

Public

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National Energy System Operator

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Dear requester

Request for Information

Thank you for your request for information. We write further to our email of 4 December and apologise for the delay in responding to the outstanding parts of your request.

Request

You asked us about the Phase 3 Consultation Documents for Connections Reform and the list of information sources in the appendices to the Connections Reform Data Impact Assessment v0.02. You asked for copies of the final 5 items on the list:

- NESO CP30 Data Workbook, the
- NESO Request for Information (RFI) on Land Rights and Planning Status
- NESO Internal data sets
- Regen NESO Transmission Pipeline Report
- ENA Distribution Databook (June 2024)

You also asked for copies of the TEC Registers used.

Our response

In our response of 4 December we provided:

- The Clean Power 2030 (CP30) Data Workbook
- Copies of the September TEC Registers.
- Information about the reference to the NESO internal datasets
- A link to published information from the Energy Networks Association (ENA).

We can now respond to the final three parts of your request.

NESO Request for Information (RFI) on Land Rights and Planning Status

The RFI information was provided to National Grid ESO on a confidential basis. We have considered whether we could redact the information so that we could release part of the dataset. Given that we publish information about connections projects via the TEC Register on our website, our conclusion is that it would be possible to combine the redacted data with information in the TEC Register to identify specific projects and developers. We are therefore applying the EIR exception at Regulation 12(5)(e) which states that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest as we believe that a common law duty of confidentiality applies.

There was a clear expectation of confidentiality on the part of those responding to the RFI. Disclosure of this information would be likely to adversely affect the commercial interests of the developers who provided the information, particularly if it was shared with a competitor. Commercial companies develop generation projects and are independent of NESO and the respective transmission owners. These development projects are competitive processes, both for the rights to supply electricity to the transmission network and also for funding from investors and any available government funding where applicable. Responses to EIR and Freedom of Information Regulation requests are considered to be disclosures into the public domain, so we do not release information beyond that published in the TEC Register as this could be used by competing developers to gain commercial advantage and could damage the developer's bargaining position whilst investment and build decisions remain outstanding and relevant planning consents are considered.

All exceptions in the EIR are subject to a public interest test. NESO acknowledges that there are a number of public interest arguments in favour of disclosing the requested information. There is a general public interest in renewable energy development, particularly where the construction and development of such projects may have an impact on local areas. There is also a public interest in furthering public understanding of connections reform and ensuring that NESO is accountable for its management of connections. NESO also recognises that there is a presumption in favour of disclosure under the EIR.

There is a public interest in ensuring no specific developer is materially disadvantaged through disclosing confidential commercial information, which is not released in respect of other projects. This ensures that there is a level playing field across all projects. NESO has a public duty under our licence to facilitate competition within the energy market and there is a recognised public interest in allowing competition in the energy industry.

Increased renewable generation is crucial to the Government achieving its net zero and clean energy targets and anything that unjustifiably inhibits the competitive development of that renewable generation runs counter to these goals. NESO is the designated independent system

operator and planner under the Energy Act 2023 and must remain independent, fair, and consumer focused. Disclosure could erode trust within the sector, hampering NESO's role and our ability to drive forward reforms and initiatives that would bring benefits to consumers and to the environment.

Having weighed up these public interest arguments, our opinion is that the balance of the public interest lies in maintaining the exception and withholding the RFI data.

In terms of planning statuses, we do publish limited data on the TEC register, which is available on the [Connections](#) section of our website. This is supplemented by our Connections 360 portal which you can register to access.

Regen NESO Transmission Pipeline Report

This document is based on NESO connections data for individual projects and RFI response data from individual developers. The report was commissioned to assist us in analysing the RFI data and to draw on published planning information. The figures used are generally high level and aggregated and so we are able to provide the report to you. We believe that the disclosure of this report also satisfies the public interest regarding the RFI data above. There is a small amount of information which relates to individual projects which we have redacted on the same basis as the RFI data above. Some small numbers (value of 5 or less) have been removed where we believe that projects are likely to be identifiable in combination with publicly available information.

Where the data is based on information received from developers as part of the connections application and offer process, this data cannot be made publicly available whilst a project is still progressing, especially at pre-consenting and pre-construction stages. NESO is bound by the confidentiality obligations under the Connection and Use of System Code (CUSC) and cannot share the specific terms put in place with a developer. NESO also falls within the scope of the Utilities Act 2000 and Section 105 of that Act makes it a criminal offence to disclose information:

- a) obtained under the Utilities Act 2000 and any other key energy legislation such as the Gas Act 1986 and the Electricity Act 1989, subject to specific exceptions; and'
- b) where the information relates to the affairs of any individual or any particular business during the lifetime of the individual or so long as the business continues to be carried on.

In our opinion, the information in question which is held by our Connections Team is subject to the restrictions at Section 105 of the Utilities Act and does not fall within any of the limited exceptions to that duty of confidentiality. Beyond this, there is also a common law duty of confidentiality based on the expectations of the developers.

In addition, we have removed Regen staff names and email addresses as these are personal data. Personal data falls under the exception at Regulation 13 of the EIR.

The public interest arguments set out in the RFI data response above, also apply here and we have concluded that the public interest arguments favour the maintenance of the exception.

The ENA Distribution Databook

This document is dated June 2024 and was shared with the National Grid Electricity System Operator (ESO) in June/July of this year. At this point, ESO was a member of the ENA and the workbook was shared with ESO as a member with the expectation of confidentiality.

Since becoming the National Energy System Operator (NESO) on 1 October, we are no longer a member of the ENA. We have consulted with the ENA to see if we could provide this databook and they have confirmed that the data in the workbook is commercially sensitive and that disclosure would prejudice the commercial interests of ENA members. We are therefore refusing this part of your request under the EIR exception at Regulation 12(5)(e) which states that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest as we believe that a common law duty of confidentiality applies.

In terms of the public interest test, NESO acknowledges that there is a general public interest in promoting transparency. There is significant interest in the Connections Reform process and there is a public interest in ensuring that NESO is accountable for the management of connections processes which impact on developers and ultimately on consumers.

NESO is the designated independent system operator and planner under the Energy Act 2023 and must remain independent, fair and consumer focused. Disclosure could erode trust within the energy industry, hampering NESO's role and our ability to drive forward reforms and initiatives that would bring benefits to the sector, to consumers, and to the environment. If suppliers of information are concerned about the disclosure of the information, and feel that they cannot trust NESO, such that they are unwilling to provide information in the future, this would be likely to have a detrimental effect on NESO's ability to carry out our role, which would not be in the public interest. There is also a public interest in allowing commercial organisations to compete fairly in the market and NESO has a duty to facilitate competition in the energy sector.

NESO is mindful that the EIR requires us to apply a presumption in favour of disclosure when considering the public interest test. Having weighed up these public interest arguments, our opinion is that the balance of the public interest lies in maintaining the exception and withholding this data book. We have previously provided a link to summary level data that we believe will satisfy the public interest without adversely affecting the commercial interests of the Distribution Network Operators.

Next steps

You can ask us to review our response. If you want us to carry out a review, please let us know within 40 working days and quote the reference number at the top of this letter.

If you are still dissatisfied after our internal review, you can complain to the Information Commissioner's Office (ICO). You should make complaints to the ICO within six weeks of receiving the outcome of an internal review. The easiest way to lodge a complaint is through their website: www.ico.org.uk/foicomplaints. Alternatively, they can be contacted at: Wycliffe House, Water Lane, Wilmslow, SK9 5AF.

Thank you for your interest in the work of the National Energy System Operator (NESO).

Regards,

The Information Rights Team

National Energy System Operator (NESO)