

Hannah Kirk-Wilson
National Grid ESO,
Faraday House,
Warwick Technology Park,
Warwick CV34 6DA

15 February 2021

Dear Hannah,

SSEN Transmission response to National Grid Electricity System Operator's Early Competition Plan ('ECP') Phase 3 consultation.

This response is prepared on behalf of Scottish Hydro Electric Transmission Plc (SSEN Transmission), part of the SSE Group, responsible for the electricity transmission network in the north of Scotland.

We support measures to deliver electricity transmission infrastructure to consumers in the most economic, efficient, sustainable and coordinated manner. We are however concerned that, by virtue of these proposals, the ESO is seeking to promote the introduction of a complex and burdensome competitive process that does not fully consider the significant issues raised by SSEN Transmission and other Transmission Owners (TOs), and consequences on these parties, the network and its users, as well as consumers. It is unclear how the ESO's ECP is evidence based and stakeholder led.

Throughout this response we furnish the ESO with our key concerns, which we have raised previously throughout the consultation process. It is not immediately clear how these issues have been scrutinised, as there are a significant number of outstanding issues that have not been addressed. Specifically, the ESO has not provided evidence of analysis and stakeholder support to address our concerns on how its proposed Early Competition Plan:

- complements and enables Net Zero policy priorities of network companies, Government, and consumers;
- has undertaken analysis on net benefit for consumers, in cost, reliability, sustainability, and security;
- has undertaken analysis and considered contingencies and impact on the network and consumers should third party solutions fail;

- intends to apply the Utilities and Contracts Regulations 2016, to ensure entities operating within the energy sector are held to the same obligations and undertake a fair and transparent processes in the execution of works, the supply of products or the provision of service; and,
- is also directly applicable to the Distribution Network.

We continue to highlight that these issues require further investigation and scrutiny ahead of any decision to implement any form of early competition in the delivery of transmission infrastructure in Great Britain (GB). We strongly consider that our concerns must be addressed and highlighted to Ofgem as part of the ESO's Final Report.

In our Phase 3 response, we have sought to provide constructive input to the proposed model. In doing so, we build on our position in Phase 2, and endeavour to provide practical examples of real-life experiences and projects.

Our response entails of [Appendix A: SSEN Transmission feedback on National Grid Electricity System Operator's Early Competition Plan \('ECP'\) Phase 3 consultation](#) and [Appendix B: Unresolved Issues](#).

Next Steps

We understand that the next step is for the ESO to consider consultation responses before submitting its final plan to Ofgem in April 2021.

Appendix B sets out the unresolved issues which we consider require further and more detailed consideration and examination before any model of early competition is implemented. We would ask the ESO to consider our response to the various ECP consultation documents and present its analysis in response to the wider issues listed above, and others we've highlighted throughout the consultation process. If issues cannot be addressed prior to submission of the report to Ofgem, these must be drawn out and made clear within the ESO's submission.

Furthermore, it is disappointing that the ESO has not included the option of the TO competing as a counterfactual as part of its deliberations on its ECP proposal. As detailed in our Phase 2 Consultation Response, both ourselves and Scottish Power Energy Networks Transmission (SPEN) have continually reiterated our position that the incumbent TO should be treated as the counterfactual position, against which market bids are measured. Only then can we be truly confident that a market-led proposal delivers greater consumer benefit compared to the status quo arrangements under the RIIO framework.

The ESO engaged with us and SPEN on the matter of exploring what the counterfactual position could look like, post-publication of the Phase 3 Consultation. This is regrettable as it has meant we have not had the opportunity to formally respond to this alternative solution and to address the perceived risks that the ESO sees with the counterfactual approach.

We welcome further consultation by Ofgem on the roles and responsibilities of the various parties involved in the ECP. As part of this consultation exercise, we expect Ofgem to formally consult on the counterfactual solution as part of any enduring competitive framework. Part of this work must also include the development of transparent and robust cost benefit analysis (CBA) processes which, accurately and fairly, measure the consumer value and system benefits of long-term regulated network assets, against potentially shorter-term market solutions. Such a process will not only benefit any early competition processes but also the existing ESO pathfinder process. It is only then, when such a robust CBA model exists, can we be truly confident that a market-led proposal delivers greater consumer benefit to the status quo arrangements under the RIIO framework.

We also note that the ESO has not set out in detail why a bid Transmission Revenue Stream (TRS) would be the most appropriate model. This approach has significant flaws that can lead to bias assessments of the true costs to consumers over a consistent asset life period. We believe this needs to be fully explored against alternative models. We would welcome engaging further on this point.

Lastly, we note that the Energy White Paper stated that GB's approach to system governance needs to evolve, including the roles of Ofgem, and other network bodies, as we decarbonise. Ofgem has also recently published its Review of GB energy system¹ operation report. We highlight this potential as a risk to the ESO and ask it to consider the fast-changing roles of players in the energy sector, including its own role, when making its early competition recommendation.

We look forward to continuing to engage with the ESO and Ofgem on the wider issues of developing a model for early competition, and the ESO's proposed ECP.

