the rest of the section.

### Condition F4 Financial Model and Handbook

Reference	ESO comments
<b>Part A, F4.4 &amp; F4.5</b>	The font of the algebraic term should be normal text

### Condition F5 Remuneration Policy and Expenses Policy

Reference	ESO comments
<b>Intro, F5.1</b>	Sub-paragraph (c) should be reformatted so that the phrase 'that has been approved by the Authority' aligns as a new paragraph rather than a sub-paragraph.

### Section G1: Business Plan

Reference	ESO comments
<b>Part D G1.15(b)</b>	We suggest the word 'the' is inserted between 'to' and 'ISOP' to read ' <i>...ensure that any amendments to <u>the</u> ISOP Business ...</i> '

### Section G2: Performance reports and assessment

Reference	ESO comments
<b>Part A, G2.4</b>	We suggest the word 'the' is inserted between 'in' and 'ISOPRI' to read ' <i>... specific requirements in <u>the</u> ISOPRI ...</i> '
<b>Part A, G2.7</b>	We suggest the word 'the' is inserted between 'amend' and 'ISOPRI' to read ' <i>...issue and amend <u>the</u> ISOPRI ...</i> '

## Appendix 4 – ESO specific comments on other annexed licence conditions

This appendix sets out our comments on each set of licence conditions, where applicable. The references to annexes in each header to the table below are aligned with the annexes presented in DESNZ and Ofgem’s statutory consultation. For the purposes of this response, we have focussed on the changes proposed by Ofgem, rather than reviewing any other Ofgem licences where there may be merit in a modification consequential on the new NESO licences. We request that DESNZ/Ofgem keep this matter under review as these changes are progressed.

As a general comment, we previously proposed that it should be set out expressly in the definitions of ‘ISOP’ that the ISOP is the person designated (whether the act referred to is before designation or not). Our understanding is that DESNZ/Ofgem consider this to be clear from the drafting and so we do not propose further change.

### Annex I: Electricity Transmission Licence: Standard Conditions

Reference	ESO comments
<b>Condition A1. Definitions and interpretation, para 1 (definition of ‘authorised electricity operator’)</b>	For clarity, we suggest changing the drafting to ‘ <i>means any person (other than the licensee) who holds an electricity system operator licence or who is authorised to generate, participate in the transmission of, or distribute, or supply...</i> ’. We suggest that the language of being authorised to hold an electricity system operator licence is not strictly correct.
<b>Condition A1. Definitions and interpretation, para 1 (definition of ‘BSC’)</b>	For consistency and clarity, we suggest changing the drafting to ‘means the Balancing & Settlement Code (BSC) provided for in condition E1 of the electricity system operator licence, as from time to time modified in accordance with that condition’.
<b>Condition B16, para 9</b>	In line with the definitions, we suggest that ‘ <i>Electricity System Operator Licence</i> ’ should be lower case.

### Annex J: Electricity Transmission Licence: National Grid Special Conditions

Reference	ESO comments
<b>Special Condition 1.1, (definition of ‘CUSC’ and ‘Grid Code’)</b>	In both definitions we suggest ‘... <i>the Electricity System Operator Licence...</i> ’ for consistency with other provisions.
<b>Special Condition 6.1, para 6.1.3</b>	It appears helpful to us to retain a reference to balancing services activity.

### Annex K: Electricity Transmission Licence: Scottish Power transmission and Scottish Hydro Electric transmission Special Conditions

Reference	ESO comments
<b>Special Condition 1.1, (definition of ‘CUSC’)</b>	In both definitions we suggest ‘... <i>the Electricity System Operator Licence...</i> ’ for consistency with other provisions.

<b>Special Condition 1.1, (definition of 'NOA')</b>	We suggest that ' <i>...of the Electricity System Operator Licence</i> ' should be added for clarity. (This is included in the National Grid proposed changes.)
<b>Special Condition 6.1, para 6.1.3</b>	It appears helpful to us to retain a reference to balancing services activity.

