
Jack Presley Abbott
Deputy Director - Strategic Planning and Connections
10 South Colonnade
Canary Warf
London
E14 4PU

National Grid ESO
Faraday House
Gallows Hill
Warwick
CV34 6DA

david.wildash@nationalgrideso.com
 +4407771 974218
 nationalgrideso.com

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Joint Direction and Letter of Comfort request from the ESO and all three GB Transmission Owners (NGET, SSENT and SPT)

Dear Jack,

The contracted background for the combined Transmission and Distribution queue is now in excess of 700GW and forecasts predict this could be up to 1TW by the end of 2024. When compared to the 2023 Future Energy Scenarios estimated potential volume of generation required to meet Net Zero ambitions, the current contracted queue is roughly 3 times the installed capacity required by 2050. Despite numerous actions taken by the ESO and Transmission Owners (“TO”), through the Five Point Plan (TEC Amnesty, Queue Management, Non-firm BESS Acceleration and the Transmission Works Review) and other tactical measures, connection dates are still into the late 2030s in many areas across GB, with an indicative connection location based on new substations which have not yet been planned (this date and location will either remain if a Gate 1 offer is issued or will become a defined date and location if a Gate 2 offer is issued). Progress is being made on Connections Reform following urgency approval for the code modifications with workgroups under way for CMP434, CMP435, CM095 and CM096.

If the ESO maintains business as usual (“BAU”) processes between now and go-live of the Connections Reform code modifications (CMP 434 and 435, CM095 and CM096, subject to approval) and applications continue to be processed in the same way, not only will the contracted background (which makes up the connections queue) continue to grow beyond network need, but should the TMO4+ connections reform code modifications (CMP 434 and 435, CM095 and CM096) be approved, the ESO will likely need to immediately convert full Connection Offers into a Gate 1 offer, if the customer does not meet the proposed Gate 2 criteria. We do not believe it is in customers’ best interests, or an efficient use of resources, to provide a full offer which could be materially amended soon after if the project does not meet the Gate 2 criteria (please see later section of the letter for the process that will be followed if the Code Modifications 434 and 435 are not approved).

Due to the reasons above, as we get nearer to the implementation of the Connections Reform Code Modifications CMP 434 and 435 (subject to approval from Ofgem), we need to start transitioning into the new process. This letter, therefore, sets out two options we have considered to enable the transition to Connections Reform if the Code Modifications CMP 434 and 435 are approved (note that references to the CUSC mods should be read as including the consequential STC mods). We are seeking Ofgem’s support in taking forward Option 2 (transitional offer process) which we consider is workable and has so far, received positive feedback from Industry (compared against Option 1 - the business-as-usual approach). Implementing Option 2 means that ESO and TOs would not be able to comply with certain obligations relating to connection offers. We are, therefore, seeking Ofgem’s approval for temporary relief from these obligations.

For the avoidance of doubt, this letter is in relation to new directly connected applications only. Further work is being developed on how transitional arrangements will apply for Modification Applications, Bilateral Embedded Large Licenced exempt Agreements (“BELLAs”), Bilateral Embedded Generation Agreements (“BEGAs”) and Project Progressions and the ESO will write to Ofgem separately on this. ESO will also engage with Ofgem regarding ‘cut over’ arrangements which is in relation to customers who receive their transitional offers near the end of the transitional period.

Options

Option 1: Maintain Business as Usual processes

Under this Option, the ESO and TOs continue with the current CUSC / STC processes with customers receiving ‘standard’ offers with a connection date, queue position and identified transmission works based on system studies as well as securities and queue management milestones. This would allow all parties to operate in accordance with current codes and expectations with customers receiving the same style offer as they do currently.

However, this Option will continue to require significant ESO and TO resource to process standard offers (even beyond the go live date for Connections Reform given the standard period for providing offers) which may be considered as an inefficient use of time given the potential changes proposed in the Connections Reform code modifications (subject to approval from Ofgem). The ESO and TO resource may be better focused on planning, testing and implementing the new process which would provide more benefits to industry.