Cissie Liu

Senior Regulation Analyst

SSEN Transmission

¹ <https://www.ofgem.gov.uk/publications-and-updates/review-gb-energy-system-operation>

Appendix A - SSEN Transmission's response to National Grid Electricity System Operator's ('ESO') Early Competition Plan ('ECP') Phase 3 consultation.

Our response to National Grid Electricity System Operator's Early Competition Plan ('ECP') Phase 3 consultation consists of the following sections:

1. Executive Summary
2. Responses to Chapter 2 – Roles and Responsibilities
3. Responses to Chapter 3 – Identifying Projects
4. Responses to Chapter 4 – Commercial Model
5. Responses to Chapter 5 – End to End Model
6. Responses to Chapter 6 – Implementation
7. Appendix B – Unresolved Issues

Executive Summary

Key Issues

Competition as a potential obstacle to Net Zero

We acknowledge that the ESO's intent for its ECP is to support the transition to a carbon-free network and achieve Net Zero carbon operation of the electricity system. However, it is not clear how its proposed ECP will achieve this intent by 2025². The ESO must provide further assurance and evidence that its proposed Early Competition Plan complements and enables this timeline, and that Net Zero and customer connections are not delayed, at the expense of the consumer and wider stakeholders.

Our analysis of the competitive process suggests it may extend the end to end timescale for delivery of transmission infrastructure by at least three years compared with the RIIO counterfactual.

We recognise that the ESO has been asked to develop an ECP in response to a request from Ofgem. This request was based upon policy decisions set out in the Integrated Transmission

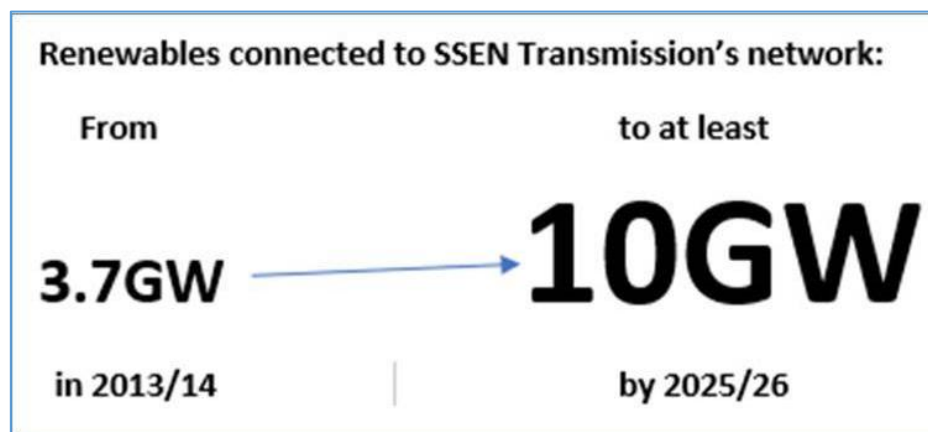
² <https://www.nationalgrideso.com/future-energy/projects/early-competition-plan>

Planning and Regulation (ITPR) back in 2015. The network, and consumer and Government priorities have changed significantly since ITPR reached a conclusion.

From a policy perspective, since the early discussions of onshore competition, the Government introduced new legally binding Net Zero targets in 2019. More recently, the UK Government has further committed to accelerating our path to Net Zero through the Ten Point Plan for Green Industrial Revolution³, and the Energy White Paper⁴. The Scottish Government has an accelerated target for Net Zero by 2045. Internationally, under the 2015 Paris Climate Agreement, the UN and its signatories are being held accountable, and called out for not meeting their targets⁵. The government have also set challenging target to deliver 40GW of offshore wind by 2030, this includes at least 10GW from the ScotWind leasing round.

It is imperative that the ESO and Ofgem ensure the proposed ECP complements wider policy aims and does not impede the delivery and ambition to reach Net Zero. TOs can play a significant role in this collective journey to decarbonisation. We are well placed to help meet the pace of construction and connection of the critical renewable energy sources in an economic and efficient manner. This is evidenced by our on time and on budget delivery during RIIO-T1 as renewable energy grew at pace in Scotland. Our decarbonisation plan for RIIO-T2 was approved as part of Ofgem's Final Determinations and we received an award under the Business Plan Incentive for our sustainability commitments and efficient overhead costs.

Our network has grown from 3.7GW of renewables connected at the start of RIIO-T1 to at least 10GW by the end of RIIO-T2 (under our Certain View Business Plan). Our progress must not be impeded as we are making step changes to ensure our network facilitates Net Zero



³ <https://www.gov.uk/government/publications/the-ten-point-plan-for-a-green-industrial-revolution>

⁴ <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>

⁵ <https://www.nationalgeographic.com/science/2019/11/nations-miss-paris-targets-climate-driven-weather-events-cost-billions/>

Facilitating Net-Zero comes at a crucial time for society and the economy to recover from the COVID-19 pandemic a term being coined as ‘Green Economic Recovery’ in the Government’s Ten-Point Plan. Our RIIO-T2 Certain View requires high quality jobs to build and maintain the north of Scotland transmission network. This investment during the RIIO-T2 period represents a minimum 250 new jobs employed directly by SSEN Transmission and an estimated 1,600 jobs in the supply chain.