## Annex L – Electricity Generation Licence: Standard Conditions

Reference	ESO comments
<b>Standard Condition 1. Definitions and interpretation, para 1 (definition of 'authorised electricity operator')</b>	<p>For clarity, we suggest changing the drafting to '<i>means any person (other than the licensee) who holds an electricity system operator licence or who is authorised to generate, participate in the transmission of, or distribute, or supply...</i>'.</p> <p>We suggest that the language of being authorised to hold an electricity system operator licence is not strictly correct.</p>
<b>Standard Condition 19B, para 2(b)(ii)</b>	Please consider whether some of the references here should be updated or changed to refer to the provisions referenced being in previous versions of the licence.

## Annex M – Electricity Interconnector Licence: Standard Conditions

Reference	ESO comments
<b>Condition 1, para 1: Definition of 'BSC'</b>	Reference to the ' <i>electricity system operator licence</i> ' should be amended to ' <i>Electricity System Operator Licence</i> ' as introduced in the definition. Furthermore, the cross-reference to para 2 of condition E1 should be amended in line with the styling convention adopted for the ESO licence, i.e. ' <i>paragraph E1.2 of condition E1</i> '.
<b>Condition 1, para 1: Definition of 'CUSC'</b>	Reference to the ' <i>electricity system operator licence</i> ' should be amended to ' <i>Electricity System Operator Licence</i> ' as introduced in the definition. Furthermore, the cross-reference to para 5 of condition E2 should be amended to ' <i>paragraph E2.5 of condition E2</i> '.
<b>Condition 1, para 1: Definition of 'GB ISOP'</b>	The final line of the definition should read as ' <i>... and a Gas System Planner Licence.</i> '
<b>Condition 15: Definitions –</b>	Some changes here use ' <i>ISOP</i> ', rather than ' <i>GB ISOP</i> ' as is the defined term.
<b>Condition 16: BETTA implementation</b>	<p>If this condition is to be retained, the references to the electricity system operator licence should be amended to '<i>Electricity System Operator Licence</i>' as has been defined.</p> <p>Paragraph 2(b)(ii):</p> <ul style="list-style-type: none"> <li>'<i>Paragraph 14 of condition E1</i>' should be amended to '<i>paragraph E1.14 of condition E1</i>'.</li> </ul>



- ‘Paragraph 24 of condition E2’ should be amended to ‘paragraph E2.24 of condition E2’.
  - ‘Paragraph 21 of condition E3’ should be amended to ‘paragraph E3.21 of condition E3’.
- Paragraph 3(b)(ii):
- ‘Paragraph 14 of condition E1’ should be amended to ‘paragraph E1.14 of condition E1’.
  - ‘Paragraph 24 of condition E2’ should be amended to ‘paragraph E2.24 of condition E2’.
  - ‘Paragraph 21 of condition E3’ should be amended to ‘paragraph E3.21 of Condition E3’.