Continuing with the existing BAU process will impact the introduction of the new Connections Reform Code Modifications CMP 434 and 435. This is due to the timescales for BAU offer creation and acceptance. BAU offers clock started on or after 2nd September 2024 would not necessarily be signed before the proposed new TMO4+ process is implemented (based on proposed implementation date of 01 January 2025). This means the contracted background (which makes up the connections queue) would not be fully defined (due to any unsigned BAU offer) at the point that the TO’s begin their Gate 1 and Gate 2 assessments.

In addition, continuing with the BAU process may set an unrealistic expectation or reliance on the offers received being meaningful given the increasing size of the queue and an expectation that a proportion of queue will not meet the criteria for Gate 2. Current signed customers who do not achieve the proposed Gate 2 criteria will have their existing offer rescinded and via the proposed CUSC modification be amended to a Gate 1 indicative offer. We feel it is not in customers’ interests to continue over the coming months to issue ‘full’ offers which are likely to soon be replaced by Gate 1 offers (subject to the Connections Reform code modifications being approved).

Furthermore, the ESO has not seen any real slow down in applications despite implementing numerous initiatives. This financial year, the ESO has received c.356 applications to date (comprising of both new applications and modification applications) and of those 356 applications, 62 have been new applications received between April and May 2024 (on average 25GW in applications are issued per month, the current size of the queue at Transmission level is 539GW with another 168GW at Distribution level). The ESO is forecasting more than 1800 applications in the year 2024-25. By taking no action in the run up to Connections Reform go live, the queue will continue to increase, which will have knock-on consequences when implementing Connections Reform from the go live date. It will increase those existing contracts which need to be moved into the new process as well as potentially distracting resource from preparing for Connections Reform.

Option 2: Transitional offer

Under this proposal, the ESO and TOs would adopt a similar approach to that expected for Gate 1 offers ahead of the CUSC modifications being proposed. Offers provided under this approach would be in standard contract form between the ESO and the customer and would provide only an indicative connection point, an indicative completion date and without any detail regarding transmission works and programme and not give a queue position. Furthermore, the ESO would not request securities and would not apply Queue Management milestones. This approach would apply to all new connection applications to be Clock Started from the 2nd September 2024, subject to approval of this request.

The transitional offer would make clear the indicative nature of the offer and that the offer agreements, if accepted, will be updated in line with the outcome of the upcoming Connections Reform Code Modifications CMP 434 and 435, as per the Gate 2 proposals as part of code modification CMP 434 (i.e., customers holding a transitional offer will be able to apply for Gate 2 if they have met the Gate 2 criteria). This will also include a fallback position in the event of any notable change or delay to the Connections Reform Code Modifications CMP 434 and CMP 435 go live date or in the event that the Code Modifications do not get approved (please see below for more information in relation to the fallback position). It is envisaged that this would apply to the same scope as Connections Reform (i.e. Generation, interconnectors, demand for transmission applications)

However, as this process differs to the current process set out within the ESO and TOs' respective licence and code obligations, the ESO and TOs are seeking a direction from Ofgem relieving them from some of their STC obligations, a letter of comfort regarding some of their licence conditions and ESO is additionally seeking a letter of comfort in relation to the CUSC obligations¹.

As the code modification process for both CUSC and STC to enable Connections Reform is currently ongoing, there is a risk that the proposal may not be approved or implemented by the planned go live date. Alternatively, there could be material changes through the code process, so the ESO and TOs may be preparing for an eventuality that does not materialise, is significantly delayed or changes considerably from that currently under discussion. We appreciate that, unlike Step One offers, transitional offers would not be revisited until the project meets the Gate 2 criteria and applies for a Gate 2 offer, therefore uncertainty around the timing and outcome of the Connections Reform process may result in customer concern or pushback. There may also be a view from industry that this proposal pre-empts the outcome of that Code Modification process. However, the ESO view is that these can be mitigated to some extent by including a fallback position to Option 2 above within the agreements to address any significant delay, change or rejection of the Connections Reform Code Modifications CMP 434 and 435 whereby the customer would be issued with a standard offer as per the current CUSC and License requirements. Although, this may lead to further work if contracts require updating to align with the agreed position and by suitable messaging.