This is illustrated by SSEN Transmission advertising and offering over 100 new job vacancies this year, including for trainees, apprentices, graduates and STEM returners. We have also engaged with the supply chain to competitively tender, and develop the new technologies, for the Certain View investment and beyond. This investment will support jobs and local economies across the north of Scotland, often in remote and rural locations, helping support the Government’s commitment to ‘level up’ across the UK and ensure a ‘just transition’ to Net Zero.

It is critical for the ESO and Ofgem to firstly identify the risks and impediments that current network arrangements pose, before they can suggest that early competition is the right or only solution to an affordable energy transition.

The RIIO price controls have been and will continue to be effective in driving down costs, increasing reliability and innovation, and incentivising service areas that stakeholders value most. For example, our sustainability ambitions, an area of which we are arguably industry leaders⁶. The price control holds network companies account financially and reputationally to ensure they deliver upon their respective commitments to customers and stakeholders, at a high standard. This has resulted in RIIO-T2 being the most stretching price control since privatisation, with the lowest cost of capital to date, and an ambitious ongoing efficiency challenge.

As part of our Business Plan, we set out a clear and credible path towards achieving Net Zero. SSEN Transmission has undertaken modelling and considered practically, how to deliver our Net Zero targets in today’s uncertain and challenging environment. Barriers that may cause delay and other disbenefits to our network and consumers to our race to Net Zero must be considered fully.

Determining net benefit for consumers

We continue to reiterate comprehensive impact assessment and cost benefit analysis of the proposed competition model for onshore transmission is needed and has not yet been undertaken. Whilst we agree with economic principles of competition, updated significant and targeted analysis needs to be undertaken to identify the key areas where competition delivers most value for consumers. We do not agree with the blanket assumption that competition

⁶ As recognised by Ofgem’s CVP award in RIIO-T2 and strong track record of leadership in RIIO-T1’s Environmental Discretionary Reward

delivers benefit in any scenario. This assumption was based upon previous narrowly focused assessment, undertaken long before Net Zero considerations or targets.

We understand that the ESO interprets that this analysis is outside the scope of work set out by Ofgem in developing the ECP. However, principled policy making without underlying robust analysis makes it challenging to develop thorough and complete policy options and assess the best regime that optimises benefits for consumers.

The proposed ECP should not solely focus on the aim of making processes comparable or ensuring an even playing field. It must not hinder delivering critical national infrastructure in a sustainable way. It is important that the needs and interests of consumers are placed firmly at the heart of early competition considerations, to ensure any policy decisions yield the best ultimate outcome for consumers.

We agree that affordability is key. TOs already undertake competitive tenders on most projects to ensure low cost for consumers. Furthermore, in developing our own procurement strategy for the RIIO-T2 period, we undertook stakeholder engagement across the supply chain and with potential providers of network and non-network solutions. Given this, we have designed a multi-element approach that applies best practice over a whole programme of work to ensure the most competitive price for consumers.

The cost efficiencies gained by adopting this competitive approach were recognised and rewarded by Ofgem through its Business Plan Incentive (BPI) and sets the bar for the us and the other TOs in terms of reducing costs throughout the next price control and for projects subject to uncertainty mechanisms in T2. Our current approach to competitive procurement frameworks is already delivering consumer benefits while avoiding potential drawbacks.

TOs have a significant and wide range of expertise and resource to efficiently manage the network. We can take an efficient and coordinated approach to system development to ensure the network meets the needs of its consumers today, but also in the future. We are able to find significant cost efficiencies for consumers using our economies of scale, through the stretching T2 price control and as part of Ofgem's ongoing efficiency challenge.

TOs are well placed, and well trusted network bodies that are highly accountable to their stakeholders to not only ensure cost efficiency, but also that our business practices are of high quality and standard through corporate social commitments⁷ and accreditations. We have long standing relationships with local communities and stakeholders in the North of Scotland and wider GB energy industry which have been built over decades to effectively and efficiently deliver projects whilst ensuring they are acceptable to local communities.

⁷ https://www.sse.com/media/1kynkfr4/responsible-procurement-charter_0818.pdf

Impact on the network and regulatory responsibilities

There should be no dilution of the current obligations, regulations and standards expected by new entrants. This includes, but is not limited to, safety, security of supply, competitive procurement, customer service, sustainability, and financial risk protections.

The ESO has promoted the concept of a “level playing field” for all bidders. However, if the regulatory and legal frameworks which TOs are subject to are not fully considered then there is a risk of TOs being at a disadvantage when competing against unregulated commercial third parties.

In attempting to reconcile the positions, there is an obvious risk of eroding the robust and well established regulatory and legislative frameworks currently in place for TOs. We would expect third party entrants to be held to the same standards and regulations as TOs and would welcome confirmation from the ESO demonstrating that third party entrants would be willing to accept such additional obligations and liabilities without impacting costs levied upon consumers.

