



Early Competition

Heads of Terms and Industry Code Impacts

Pre-Read Material

In advance of the webinar please review and consider this pre-read presentation.

In the webinar we will discuss which elements of our early competition model proposals are likely to be important in respect of the development of the...

- ...standard form electricity transmission licence for network solutions and the standard form contract for non-network solutions; and
- ...industry code modifications for both network solutions and non-network solutions.

In advance of the webinar please consider your views on the most important or challenging elements in respect of the development of the heads of terms as well as the potential changes to the industry codes. We have included a selection of illustrative examples on each within this presentation.

All content is to facilitate webinar discussion and remains indicative and subject to change.

The above will help us further develop our views on both the potential licence/contract heads of terms and the potential impacts on the industry codes.

Further information will be provided in the session on 24/25 September 2020.

Phase 2 Consultation

In the session we will briefly recap on the Phase 2 consultation position in respect of network solutions and non-network solutions and the link to licence/contract arrangements and industry codes.

'Depending on whether the successful bidder requires a contract or licence each party will need to accede to the appropriate network codes. As a result, there are potentially different arrangements for different bidders, as set out in Appendix 4. [Please note that Appendix 4 has been added as Appendices 1-3 within this Presentation.]

We envisage that due to their Transmission Licence and subsequent accession to the STC any CATO will substantially comply with similar operational processes to TOs and OFTOs. Whilst some areas are explored at a high-level in this section, further work will be required to identify exactly which areas of the STC will be applicable (potentially with amendments being required) to CATOs. For example, TOs are obligated to publish a Network Access Policy whereas OFTOs are not. As part of the Phase 3 consultation we will consider whether the current TO or OFTO arrangements (or variation to one or the other) are more suitable for a CATO for early competition.

With regard to non-network solutions we expect that comparable obligations will be put in place via their commercial contract, if not already in place via another form of licence if one exists. For example, a non-network solution provided by licensable generation will be a party to the Connection and Use of System Code (CUSC). As such their commissioning process will either be full or partly covered by the code, with only some (if any) provisions related to commissioning needing to be included within their commercial contract.

Whilst our aim would be to ensure a level playing field between network and non-network solutions, due to the above we might find that there could be necessary differences between the two. For example, considering the two examples above, a Network Access Policy might be more appropriate for a licenced CATO than it might be for a non-network solution provided by a licenced generator, whereas both will be required to undertake a form of commissioning process prior to the solution becoming operational.

This detailed mapping exercise is expected to be undertaken over Summer 2020 with further detail being consulted upon in our Phase 3 consultation.'

Phase 2 Consultation Feedback

In the session we will briefly recap on the Phase 2 consultation feedback in respect of network solutions and non-network solutions and the link to licence/contract arrangements and industry codes.

‘Stakeholders sought more detail on the project, delivery risks, financial model, incentives, licence requirement for a solution etc. One stakeholder would welcome the closer alignment between CATO and TO licence regimes.’

‘There was a general agreement that any successful party, whether CATO or contract, must accede the relevant industry codes.’

‘Stakeholders generally agree that the existing codes are suitable but that the adjustments are unlikely to be minor. The ESO was identified as the primary entity to identify and suggest the changes.’

‘Stakeholders noted other frameworks which will require updates including TO and ESO licences and the NOA methodology. One noted that codes covering network and non-network solutions must be aligned.’

Comparable Contract Example

In the session we will discuss an example Commercial Services Agreement so we can start to identify some of the key components which will need to be considered for the development of heads of terms

As a comparison the following table lists the sections of a pro-forma Commercial Service Agreement for one of our Pathfinders which can be found in full [here](#).

Parties and Recitals	Confidentiality and Announcements
Definitions, Interpretation and Construction	Disclosure of Information
Commencement and Term	Dispute Resolution and Expert Determination
Availability, Service Provision and Payment	Notices
Payment	Force Majeure
Monitoring, Metering and Testing	Miscellaneous
Termination and Suspension	Anti-Bribery
Warranties and Indemnity	EMR
Limitation of Liability	Jurisdiction and Governing Law

Potential Early Competition Contract Complexities

In the session we will start to compare the example Commercial Services Agreement structure with our current proposals to identify where changes could be required in respect of early competition.