Ask for Ofgem:

The ESO and the TOs are seeking the following directions or letter of comfort to allow implementation of Option 2 (Transitional Offers) from 2nd September 2024 until the start of the Connections Reform Code Modification CMP 434 and 435 application window. For ease of review, in Appendix 1 below we have listed the key licence conditions and code obligations which would be affected but they are also discussed in detail herein.

ESO Offer Content

ESO Standard Licence Condition ("SLC") C8 Paragraph 3 sets out the requirement that an offer and agreement have to be in substantially the form of the CUSC exhibits (i.e. Schedule 2 Exhibit 1, Schedule 2 exhibit 2, Schedule 2 exhibit 3 and Schedule 2 exhibit 5) and arrangements for connection and use of system have to be in conformity with the relevant provisions of the CUSC (C10 Paragraph 3). Under Option 2, the ESO offer will not contain the required level of detail in terms of transmission works, programme, charges and no securities or Queue Management Appendices will be included. Securities cannot be requested as the offers will not have been studied and so no securable works identified, and a TOCO will not be provided. Queue Management legal clauses will be included in the legal front end, but Appendix Q will be blank as the programme will only have an indicative Completion date and not broken down further so other required milestones cannot be applied.

In addition, the ESO would require a letter of comfort from the requirements to promptly notify the TOs if a customer wishes to accept an offer. As noted above, it is proposed that the ESO will utilise the proposed

¹ Transmission Licence, Condition B12 para 15

spreadsheet (or a digital solution) to notify the relevant TO should a customer seek to accept a transition offer, however, this will not be in the form identified in Clause 5.3.

As the ESO will not issue an offer which conforms with usual requirements and industry codes, and a TOCO will not be produced by the TOs, there will be a period of non-compliance with the above conditions. To enable implementation of this transitional process, we require a letter of comfort from the above conditions and Ofgem's confirmation that such non-compliance is permitted in the circumstances and will not lead to enforcement action.

ESO Offer Timescales.

Under ESO Licence Condition C8 Paragraph 7 and CUSC Section 2, clauses 2.13.2, timescales are specified for the production of offers, with provision for longer periods where the Authority consents.

The ESO, therefore, expects there will be a point in time (a 'cutover' date, currently expected to be 10 working days following Ofgem's Connections Reform code modification decision) where we will need to start moving away from the 'transitional' offer process, proposed in this letter, in order to start applying the Connections Reform principles (if approved). What this will mean in practice is that any clock starts from this 'cutover' date will go into the new Connections Reform process (i.e. their application will be considered and offered in the next suitable windowed/gated process). This would result in the offer process taking longer than 3 months for such applications submitted from the cutover date. The 'cutover' date will be pushed out if there is any delay to the code modification process / introduction of Connections Reform. Currently, at this moment in time, this is not something that the ESO is asking for relief from. However, a second request will be drafted which will cover Modification Applications, Project Progressions, BEGA's, BELLA's and the cut over period.

Securities:

Within Section 15 of CUSC, clause 5.1 the ESO is required to provide an indicative profile of the estimated spend in respect to the attributable works as well as a notification of a fixed cancellation charge with an offer. In addition, under Clause 5.2.1 the ESO is to issue a cancellation charge statement which will take effect from the signing of the Construction Agreement to cover the period from the signature date to either the 30th September or 31st March (whichever is earlier) and to revise these during the bi-annual securities process in respect of the next 6 month period from 1st October or 1st April (until the Construction Agreement is terminated or the charging date is reached).