Any assessment of early competition proposals must include detailed analysis of the potential wider impact and cost of failure. Comprehensive analysis on the practicalities and impact of piecemeal development and management of the network, to mitigate and address failures, is required. We continue to be concerned with the absence of such fundamental evaluation by the ESO in addressing these very real and critical issues, should a third-party solution fail, or a tender exercise be unsuccessful.

The energy landscape has been changing at an unprecedented pace, as more and more generation is connecting to the network. Electricity is becoming even more central to GB consumers’ daily lives, as our dependence increases with electrification of transport and heat. Whilst the transmission network is 99.99% reliable, disruptions to supply at this level can have significant impact on those connected to the network.

As TOs, we are responsible under the Electricity Act 1989, transmission licence and a variety of industry codes and regulations to ensure a safe and reliable network. The timely, cost-effective and co-ordinated replacement of ageing assets is integral to meeting such requirements. We have real-time duties for the stewardship of the infrastructure that we own, operate and maintain, to ensure reliable transmission of electricity to homes and businesses and for which we are rewarded or penalised. Keeping the lights on is essential for a productive and thriving economy in GB. As such, any analysis of the benefits of competition generally or specifically (where related to projects) must also ensure there is no adverse impact on the operability and performance of the wider network.

Application of Utilities Contracts (Scotland) Regulations 2016

We continue to request further clarity as to how the proposed ECP Model will work in practice with the Utilities Contracts (Scotland) Regulations (UCR) 2016 and confirmation that the process will be subject to the UCR.

The ESO mentions that early competition would need to be *run in a manner compliant with the UCR* but provides no further detail, so it is unclear what this statement means exactly and whether the ESO intends for the UCR to apply.

It is imperative that all entities (including the Procurement Body) operating in the energy sector are held to the same obligations and undertake a fair and transparent process in the procurement of works, the supply of products or the provision of services. Furthermore, in the interest of consumers and the network, any such third-party bidders should be held to the same high standard as TOs. The ESO has alluded to the possible introduction of an alternative regime, however this is likely to require legislative and regulatory changes which would be costly to the consumer and time consuming. It is unclear why the current model is not fit for purpose.

Our response to the ESO's Phase 3 Consultation question assumes that the UCR 2016 applies to its proposed model.

Early Competition in Distribution

For the avoidance of doubt, Scottish and Southern Electric Power Distribution (SSEN Distribution) have provided a separate response to this consultation, specifically on the questions outlined in Chapter 7 (Early Competition in Distribution - Potential ESO role in ED2 early competition).

Currently, we do not believe there is a role for the ESO in supporting early competition in electricity distribution. We think that Distribution Network Operators (DNO) are better placed through their experience and capabilities to take on any roles.

A full and separate consultation should be undertaken for the distribution sector, including DNO involvement, at an appropriate time when Ofgem seeks to further develop early competition models for electricity distribution. Topics not covered in Chapter 7, but covered elsewhere within the consultation, should not be regarded as having been consulted on in the context of the distribution sector.

We ask the ESO, when reporting its consultation findings publicly and to Ofgem, to acknowledge that coverage of the distribution sector has been narrow and principles focused.

Chapter Specific Issues

We set out our key concerns relating to chapter specific issues in Table 1 below.

Table 1.

Chapter	RAG Rating	Key Concerns
Chapter 2 – Roles and Responsibilities		<ul style="list-style-type: none"> • We do not agree with the activities the ESO is proposing the Approver should undertake. Additional approval is not required, given that key principles, checks and balances are embedded within the process and in existing regulations (e.g. UCR 2016). • Given the newly proposed "other activities", we do not think Ofgem is best placed to undertake these activities. We invite further clarity on how recent publications such as Ofgem's Review of GB energy system operation will impact the ESO's proposal. • We do not feel strongly as to who undertakes the Procurement Body role under this proposed model. We raise practical issues for whoever will undertake the Procurement Body role. • We reiterate our call for the Contract Counterparty retains the same authority as the Licence Counterparty. We are particularly concerned that there has been no detailing of enforcement actions if a third-party non-network solution is not delivered, is partially delivered or fails. • We do not strongly oppose the ESO's proposal for the Payment Counterparty but highlight the potential changes due to wider industry development and changes to network charging. • We continue to strongly disagree with the ESO's proposed approach to conflict mitigation. It inhibits whole system considerations and efficiencies, there are implementation issues that need to be addressed, and the impacts on TOs' regulatory obligations needs further consideration.
Chapter 3 – Identifying Projects		<ul style="list-style-type: none"> • We do not agree with the removal of the project value threshold. This detracts from key responsibilities of asset owners, which is to deliver solutions quickly and efficiently. It also contradicts Ofgem's policy precedent of reducing regulatory burden. • We request a clearer definition of these network drivers: connections, compliance, asset replacement and voltage/stability, is required; • The ESO must provide analysis on how it thinks third parties can deliver these drivers more efficiently than TOs, given our ability to find efficiencies across network drivers; • There is no obvious useful indicator of certainty for single party connections; and,