The following table lists potential additional considerations for the contract-counterparty in developing a contract pro-forma when compared against the prior Commercial Services Agreement example.

Topic	Justification
Performance Bond	To set out the value/calculation and the acceptable means
Gain Share Mechanism	To set out the trigger and process, as well as the sharing factors
Post-Preliminary Works Cost Assessment	To set out the process and the adjustment parameters as well as setting out any dispute resolution mechanism
Debt Competition	To set out responsibilities and timescales
Operational Incentives	To set out how the mechanisms will work e.g. adjustment timing, etc
New Connections	To set out obligations in relation to facilitating new connections (?)
Change Requests	To set out the change request process
End of Revenue Term	To set out options and/or obligations including in relation to extension

Industry Code Impacts

In the session we will start to discuss our current proposals to identify where industry code change could be required in respect of early competition.

Key Assumptions

- That where any form of licence or licence amendment is required it will be in place from the point of tender award e.g. for all network solutions and for all relevant non-network solutions.
- That where a contract is required (potentially in addition to a licence or licence amendment) it will be in place from the point of tender award e.g. for all non-network solutions.
- That where a party is not already acceded to the relevant codes at the point of tender award they will need to do so in parallel or shortly afterwards i.e. the relevant code connection and accession processes.

This means offshore concepts related to Generator Build (e.g. Offshore Transmission System User Assets) will not be required in respect of early competition i.e. in most cases the successful bidder will have the relevant licence and/or contract in place and will have acceded to the 'correct' codes from the tender award. (We also do not expect there to be a similar concept to Embedded Transmission.)

For some non-network solutions which do not require any form of Licence there may be a 3-6 month period between the tender award and their accession to the relevant codes, depending on whether the connection processes are adapted to further align with the tender processes.

Industry Code Impacts

In the session we will start to discuss our current proposals to identify where industry code change could be required in respect of early competition.

Potential Code Impact Overview

On the basis of the aforementioned key assumptions we expect there to be:

- **Minimal change required for the CUSC.**
 - Non-Network Solutions will simply become an existing party category and any rights and obligations related specifically to early competition will be included within their contract.
 - There will be minimal changes as a result of the existence of CATOs e.g. to code definitions.
- **Minimal to Moderate change required for the Grid Code.**
 - Non-Network Solutions will simply become an existing party category and any rights and obligations related specifically to early competition will be included within their contract.
 - There will be several changes as a result of the existence of CATOs e.g. to code definitions and to provide clarity in relation to applicable design standards.
- **Moderate to High change required for the STC and the STCPs.**
 - Network Solutions will become CATOs and as such there will be several changes as a result of the existence of CATOs e.g. to code definitions and to provide clarity on their obligations.
 - In addition, there may also be changes as a result of the implementation of early competition whether in relation to network solutions or non-network solutions i.e. process facilitation.

Industry Code Impacts

In the session we will start to discuss our current proposals to identify where industry code change could be required in respect of early competition.

Potential Code Governance Key Impacts

Code/Section	Potential Impact
Grid Code Governance Rules	Panel Members include an Onshore Transmission Licencee representative - will a CATO representative be part of this category or will they require a separate panel seat in a similar manner to Offshore Transmission Owners?
STC Section B: Governance (B3.2)	How will this work for CATOs and how will it interact with other processes such as those in relation to a Construction Application? Will a new STCP be required similar to STCP23-1?
STC Section B: Governance (B6)	At present up to two people are appointed per onshore TO with 1 vote per onshore TO and up to two people for OFTOs are appointed collectively via election with 1 cumulative vote. Alternates are also either appointed for onshore TOs or elected for OFTOs. What should be the arrangements for CATOs?

Industry Code Impacts

In the session we will start to discuss our current proposals to identify where industry code change could be required in respect of early competition.