## Annex N – Standard conditions of electricity supply licence

Reference	ESO comments
<b>Condition 1: Definitions for standard conditions, definition of ‘Authorised Electricity Operator’</b>	<p>For clarity, we suggest changing the drafting to ‘<i>means any person (other than the licensee) who holds an Electricity System Operator Licence or who is Authorised to generate, participate in the transmission of, or distribute, or supply...</i>’.</p> <p>We suggest that the language of being authorised to hold an electricity system operator licence is not strictly correct. We also suggest ‘electricity system operator’ should be capitalised to refer to the defined term.</p>
<b>Condition 1: definition of ‘Electricity System Operator Licence’</b>	We suggest lower-casing the capital M in ‘Means’ consistently with the majority of definitions in this condition. We suggest that the reference to the Electricity Act 1989 is amended to ‘section 6(1)(da) of the Act’.
<b>Condition 1: definition of ‘ISOP’</b>	We suggest that this definition should be added here as in other licences, rather than in Condition 15.
<b>Condition 2.5(f)</b>	Capital A used – should be lower-cased. One instance of ‘of the conditions of’ can be deleted.
<b>Condition 15.3(a)</b>	Paragraph 15.3(a) previously referred to standard condition C21 of the Transmission Licence; however, it now refers to condition E15 of the Electricity System Operator Licence. This cross-reference appears to be incorrect, it appears that the relevant condition in the Electricity System Operator Licence is F8. Please review and amend accordingly.
<b>Condition 15.4</b>	As above – we consider that the reference should be to condition E15 should be to F8.
<b>Condition 15.9 – definition of ‘Electricity System Operator Licence’</b>	Please consider whether the new definition of ‘Electricity System Operator Licence’ is needed again here when the term has been defined in Condition 1.
<b>Condition 15.9 – definition of ‘the pence per kWh tariff’</b>	The definition previously referred to the tariff calculated in accordance with paragraph 2, standard condition C21 of the Transmission Licence; however, it now refers to paragraph 9, condition E15 of the Electricity System Operator Licence. This cross-

	reference appears to be incorrect. We presume this should be to 'paragraph F8.9 of condition F8', please review and amend accordingly.
<b>Condition 47.45 – definition of 'Settlement'</b>	The cross-reference to 'paragraph 12 of condition E1' should be amended to 'paragraph E1.12 of condition E1'.

## Annex O – Standard conditions of the Electricity Distribution Licence

Reference	ESO comments
<b>General</b>	We note that there are few instances in this condition where the defined term "Electricity System Operator Licence" is not used consistently e.g., there are some references to "Electricity System Operator licence" instead.
<b>Condition 1. Definitions for the standard conditions, para 1 (definition of 'Authorised Electricity Operator')</b>	For clarity, we suggest changing the drafting to ' <i>means any person (other than the licensee) who holds an electricity system operator licence or who is authorised to generate, participate in ...</i> '.  We suggest that the language of being authorised to hold an electricity system operator licence is not strictly correct.
<b>Condition 1. Definitions for the standard conditions, para 1 (definition of 'Gas System Planner Licence')</b>	We suggest that further consideration is given to whether the words ' <i>or treated as granted</i> ' should be included here. We note that those words are not included in the definition of 'Gas Transporter Licensee' and we are not clear that the legislation merits including those words as it does for electricity.
<b>Condition 1. Definitions for the standard conditions, para 1 (definition of 'National Electricity Transmission System Operator Area')</b>	We suggest removing ' <i>ISOP's</i> ' as this is not consistent with language used elsewhere.

## Annex Q - National Gas Transmission (NGT) Special Conditions

Reference	ESO comments
<b>Special Condition 1.1, Part B, (definition of 'Gas Options Assessment Document')</b>	For clarity, we suggest reverting to the previous drafting, where ' <i>the ISOP</i> ' was referred to.