		<ul style="list-style-type: none"> • There is lack detail relating to interface and role for TOs to play within a contract of a third-party bidder.
Chapter 4 – Commercial Model		<ul style="list-style-type: none"> • There is a significant lack of detail or analysis to justify the use of TRS as the most appropriate commercial model. • Evaluating different models is a pre-requisite for any changes to the commercial models for delivering transmission infrastructure. The ability to bias decisions by adopting inconsistent approaches that are not on a level playing field over the same period is a significant and detrimental flaw in any TRS model. • Further work is required to illustrate this is the best commercial model and demonstrably a superior model to a bid cost of capital and prescriptive investment period.
Chapter 5 – End to End Model		<ul style="list-style-type: none"> • We do not have enough information on how often these impact studies will be undertaken, and what is required of the bidders, TOs, and the ESO and the transactional cost and benefit. We request the ESO set out its expectations for time, cost, and resource required. • Whilst we do not think the ESO’s proposed approach in sharing network information is unworkable, we highlight risks of inability to share non-system information • We consider excluding sustainability criteria from PQQ is contrary to GB's drive to Net Zero • We consider timelines for ITT Stage 1 are unachievable and are unconvinced this process will add value. • The ESO has not set out the timeline and new information that will be provided by the Procurement Body between ITT Stage 1 and 2 • We are extremely concerned with the proposal of preliminary works being undertaken after preferred bidder is selected. Findings of preliminary works could significantly impact the scope, value, and programme timeline of a project works and may breach UCR. • We are concerned with the lack of clarification and definition of the concept of an acceptable reason and an unacceptable reason for late delivery.
Chapter 6 – Implementation		<ul style="list-style-type: none"> • We strongly support that early competition should not take place until any amendments required to applicable legislation, codes and licences have been subject to a thorough and detailed review (in consultation with TOs) • We disagree that relevant parties for each of the relevant roles should start building capacity and capability as part of "potentially advanceable" implementation activities.

Chapter 2 – Roles and Responsibilities

1. Do you agree with the activities of the Approver we are proposing and why?

SSEN Transmission does not agree with the activities the ESO is proposing the Approver should undertake. We do not think additional approval is required, given that key principles, checks and balances are embedded within the process and in existing regulations (e.g. UCR 2016). In addition, we ask the ESO to clarify what it intends to achieve through the Approver role. We do not agree that Ofgem is best suited to undertake the proposed “additional activities”. We will address each of these points in turn below.

Additional Staged Gate Approvals:

It is unclear from the information provided if the ESO’s proposed process would be compliant with the UCR 2016 and any other applicable legislation and regulations. The ESO provides that it *would* need to run in a manner compliant with the UCR which suggests that this requires further consideration by the ESO. The regulations require a utility (as the procuring body) to ensure that bidders are treated equally and without discrimination, and the procuring body shall act in a transparent and proportionate manner. These regulations and intentions should be sufficient to provide bidders and stakeholders with confidence in a robust and fair process. Therefore, we ask for the ESO to clarify what additional value it seeks to achieve in stage gate approvals.

Furthermore, the involvement of numerous separate/independent parties in the preparation and procurement of one contract is unusual and does feel to be over complicating matters. There is also a risk that by stretching out the process in this way, all parties involved are being exposed to additional risk in terms of delays, other parties failing to undertake their role and potential reputational damage associated with such issues.

Whilst we understand the need to ensure transparency, quality assurance, and value for money for consumers, we do not think these additional stage gates and “other activities” are necessary and provide any additional value. Checks and balances should be built into the process, rather than add additional layers of assurance.

For example, relating to Stage Gate 3, if the Procurement Body has approved tender launch and tender documentation, it is not clear what value is added through another body (i.e. Approver) then approving any decision. As procurement exercises are competitive, under the current UCR 2016, there is no need for an additional third-party approval of the preferred bidder. It is unclear on what grounds the Approver would have to reject a legitimate result through a competitive process and what liability the Procurement Body could face as a result of such a requirement. We welcome any evidence the ESO can provide which demonstrates that the current regulations under UCR 2016 do not provide adequate scrutiny on bid processes, nor provide competitive outcomes, which has then required these additional stage gate approvals. The UCR 2016 mandates checks and

balances throughout the procurement process and ex-post challenge is available to all parties. Any part of the procurement process is up for scrutiny at any point.

In addition, Stage Gate 4 is not required by virtue of the competitive process under the UCRs rather than as a result of Network Options Assessment (NOA) of the early competition criteria. Through the competitive process, Ofgem should not have the ability to challenge or require any bidder to adjust its bid. Stage Gate 4 suggests an attempt to replicate the Project Assessment stage of the current Strategic Wider Works process, which is contrary to the spirit of competition. It has not been documented what would happen if Ofgem does not agree with the Procurement Body's decision on the preferred bidder.