As it is proposed that the ESO will not apply any liability (as no transmission works are identified) and so will not seek to obtain securities for the projects that fall under the transitional offers process (in alignment with the proposed Gate 1 process/contract), it is requested that Ofgem acknowledges this and provides comfort against the process outlined in Section 15. The offer will have limited information which is indicative and will not have a full study behind it. Therefore, it would be inappropriate to request securities at this point. It is worth highlighting that as a TOCO will not be supplied, Attributable Works Capital Costs will also not be included in accordance with STC Schedule 9 Clause 12. Therefore, the TOs are seeking a direction from this requirement. In addition, for those Users that do not fall under Section 15 and receive their liability and securities requirements in respect of Final Sums, the ESO will also seek comfort against applying CUSC Schedule 2, Exhibit 3 Appendix M as set out in CUSC Section 15 Part One Clause Two.

Queue Management:

Whilst in accordance with CUSC Section 16 the Queue Management Process will be provided for in the agreements, it would be impractical to populate the Appendix Q which houses the dates for achievement of the milestones without a construction programme and only an indicative completion date. As per the proposed Gate 1 process, it is suggested, therefore, that a Queue Management Appendix Q is not included in the transitional offers. Therefore, we request Ofgem's confirmation that Section 16.3-16.5 of the CUSC will not be adhered too for the above.

Offer Acceptance Timescales:

Under the CUSC, the offer acceptance period is prescribed (Section 1, Paragraph 1.7.3, Section 2, paragraph 2.13.4, Section 3, Paragraph 3.7.4, section 6 Paragraph 6.9.2.3, Section 9, Paragraph 9.7.3) and this is reflected in the various offer letters. The only express ability to deviate from that timeframe is if the User or the ESO have referred disputed terms to the Authority under Standard Condition C9 of the Transmission Licence (in which

case, the offer remains open for 14 days after the Authorities determination). In the circumstances stated here, for the process to work, the offer acceptance period for these transitional offers will need to be reduced for customers who receive their offers near the end of the transitional period (referred to as the 'cut over period').

We will write to Ofgem with more information about the cut over period once we have detailed proposals on this. A shorter offer acceptance period is needed for this group of customers so ESO has all signed offers back by the start of Window 1 - Gate 1 Construction Planning Assumptions process in order to be able to implement and assess them in the Gate 1 and Gate 2 processes (should the Connections Reform code modification process be approved). If the offer acceptance timescales are not shortened, then some offers may remain unsigned at the point that ESO and TOs are carrying out the Gate 1 and Gate 2 assessment. If any offers are unsigned, then the contracted background would not be fully defined, making it difficult for both the ESO and TOs to conduct the studies required for an accurate Connections Reform design process which will hinder the effectiveness of the new approach. It is noted, that in context of considering whether to accept or not and the period needed to do so, the offers will be much lighter in detail with only an indicative connection date and location. We therefore believe that customers will not be materially detrimentally impacted by the shorter signing timescales.

At this moment in time this is not something that the ESO is asking for a relief or comfort against. However, a second request will be drafted which will cover Modification Applications, Project Progressions, BEGA's, BELLA's and the cut over period.

There are a number of reasons why we have only focussed on new applications for this letter and we will revert back to Ofgem with a further request in due course.

Firstly, the potential for unintended consequences in relation to Modification Applications, whereby a Modification application is a change to an existing offer, means that the project is already in flight. As such, the project is being developed by both the User and the relevant TO and by not allowing an application to clock start for a full offer, this could have major unintended ramifications to all parties causing delays and associated costs. Therefore, further time and thought is needed to allow us to consider the criteria that would allow Modification Applications to still progress through the transitional period.

Secondly, new BEGA or BELLA applications are not included in this request because when a User submits an application for a BEGA or BELLA, the ESO also needs a Modification Application from the relevant Distribution Network. As we are not including Modification Application or Project Progressions at this time, we could not then include BEGA and BELLA as this would have a knock on impact on the reinforcement works that have been triggered. Therefore, the correct works would not be identified in the correct order, causing knock on impacts to other processes. ESO and the TO's are working together to identify and agree this set of guidelines and we will share this wider with stakeholders to gather feedback and make sure it works for as many parties as possible.