<b>Special Condition 1.1, Part B, (definition of ‘Gas System Planner Licence’)</b>	We suggest that further consideration is given to whether the words ‘ <i>or treated as granted</i> ’ should be included here. We note that those words are not included in the definition of ‘Gas Transporter Licensee’ and we are not clear that the legislation merits including those words as it does for electricity.
<b>Special Condition 1.1, Part B, (definition of ‘Network Licensee’)</b>	For completeness it appears to us that this definition should be modified to also make reference to the ISOP, given its role in relation to innovation and energy planning. We suggest adding references to ‘ <i>licences granted under section 7AA of the Act</i> ’ and licences ‘ <i>granted, or treated as granted, under section 6(1)(da) of the Electricity Act 1989</i> ’.
<b>Special Condition 1.1, Part B, (definition of ‘Strategic Innovation Fund’)</b>	It is not clear to us that the definition of SIF should refer to NESO’s licence, instead of the relevant reference in NGT’s special conditions.
<b>Special Condition 1.1, Part B, (various ‘SIF’ definitions)</b>	Where definitions relating to the SIF refer to ‘ <i>other Gas Transporter Licensee</i> ’s, our understanding is that this should be updated to also refer to the ISOP. This includes the definition for Eligible SIF Project, SIF Funding Return Mechanism, SIF Halted Project Revenues, SIF Funding, SIF Funding Return, SIF Directly Attributable Costs, SIF Disallowed Expenditure, SIF Returned Project Revenues, SIF Returned Royalty Income and Eligible SIF Project.
<b>Special Condition 5.7, Part A, para 5.7.4-5.7.5</b>	In both of these paragraphs, it appears to us that a reference to the ISOP should be included.
<b>Special Condition 6.3, Part A, para 6.3.3</b>	In the definition of ARGSP <sub>t</sub> we suggest adding ‘ <u><i>means the ISOP’s gas revenue provision term and is derived...</i></u> ’.
<b>Special Condition 6.4, Part B, para 6.4.5</b>	We suggest changing this to ‘ <i>...by which it requires the ISOP to notify it of the ARGSP<sub>t</sub> amount for the Regulatory Year in order to factor the amount into...</i> ’.
<b>Special Condition 9.10, Part A, para 9.10.6(a)</b>	We suggest that the words ‘ <i>...and been approved by the Authority under the price control...</i> ’ should be moved to the end of the sub-paragraph.  Please also note that the Gas Options Assessment Document has been renamed to Gas Options Advice Document in the GSP licence. For accuracy we would suggest aligning the two terms.
<b>Special Condition 9.10, Part A, para 9.10.6(b)</b>	As above, we suggest referring to the Gas Options Advice Document.
<b>Special Condition 9.10, Part B, para 9.10.12</b>	We see para C8.4 and C8.7 of NESO’s GSP licence as both being relevant here and suggest that both are referenced.
<b>Special Condition 9.10, Part B, para 9.10.13(c)</b>	We suggest referring to ‘ <i>paragraph 9.10.13(a)</i> ’.

<b>Special Condition 9.12, Part E, para 9.12.16(d)</b>	The use of ' <i>where appropriate</i> ' does not seem clear to us and we do not see that it is needed. We suggest that it is either deleted or the qualifier made clear to set out when changes and updates would not be required to be provided.
<b>Special Condition 9.12, Part E, para 9.12.18</b>	<p>We are not clear on why '<i>reasonable endeavours</i>' is used in this obligation. If Ofgem considers there are reasons why this is not appropriate to be an absolute obligation, we suggest that this could be a '<i>best endeavours</i>' obligation. However, we consider '<i>must</i>' would be appropriate.</p> <p>Whether the information provided is the right information would seem a reasonable request for the ISOP to make under paragraph 9.12.17 and so we would suggest that this obligation will be covered in any case. It would be helpful for Ofgem to confirm this point.</p>