Additional stage gate approvals and "other activities", as suggested in the consultation, may unnecessarily prolong the process and delay the delivery of timely interventions, increasing costs as bidders are required to hold their pricing for longer, and may open the Procurement Body to legal challenge should there be any inconsistency. This additional level of scrutiny is unjustified if following a legally required competitive procurement process i.e. the UCRs.

Additional checks would be overly burdensome for the Approver, as well as any other parties that must help provide information for these stage gate processes. There may also be overlapping processes, if multiple tenders were being undertaken; this could further delay timelines.

If the ESO considers additional oversight is required during the competition process, an independent auditor for the entire process could be introduced instead. An independent auditor was a requirement of Ofgem in relation to the SSEN Distribution Shetland New Energy Solution (SNES) project, in addition to its own oversight. We would suggest this is an either/or proposal rather than both. The independent auditor can then work within the existing UCR timeframe providing oversight but not holding up the process. An independent auditor would work closely with the procuring body in addition to the various consultant bodies (legal, economic, engineering etc) throughout the process to ensure it was undertaken in line with UCR 2016 and follows the intentions of competition.

Other Activities

It should be noted that at a practical level, the "other activities" proposed in Chapter 2, page 10 of the ESO's consultation, would require input from other parties (such as TOs). The ESO has not demonstrated how these proposed activities and the stage gate process generally may affect parties, in terms of time, level of resources and liabilities, or where the associated costs would lie and be considered in the assessment of the cost of competition under the ECP.

TOs are not currently required to undertake the solution analysis or provide frequent analysis to update network scenarios, alongside the rest of its regulatory obligations. Nor have we costed any additional requirement for any such activity into the Business Plan for

the T2 period. The collective effort and considerable time and cost to undertake these “other activities” does not, on the face of the scant detail provided, in our view justify a change to the status quo. To assess this further, we require the ESO to clearly set out what specific issue(s) it is seeking to address here and explain in what way these proposals would be more beneficial to consumers than the way things currently operate. There has been a lack of evidence / data produced to demonstrate where any issues lie.

To date, there has been a lack of data and strong and compelling evidence provided by the ESO identifying the issues, and the approach to date has felt very “solutions focused” without identifying the issue(s) the proposed solutions are intending to address, making it difficult to assess their overall effectiveness. This has been an ongoing concern voiced throughout the consultation process.

We discuss our position on each of the proposed activities in turn below:

Proposed Activity 1: Check at specified milestones whether a project continues to be in the best interest of consumers

- We do not think this check is necessary. This is not a practice that is currently undertaken for network interventions. We recognise the intended value in this proposal to ensure value for consumers, however practically, this would require re-occurring analysis to be undertaken to update network status. The inherent NOA process of revaluating ongoing projects annually already provides this assurance. It is also unclear practically how the Approver (i.e. Ofgem) has the information and expertise to ensure any conclusion is correct.

Proposed Activity 2: Checks on whether the implementation of the tender exercise is fair and transparent - there may be an option of a third-party providing a type of independent quality assurance activity

- We support this activity for third party bidders. Currently, TOs are subject to stringent industry frameworks and standards in respect of licensed activities, and to ensure procurement processes are robust and competitive (i.e. UCR 2016, and other internal processes). This level of scrutiny and challenge should be applied for all bidders. Transparency, equitable and fairness requirements in the process itself must be required of the procurement body

Proposed Activity 3: Checks to make sure that consumers are protected from any significant changes – between stage 3 and 5

- Similar to the proposed Activity 1, we recognise the intended value. However, due to the vague nature of the ESO’s proposed model, it is not possible to consider whether this intent is achievable. In the ESO’s current proposed model, the winning bid is effectively chosen ahead of detailed design, environmental

and site surveys, consenting activities etc. Each of these elements could in themselves entirely change the requirement/solution. The ESO has not provided any detail as to how it would manage such wholesale change within the current regulatory and legal frameworks. As such, we do not think these checks by the Approver will be effective in protecting consumers. We also welcome further definition of what the ESO means by “significant change”.

Ofgem as the Approver

We continue to think that the role of Approver, Licence Provider and Licence Counterparty should be undertaken by Ofgem. However, we do not think the new proposed activities in this Phase 3 Consultation best sit with Ofgem. In its Phase 3 Consultation, the ESO has now defined the roles and responsibilities of the Approver in more detail, and therefore our position has moved away from that in Phase 2.

It is unclear whether Ofgem has the knowledge, experience, resource and capability to make informed decisions on components of procurement, appropriateness of solutions, their economic evaluation, allocation of risk and liabilities, as well as wider system impact. Ofgem is an economic regulator, its expertise does not lie in making decisions on what specific solutions are most appropriate for consumers, nor what tender documentation is required and what it should include. We welcome any evidence the ESO has to suggest that Ofgem has this expertise, and that these approval decisions are within its remit as an economic regulator. We recognise that Ofgem can outsource these responsibilities, however there is a time and cost aspect that needs to be considered.