Application Fees:

Within CUSC Section 14 clause 14.10.1 it states that Application fees are payable in respect of applications for new connection agreements and modifications to existing agreements based on the reasonable costs that transmission licensees incur in processing these applications. These fees can be fixed, (CUSC Section 14, Paragraph 14.20.5). If the fee is not fixed, then the fee will be based on an advance estimate of transmission licensees' engineering and out of pocket expenses which varies according to the size of the scheme and the amount of work involved (clause 14.20.6). The fixed fees and advance estimate are set out in the Statement of Use of System Charges published annually by the ESO and TOs.

It has been agreed that the ESO will continue to apply the existing application fees to those that apply during the transitional offer period and will then perform a reconciliation based on the level of work required for those offers if the customer chooses a variable fee, for reasons stated below. Due to the reduced amount of preparatory work required to produce the transitional offers, it is proposed that the fees will, in most circumstances, be reconciled to £4000 as an appropriate reflection of the amount of work required to produce the offer. This way all transitional offers will be charged the same amount.

By keeping the fee structure as per the current arrangement, the ESO seeks to ensure that the barriers to entry remain the same and that the transitional period is not seen as an opportunity to submit high numbers of applications at a reduced cost, which could be seen as counter to the CAP initiatives. There are also concerns

amongst the ESO and TO's that if the Gate 1 fee needs to be a different amount to the transitional fee it would be very difficult to justify this if we have set a fixed fee for transitional arrangements.

The ESO will be open and transparent in relation to the amount of work that will be done in order to create these offers to ensure those applying during the transitional period have a knowledge and understanding of the work involved when choosing whether the fee should be fixed or indicative.

Transmission Owner Connection Offer (TOCO):

The TOs are subject to various licence and code obligations in respect of the issue of TOCOs to the ESO, and related obligations (e.g. in respect of use of system and connect and manage applications):

- Standard Licence Condition (“SLC”) D4A.1 provides for the TOs that “[o]n notification by the system operator of receipt... of an application for connection or for modification to an existing connection... the licensee shall (subject to paragraph 2 and paragraph 4) offer to enter into an agreement with the system operator” and such offer shall make “detailed provision” in respect of various items including works required on the TO’s transmission system, the date by which works on the transmission system will be completed, and costs in respect of the works.
- SLC D4A.2 provides that the TOs shall offer a TOCO “as soon as practicable and (except where the Authority consents to a longer period) in accordance with the time periods specified for this purpose in the STC”.
- SLC D4A.3 further requires TOs to offer to enter into an agreement with the system operator in respect of use of system, in the manner provided in the STC.
- SLC D16 requires the TOs to respond to any connect and manage application.
- SLC, B12(9) obligates the TOs to comply with the STC:
 - SLC, B12(9) obligates the TOs to comply with the STC which provides:
 - Under STC Section D, Part Two Paragraph 4, which sets out requirements in relation to TOCOs.
 - STC Section D, Part Two, Paragraph 5 which sets out requirements in relation to the acceptance of TOCOs by the ESO.

Under Option 2, the TOs would not be providing a TOCO and instead would only provide an indicative date and connection location. Although no TOCOs would be produced for applications in relation to new connections during the “transitional period” (applications that are received by a TO from and including 2nd September 2024 until CMP 434 & 435 come into effect) (“**Transitional Applications**”), it is proposed that the TOs and the ESO would issue details of the indicative connection date and location provided via an agreed format. In this way, there would be visibility between ESO and the TOs as to the transitional agreements and their contents. The ESO are looking at an enduring digital solution for the new process and if possible, will look to implement this as part of the transitional offer process as soon as possible. Similarly, under Option 2, TOs will not respond in the prescribed way with respect to use of system applications and connect and manage connections.