## Annex R - Gas Transporter Standard Special Conditions (Part A)

Reference	ESO comments
<b>Standard Special Condition A3, para 1, (definition of 'Gas System Planner Licence')</b>	We suggest that further consideration is given to whether the words ' <i>or treated as granted</i> ' should be included here. We are not clear that the legislation merits including those words as it does for electricity.
<b>Standard Special Condition A11, para 1</b>	Please consider whether provision should be made here to capture efficient discharge of obligations imposed on the ISOP by virtue of its functions under the gas system planner licence. We note that a similar change is proposed in relation to the STC (Condition E4.5(b) of the ESO licence).
<b>Standard Special Condition A11, para 19(d)</b>	Please consider whether the ISOP should be added to the recipients here.
<b>Standard Special Condition A11</b>	<p>At the definition for 'self-governance criteria' we propose inserting a new sub-paragraph at the end of paragraph (a) providing for "<i>the ISOP; and...</i>" to include consideration of matters relating to the ISOP as a condition for self-governance decisions.</p> <p>We also note that in various parts of the text tracked changes have not been captured, making identifying amendments from the informal consultation challenging. We note that in this part of the text in the definition of 'self-governance criteria' appears to have been replaced by (a)(v) which refers to the STC's governance procedures. Following this paragraph (ii) of the definition seems to have been replaced by another provision relating to the STC – we do not consider that either of these references is correct and that the previous wording should be reinstated.</p>
<b>Standard Special Condition A15, Part A, para 3</b>	<p>While details of the CDSP arrangements are likely to be set out in the UNC, we suggest that it would be helpful to reference the ISOP in the licence conditions. Access to the CDSP will be important for the ISOP and a role in its governance may be too.</p> <p>With this in mind, we suggest the following addition: 'The licensee must, together with Relevant Gas Transporters <i>and, if appropriate, the ISOP</i>, ensure that...'</p>
<b>Standard Special Condition A28, para 9</b>	It is not clear to us that the definition of SIF should refer to NESO's licence, instead of the relevant reference in NGT's special conditions. In any case, we suggest the relevant reference should be made clear.

## Annex S - Gas Transporter Standard Licence Conditions

Reference	ESO comments
<b>Condition 1, para 1, (definition of 'Gas System Planner Licence')</b>	On further review, we suggest that further consideration is given to whether the words ' <i>or treated as granted</i> ' should be included here. We are not clear that the legislation merits including those words as it does for electricity. We note that this will apply equally to the equivalent definition in the FSO's licences.
<b>Condition 9, para 1</b>	Please consider whether provision should be made here to capture efficient discharge of obligations imposed on the ISOP by virtue of its functions under the gas system planner licence. We note that a similar change is proposed in relation to the STC objectives in the ESO licence.
<b>Condition 9, para 7(d)</b>	Please consider whether the ISOP should be added to the recipients here.

## Annex T – All electricity distribution special conditions

Reference	ESO comments
<b>Definition of Transmission Connection Point Charges</b>	We note there is a deletion of the drafting of ' <i>Transmission Licensee</i> ' which has been replaced with ' <i>the ISOP</i> '. Please consider if this change is correct or whether the Transmission Licensee should also be referred to here as well.
<b>Electricity North West Ltd, Definitions: Directly Attributable Costs</b>	We propose amending ' <i>of the ISOP</i> ' to ' <i>or the ISOP</i> '
<b>Electricity North West Ltd: Special Condition 3.2.97</b>	Paragraph (a)(ii) has a retained reference to the 'GB System Operator' which is required to be amended to 'the ISOP'.
<b>Northern PowerGrid (Northeast) plc Definition of High-cost Distribution Payments</b>	On the third line, the space that has been inserted in "condition" is to be removed.
<b>Northern PowerGrid (Northeast) plc Definition of National Electricity Transmission System</b>	There should be the word ' <i>Transmission</i> ' inserted before ' <i>Licensee</i> ' the second time it is used within the definition.
<b>Northern PowerGrid (Yorkshire) plc, Definitions:</b>	Under Section G there is an erroneous 'ISOP' which we believe requires deletion.

<b>Northern PowerGrid (Yorkshire) plc, Definitions: Distribution Network Voltage Control Services</b>	The definition has been amended to include reference to ISOP; however, there appears to be a typo. The drafting states ' <i>means the services provided to the <u>ISOP</u>ISOP by a licensee using Relevant Assets at primary substations on the licensee's Distribution System, such as Customer Load Active System Services (CLASS).</i> ' We propose that the underlined text is removed.
<b>Southern Electric Power Distribution plc</b>  <b>Definition of Distribution Network Voltage Control Services</b>	As above, the definition of Distribution Network Voltage Control Services contains an erroneous 'ISOP' that requires deletion.
<b>Southern Electric Power Distribution plc</b>  <b>Definition of High-cost Distribution Payments</b>	This definition refers to standard condition C22 of the Electricity System Operator Licence however, it appears that reference should be made to condition F8.
<b>SP Distribution plc</b>  <b>Definition of Distribution Network Voltage Control Services</b>	As above, the definition of Distribution Network Voltage Control Services contains an erroneous 'ISOP' that requires deletion.