We also invite further clarity on how Ofgem’s recent publication of its Review of GB energy system operation will impact the ESO’s proposal of Ofgem as the Approver, as in Ofgem’s report, it proposes further responsibility on the ESO in decision making.

We recognise that Ofgem has experience undertaking the tender process for Offshore Transmission Owners (OFTOs). However, solutions for onshore competition or any potential revisions for the enduring offshore regime are likely to be significantly different and inherently more complex. For the most part, an OFTO solution is by comparison relatively simple, whereas onshore will potentially invite a wide range of different and complex solutions, with varying impacts and wide-ranging project considerations. The process and documentation for these tenders may be starkly different, and Ofgem’s past experience may not be applicable or readily transferrable to onshore competition.

We would also welcome further clarity on the challenge route should Ofgem, as the proposed Approver, not approve of certain stage gates. It is unclear what liability cover this process will offer the Procurement Body and impacted TOs, who would still have regulatory obligations address the system need and could face penalties as a result of an early competition failure.

Delay in the stage gate approval process will be contrary to what the ESO intends for this activity to be in the “best interest of consumers to make sure the project continues to represent consumer value”. The delay in stage gate approval may also indirectly impact the development of customer connections through delays to wider system reinforcements and have significant impacts on constraint costs that are ultimately borne by the consumer. The ESO must carefully consider these impacts in any trade-offs. These concerns also apply equally to the assessment of impact upon the role of the National Electricity Transmission System (NETS) in the achievement of the Net Zero targets, which require the connection of a significant amount of renewable generation with the associated timely investment in transmission network reinforcement.

Lastly, we note that the Energy White Paper stated that GB’s approach to system governance needs to evolve, including the roles of Ofgem, and other network bodies, as we decarbonise. Ofgem has also recently published its Review of GB energy system⁸ operation report. We highlight this potential as a risk to the ESO and ask it to consider the fast-changing roles of players in the energy sector, including its own role, when making its Early Competition Plan recommendation. This should include where applicable legislative changes to fundamentally changes roles and responsibilities.

2. What do you think the checks, that make up the other activities, should look like? Should they be a formalised process?

Whilst we do not agree with the stage gate checks, or “other activities”, if they were to be implemented, they should not be formalised. As demonstrated in our response to Question 1 above, we agree with the theoretical principles the ESO is proposing, however practically, a formalised process would require significant information gathering from other parties and may prolong the proposed the competitive process unnecessarily. If the “other activities” are introduced, they should be no more than a check box exercise.

The existing checks and balances in place within the UCR 2016, that the Procurement Body must follow to make a recommendation to the Approver, provide assurance. These regulations ensure fair and transparent processes in the execution of works, the supply of products or the provision of service. Therefore, these checks and “other activities”, for the most part are not necessary, and ultimately will add very marginal value, if any.

3. Who do you think is the most appropriate party or parties to own the Procurement Body role?

We understand that the ESO does not propose that the TO undertakes the Procurement Body role in this proposed ECP. However, considering the latest approach presented by the ESO, we maintain our position that TOs are naturally best placed to do so. We ask that the

⁸ <https://www.ofgem.gov.uk/publications-and-updates/review-gb-energy-system-operation>

ESO and Ofgem consider a different model that puts TOs at the heart of this role (as was done in the Thames Tideway Tunnel project), to provide best value for customers.

As such, we do not feel strongly as to who the ESO should recommend as the Procurement Body role under this proposed model, and we consider that all proposed parties (e.g. third parties, Ofgem, or the ESO) will require consultancy support, which will require additional thought as to delay impact and costs (as these will ultimately be passed onto the consumer). We do, however, think it is essential that the responsibilities of the Procurement Body are undertaken by a single party to ensure end to end delivery and continuity for efficient delivery. We reiterate that it is our understanding that the Procurement Body would be bound by the regulations set out in the UCR 2016, as they are currently defined.

Whilst it may be possible for third parties to undertake the role of Procurement Body, we consider there are significant barriers and inefficiencies around a third party's ability to gather and set out the information needed for a tender, when compared a TO currently. A third party undertaking this role will inherently increase risk of potential error and delays, as it introduces increased interfaces that require additional communication, sharing of information, and data processing etc. It will also require significant effort to get third parties up to speed with the network area, and specifications of the network, assets, wayleaves, land owners, etc.

We continue to urge the ESO to provide an assessment of the additional costs it or other parties will incur in running tenders in accordance with the proposed process. These costs must be factored in to its current assessment, and also reported transparently (possibly annually) through new licence conditions on the ESO. This should include any assessment of whether early competition is delivering the perceived, but as yet unevicenced, benefits for consumers against the existing TO processes. We note the perceived £800m saving in relation to OFTOs is cited, but again these are simple 'point to point' connections with bidders seeking to take over an already constructed asset – the ESO's ECP proposals contain a significant number of different, and arguably increased risks for consumers and therefore any impact assessment must take these into account.