To enable implementation of this transitional process the TOs require a letter of comfort from Ofgem in respect of the enforcement of these licence requirements, confirming that non-compliance with the process provided for in TOs’ SLCs is permitted in the circumstances and will not lead to enforcement action.. Each TO will therefore be permitted not to offer to enter into a connection agreement with the ESO (whether through a TOCO, or in any other equivalent form of agreement) in relation to Transitional Applications unless and until Connections Reform implementation (if approved) and the ESO has both: (1) confirmed the relevant User’s progress in accordance with the proposed Gate 2 criteria (as determined via the concluded position under CMP 434 & 435, as approved by Ofgem); and (2) confirmed the TO should be providing a connection offer to ESO, or the Authority has provided a notice requiring compliance with D4A and D16.

We further note that TO SLC D5 provides that “[t]he licensee shall not unduly discriminate as between any persons or any class or classes of person or persons” in fulfilling its obligations under the SLCs”. In these circumstances, we note that customers who submit Transitional Applications, and who receive a transitional connection offer from the ESO may claim they have been treated unfavourably as a class as a result of the date of their application. We would request comfort from Ofgem that it will not consider or enforce any difference in treatment afforded to these persons by the TOs to be “undue” in the circumstances.

The TOs also request a direction under SLC B12(15) of their respective licences relieving them of their obligations to comply with Paragraph 4 of Section D, Part Two of the STC in relation to Transitional Applications.

Quality of Connections Incentive:

The TOs have an obligation to report to Ofgem the outputs of customer satisfaction surveys undertaken by developers at specific stages through the developers' connection journey, as part of the RIIO-T2 guidelines. These journey stages include the pre-application stage and the offer stage. Whilst TOs are committed to maintaining their customer service standards throughout the transitional offers process and beyond, they are conscious that the short-term move to transitional offers has the potential to negatively impact customer satisfaction at these two stages.

Customers may feel dissatisfied because they will receive less detail in their pre-application engagement than what they are used to at present and their offer will be 'indicative' rather than a full contracted offer. Additionally, until Connections Reform concludes and Ofgem publishes its final decision, TOs cannot confirm to customers the timeframes within which they can apply for a Gate 2 offer. Customers may be dissatisfied with this level of uncertainty regarding their move to Gate 2 / full offer and this dissatisfaction may be reflected in their QOC survey scoring. Dissatisfaction with the transitional process itself (rather than with TOs customer service levels) could therefore negatively impact TO scores (and therefore penalties and incentives for the Quality of Connections (QOC) incentive). This is completely outside of TO control. Accordingly, TOs do not feel this is the intention of the QOC survey.

The TOs request that Ofgem carry out a suitability assessment on the QOC incentive prior to the end of the RIIO-T2 period in March 2026 and consider (as part of this) how scores received for Transitional Offers (and all Offers following Connections Reform implementation) are used in the overall incentive calculation, due to the QOC mechanism having been put in place prior to Transitional Offers or Connections Reform. TOs appreciate the engagement from Ofgem so far on this matter, and are encouraged by Ofgem's openness to reviewing this incentive and ensuring it remains appropriate throughout this period of industry change.

Conclusion

The current Connections process is no longer fit for purpose both from a customer's point of view, with the long-lead connection dates and extensive works being offered, or from the regulated entities point of view due to the volume of applications being received and resources required to fully process these for little benefit.

An interim solution is urgently required ahead of the implementation of Connections Reform (subject to approval), both the ESO and the TO's believe Option 2 (outlined above) can provide the bridge between the current process and the start of Connections Reform. However, in order to move forward with this Option, we require Ofgem to grant a direction and letter of comfort (as detailed in the table at Appendix 1) to progress.

We recommend the introduction of this transitional offer process as urgently as possible to all new Licensed Offers which clock start from the 2nd September 2024, lasting until the start of the start of the Connections Reform Code Modification CMP 434 and 435 application window. The rapid introduction of this interim process would help to ensure that the move to Connections Reform is as smooth as possible for those customers wishing to obtain a connection to the electricity transmission network.

We have already started communicating our intentions to industry through both the Connections Reform workgroups and wider connections governance groups due to the increasing interest in how we will transition to the new process. Throughout this engagement, there has been a lot of support from industry, who welcome moving away from the current unfit for purpose process, and in preparation for the new process. If Ofgem is supportive of this approach and grants the approvals required, we will continue to communicate and support industry through this change via a number of different communication methods.