Potential Code Content Key Impacts

Code/Section	Potential Impact
STC Section D: Planning Co-ordination	Potential changes to clarify CATO obligations e.g. in respect of Construction Securities, Transmission Investment Plans, New Connections, etc.
STC Section J: Interpretations and Definitions	Multiple definitions to be amended or added in respect of CATOs. Key changes required to introduce concept of CATOs and CATO to TO interface points i.e. for Transmission Interface Site Specifications, Transmission Interface Agreements, etc.
STC Section K: Technical, Design and Operational Criteria and Performance Requirements	No changes required to Section K (which relates to any OFTO/TO interfaces) but is a new comparable 'Section L' required in respect of future CATO/TO infrastructure interfaces?
STCPs	Most STCPs are likely to need amendments but new STCPs may also be required e.g. <ul style="list-style-type: none">- A new Early Competition Facilitation Process?- A new Service Capability Guidance Note based on STCP12-1 Appendix C?- A new Transmission System Compliance Process based on STCP19-5?- A new Party Entry Process based on STCP23-1?

Potential CATO STC Obligations

Transmission Owners and Onshore Transmission Owners have obligations in many areas which could be extended to apply to CATOs if a CATO is classified as a TO within STC as follows.

What are your views on the following potential obligations for CATOs in future?

Section C: Transmission Services and Operations

- Service Capability Specifications
- Service Restoration Proposals in respect of Transmission Services
- Outage Proposals, Outage Plans and the Outage Implementation Process
- Testing
- Transmission Interface Agreements
- Investigation of Possible Relevant Interruptions

Section D: Planning Co-ordination

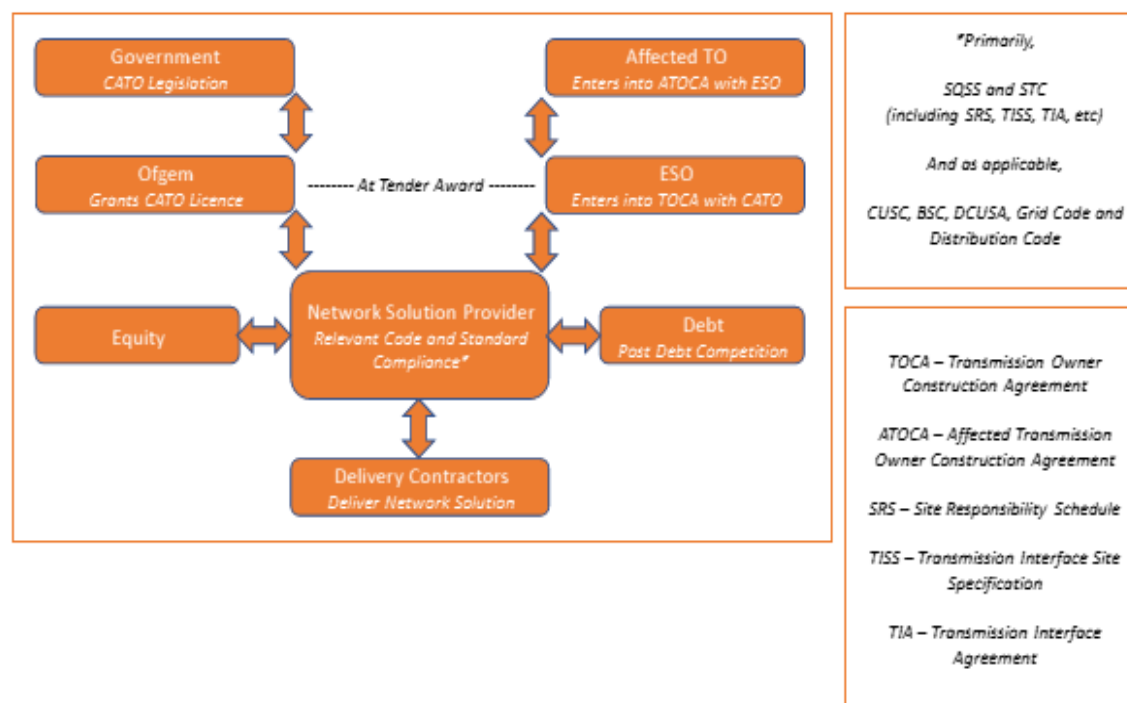
- Transmission Investment Plans (noting there is some optionality in this section)
- Default Planning Boundaries (noting Boundaries of Influence may need to be updated)
- EYTS and NOA
- Annual Wider Cancellation Charge Statement
- TOCAs, ATOCAs and (where required) Joint Project Parties
- Transmission Interface Site Rules and Specifications
- Site Responsibility Schedules