## Annex U – All other gas transporter licence special conditions

Reference	ESO comments
<b>General Annex U</b>	We have reviewed the licences contained within the Annex U folder, but note that the tracked changes do not appear to have consistently worked. Our comments set out below apply equally to all licences contained in Annex U.
<b>SpC 1.1, Part B, Definition of 'Eligible SIF Project'</b>	Where the definition refers to ' <i>other Gas Transporter Licensees</i> ', our understanding is that this should be updated to also refer to the ISOP.
<b>SpC 1.1, Part B, Definition of 'Strategic Innovation Fund (SIF)'</b>	Please consider whether the reference to Condition F2 is appropriate – we assume this to mean the GSP licence, however note that Special Condition 9.13 in each of the licences presented in Annex U makes provision relating to SIF and therefore we question whether reference to F2 is appropriate.
<b>SpC 9.13, Part C, 9.13.12(d)</b>	We note that the term 'ISOP' has been introduced here but does not appear to have been included at 1.1 Definitions.



## Annex V – Analytical annex of additional NESO roles

Reference	ESO comments
<b>General</b>	We note and welcome the content set out in this Annex and we look forward to continuing work with DESNZ and Ofgem on development of the Strategic Spatial Energy Plan and related methodology.

## Appendix 5 – ESO comments on other consultation documents

Reference	ESO comments
<b>Annex C: Licensing Direction, Clause 3.2</b>	Please review and consider the square brackets in clause 3.2, we presume these should be deleted, with the text in the brackets remaining.
<b>Annex D: Electricity system operator licence terms, Part I, Para 1</b>	We confirm that ' <i>National Energy System Operator Limited</i> ' is correct – please also include our expected registered address as NESO which we expect to be St Catherine's Lodge, Bearwood Road, Sindlesham, Nr Wokingham, Berkshire, RG41 5BN.
<b>Annex D, Part I, Para 1(a)</b>	We note that there is a cross reference to 'Part II' – we presume that this heading will be given to the conditions of the licence.
<b>Annex D, Part I, Para 7</b>	We suggest that the following text: ' <i>shall be construed, so far as the context permits, as including a reference to the corresponding provision of that other enactment.</i> ' is inserted as a hanging paragraph of paragraph 7, rather than being in limb (b).
<b>Annex D, Schedule, Para 1</b>	Square brackets around '1(e)' to be considered and removed.
<b>Annex D, Schedule, Para 1(e)(i)</b>	Reference to ' <i>this schedule</i> ' in the second line should ideally be amended to ' <i>this Schedule</i> ' for consistency.
<b>Annex D, Schedule, para 3</b>	We suggest that reference to ' <i>licensee</i> ' in the third line is amended to ' <i>Licensee</i> ' as has been defined and used throughout Annex D.
<b>Annex F: Gas System Planner Licence terms, Part I, para 1</b>	We confirm that ' <i>National Energy System Operator Limited</i> ' is correct – please also include our expected registered address as NESO which we expect to be St Catherine's Lodge, Bearwood Road, Sindlesham, Nr Wokingham, Berkshire, RG41 5BN.
<b>Annex F, Part I, para 1(a)</b>	We note that there is a cross reference to 'Part II' – we presume that this heading will be given to the conditions of the licence.
<b>Annex F, Schedule, para 1</b>	Square brackets around '1(d)' to be considered and removed.
<b>Annex F, Schedule, para 3</b>	We suggest that reference to "licensee" in the third line is amended to "Licensee" as has been defined and used throughout Annex F.