In order for this process to go ahead from the 2nd September, we would require a letter of comfort and direction from Ofgem to be provided no later than 21st August 2024. Approval of this process would mean the transitional process would remain in place until the start of the first Connections Reform Code Modification CMP 434 and 435 application window.

We are pleased with the engagement Ofgem have had with all parties regarding this collaborative solution so far and, we welcome further discussion on this, should Ofgem have any questions or concerns about either approach.

Yours sincerely

David Wildash
Head of Connections, ESO

Appendix 1 – Relevant Licence Conditions and Obligations in Industry Codes

| Category | Parties affected | Obligation | Relief sought |
|----------------------------|------------------|--|---|
| Offer Content | ESO | <p>Standard Licence Condition (“SLC”) C8 (Requirement to offer terms) Paragraph 3 sets out the requirements of an offer.</p> <p>The offer will not contain detail in terms of transmission works, programme or charges.</p> | Request for Ofgem acknowledgment that Option 2 / the proposed approach doesn’t comply with this obligation and comfort that no enforcement action will be taken by Ofgem in relation to this. |
| Offer Content | ESO | <p>SLC C10 (Connection and Use of System Code) Paragraph 3 requires that ESO will only enter into arrangements for connection and use of system in conformity with the relevant provisions of the CUSC.</p> <p>The agreements in the offer will be made in substantially the form of the CUSC exhibits, but the detail they envisage (transmission works, programme, charges and technical appendices and Queue Management milestones) being included will not be provided with the agreements.</p> | As above |
| Offer Content / Securities | ESO | <p>SLC C10 (Connection and Use of System Code) Paragraph 9 requires the ESO shall comply with the CUSC.</p> <p>Contrary to:</p> <ul style="list-style-type: none"> - CUSC Section 15, paragraph 5 the ESO will not be providing a cancellation charge statement/notification of fixed cancellation charge with the agreements (or in 6 monthly updates). - Contrary to the terms in the construction agreement (CUSC Schedule 2 Exhibit 3 Part Two paragraph) the ESO will not be providing with the offer (or in 6 monthly updates) the Final Sums estimate. | As above |

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| | | <p>And as a consequence no liability for cancellation charge or final sums will be applied initially and no security (as provided for in CUSC Section 15 Part Three) will be sought.</p> <p>Contrary to CUSC sec 16 (and given there is not to be a populated Appendix Q) the Queue Management process will not be applied and consequently progress against milestones with right to terminate will not be applied initially.</p> | |
| TOCO | TO | <p>SLC D4A.1 (Entering into agreements) provides for the TOs that “[o]n notification by the system operator of receipt... of an application for connection or for modification to an existing connection... the licensee shall (subject to paragraph 2 and paragraph 4) offer to enter into an agreement with the system operator” and such offer shall make “detailed provision” in respect of various items including works required on the TO’s transmission system, the date by which works on the transmission system will be completed, and costs in respect of the works.</p> <p>The TOs will not be offering to enter into an agreement.</p> | <p>Each condition in section D does not repeatedly refer to an Ofgem direction right. This is due to condition A3 already providing Ofgem with the power to issue a variation to TOs’ Section D Directions in relation to all or part of the TO’s’ obligations under section D. This power is contained within A3(3).</p> <p>In the alternative, if the Authority do not believe they can rely on this provision, then we request for Ofgem acknowledgment that Option 2 / the proposed approach doesn’t comply with this obligation and comfort that no enforcement action will be taken by Ofgem in relation to this.</p> |
| TOCO | TO | <p>SLC D4A.3 (STC agreement) further requires TOs to offer to enter into an agreement with the system operator in respect of use of system, in the manner provided in the STC.</p> <p>The TOs will not be offering to enter into an agreement.</p> | As above |
| TOCO | TO | <p>SLC D16 (Requirements of a connect and manage connection)</p> <p>The TOs will not be offering to enter into agreements in respect of connection and manage applications.</p> | As above |