Appendix 1 – Network Solution

Network solutions

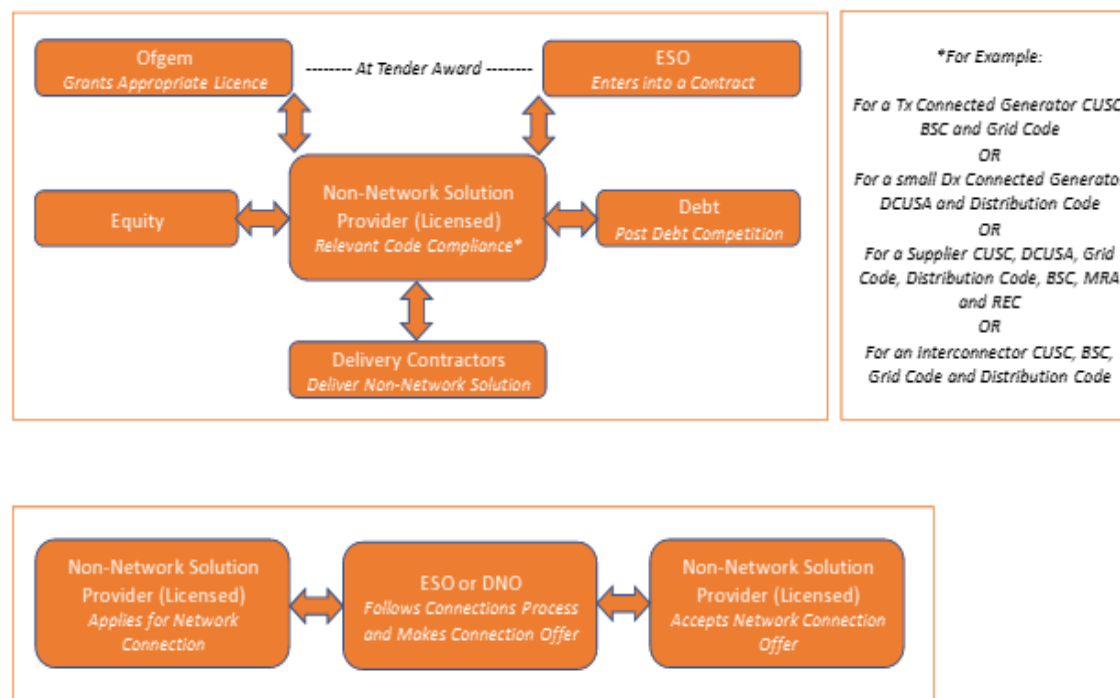
We expect the network solution provider to be granted a CATO licence by Ofgem (once relevant legislation is in place) at point of tender award and they would accede to the STC in parallel. The CATO would also enter into a Transmission Owner Construction Agreement with the ESO and this would also trigger further obligations under the STC, such as in relation to the CATO entering into a Transmission Interface Agreement with the incumbent TO, for example.



Appendix 2 – Licenced Non-Network Solution

Non-network solution provider (licenced)

We expect a non-network solution that does not require a Transmission Licence may instead require another form of licence for a non-network solution e.g. a generation licence. They may therefore still need a licence from Ofgem, but they would not accede to the STC. They would instead need to accede to other relevant codes depending on their licence type, and in respect of the solution service they would enter into a contract with a contract counterparty e.g. the ESO. If they do not already have a right to connect to or use the relevant system, they will need to separately follow the connection process.



Appendix 3 – Unlicensed Non-Network Solution

Non-network solution provider (unlicensed)

A non-network solution that does not require a Transmission Licence, or another form of licence, for a non-network solution will enter into a contract with a contract counterparty e.g. the ESO. If they do not already have a right to connect to or use the relevant system, they will likely also need to separately follow the connection process. This would require them to accede to the relevant connection codes.