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| TOCO | TO | SLC D5 (Discrimination prohibition) provides that “[t]he licensee shall not unduly discriminate as between any persons or any class or classes of person or persons” in fulfilling its obligations under the SLCs”. | As above |
| Securities | ESO | Section 15 of CUSC, clause 5.1 the ESO is required to provide an indicative profile of the estimated spend in respect to the attributable works as well as a notification of a fixed cancellation charge with an offer. | Request for Ofgem acknowledgment that Option 2 / the proposed approach doesn’t comply with this obligation and comfort that no enforcement action will be taken by Ofgem in relation to this. |
| Securities | ESO | Section 15 of CUSC, clause 5.2.1 the ESO is to issue a cancellation charge statement which will take effect from the signing of the Construction Agreement to cover the period from the signature date to either the 30 th September or 31 st March (whichever is earlier). | As above |
| Securities | ESO | CUSC Schedule 2, Exhibit 3. Under CUSC Section 15, Part One Clause 2, users that fall under Final Sums, the ESO is to apply CUSC Schedule 2, Exhibit 3 Appendix M. The ESO will not be able to fulfil this obligation. | As above |
| Queue Management | ESO | CUSC Section 16. The Queue Management Process will be provided for in the agreements, it would be impractical to populate the Appendix Q. | As above |
| Offer Acceptance Timescales | ESO | CUSC the offer acceptance period is prescribed (Section 1, Paragraph 1.7.3, Section 2, paragraph 2.13.4, Section 3, paragraph 3.7.4, section 6 Paragraph 6.9.2.3, Section 9, Paragraph 9.7.3). The ability to deviate from the Customer offer acceptance timescales, will need | As per the letter above, the ESO and TOs will contact Ofgem again with an ask once we are in a position to agree the cut over details |

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| | | to be reduced from current 3 months to a minimum of 30 days depending on when it is sent out by ESO. In order to meet the cut over date of 1 st February for Window 1 CPA. | |
| Application Fees | ESO | CUSC Section 14 clause 14.10.1 states that Application fees are payable in respect of applications for new connection agreements and modifications to existing agreements based on the reasonable costs that transmission licensees incur in processing these applications | Request for comfort for the ESO to continue to apply the existing application fees to those that apply during the transitional offer period and will then perform a reconciliation based on the level of work required for those offers |
| Application Fees | ESO | CUSC Section 14, Paragraph 14.20.5. These fees can be fixed. | As above |
| Application Fees | ESO | CUSC Section 14 clause 14.20.6. If the fee is not fixed, then the fee will be based on an advance estimate of transmission licensees' engineering and out of pocket expenses which varies according to the size of the scheme and the amount of work involved. | As above |
| TOCO | TO | SLC B12.9 requires licensees to comply with the STC. The TOs will not be following STC requirements: (a) paragraph 4 re making TO Construction Offers in response to ESO application and 5 of Part 2 of Section D; and (b) as not offering terms in accordance with Schedule 9 will not be providing information/applying final sums or information regarding the cancellation charge | Request for direction under B12.15: B12.15: "The Authority may (following consultation with all affected STC parties) issue <u>directions relieving the licensee of its obligations to implement or comply with the STC</u> in respect of such parts of the licensee's transmission system or the national electricity transmission system or <u>to such extent as may be specified in the direction.</u> " The TOs acknowledge that the derogation will be limited to the specific elements of the STC referenced, rather than the STC as a whole. |
| TOCO | TO | STC, Section D, Part 2, which deals with the arrangements | As above |

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| | | <p>between the ESO and TOs, and in particular:</p> <ul style="list-style-type: none"> • Paragraph 4 re making TO Construction Offers in response to ESO application as TOs will not be offering terms in accordance with Schedule 9 and will not be providing information/applying final sums or information regarding the cancellation charge and • Paragraph 5 re the acceptance of TO construction offers by the ESO | |
| Securities | TO | STC Schedule 9 Clause 12.1 (the Provision of Attributable Works Capital Cost). | As above |