Information gathering required to set out tender information and documents include having to physically attend network infrastructure and other locations. Therefore, access authorisations and interface agreements must be in place to set out risks and liabilities, to protect asset owners and consumers from any potential damage that may arise from site visits. Whilst these agreements may appear to be a checkbox exercise, and an easy barrier to overcome, they may also take significant amounts of time to negotiate and will have an impact on the proposed Early Competition Plan timeline. For example, SSEN Transmission recently established a transmission interface agreement with an OFTO (in relation to Beatrice Wind Farm). There are standard template provisions set out within the System Operator Transmission Owner Code (STC), however these were adapted and tailored to suit the specific requirements for the Beatrice Transmission Interface Agreement (TIA). To tailor this process and negotiate individual TIA provisions for different parts of the network

requires significant resource and effort from various expert teams, such as System Planning, Legal, Operations and Commercial Policy. While these are licenced activities, they are not yet commonplace. In addition, the TOs would need to resource practical requirements in terms of escorted access and site authorisation processes. These would be an additional cost which would need to be quantified by the TOs with appropriate cost recovery mechanisms agreed with Ofgem.

As noted above, we consider that TOs are naturally best placed to undertake the role of Procurement Body, as we have invaluable experience of our network and understand how it interacts with operational regimes. TOs have well established relationships with stakeholders, that have been built and maintained over decades. This stakeholder and community support are essential in progressing projects without having to rely on 'last resort' legal proceedings. This practical knowledge allows TOs to efficiently gather information for tender documents. The above barriers would not be applicable, should TOs be the Procurement Body. We understand that this suggestion may not fit within the ESO's proposed model, however it should be considered in the future. Our suggestion also best reflects the asset owner's role in the Thames Tideway Tunnel case study.

We continue to raise with the ESO that our stakeholders frequently comment on the complexity of the energy sector. If the proposed ECP progresses, and new roles are introduced, significant effort should be given to supporting stakeholders in understanding this new structure and the roles of all the parties involved. In our view, stakeholders (not least the local communities impacted) should continue to be at the heart of all network planning and development activities.

4. Taking into consideration the role of the Approver, do you think an Independent Assurance activity is needed?

We do not think an independent quality assurance process is necessary for network companies, as we undertake self-audits throughout the process, however have no objection to this proposal where there is a clear understanding of the potential impacts on costs and timescales as outlined previously. We strongly support that the same standards of audit and quality assurance are applied to a third-party Procurement Body.

TOs are bound by their licence conditions to undertake efficient development and management of the network. Furthermore, network companies are subject to procurement standards and regulations, such as those included in UCR 2016, and other internal processes. These are to ensure procurement processes are fair and transparent. It is essential that any procuring entity must also adhere to the same industry standards and conditions for their procurement processes.

Notwithstanding the above, we think a third-party independent assurance is less disruptive and has potentially fewer consequences than the milestone check points and "other activities" proposed for role of the Approver.

5. Do you agree with our position on the Contract Counterparty role and why?

We do not oppose this proposal but highlight additional responsibility and risk on the ESO.

We reiterate our concerns as to the impact of failure of non-network and network solutions on consumers, as well as the TO and the existing transmission network, and suggest that it is essential that the ESO provide its proposed plan to mitigate these concerns as part of its submission to Ofgem.

As contracts only apply to non-network solutions, we request the ESO to provide further definition on what “non-network solutions” consists of. It is unclear if non-network solutions also include non-network assets, for example synchronous condensers, and constraint management, or storage.

It is essential that the Contract Counterparty retains the same authority as the Licence Counterparty, to ensure that any contract obligations and penalties for network, and non-network solutions are equal. The Contract Counterparty must ensure there is a level playing field and hold third party bidders to the same standards as that of TOs, to protect the interests of all parties, including consumers, and the overall reliability and stability of the transmission network.

We invite the ESO to set out what specific powers it considers would be required to ensure third party bidders delivering non-network solutions are held to account against contract breaches, non-delivery, or wider system impacts. This is essential and in the interest of network users and consumers, as any solution (network or non-network) has the potential to disrupt the reliable and stable operation of the transmission network. An isolated incident can have unforeseen and far-reaching consequences for the entire transmission system.

For network solutions, Ofgem is the licence counterparty for TOs. Ofgem’s decisions and publications come under intense scrutiny by government, network participants, and the public. Ofgem has the ability to penalise TOs and, in extreme cases, the power to revoke licences. We would highlight that the importance of this equivalent role should not be taken lightly by the ESO, as it will be held accountable for the success and failures of non-network solutions.

We continue to ask for clarity on what enforcement actions will be undertaken if a third-party non-network solution is not delivered, is partially delivered or fails. Contractual arrangements will need complex and careful drafting to ensure that risks and liabilities are appropriately apportioned and understood by participants ahead of any competitive process. We continue to call for the ESO to provide comfort and be able to evidence to TOs, the NETS users and consumers that they will be able to operate the network under the existing compliance regimes, unaffected by non-network solutions. In the event that this assurance cannot be provided, the ESO must ensure robust contractual mechanisms for

enforcement of industry requirements and for recovery of foreseeable consequential TO costs, ultimately borne by consumers.

We reiterate that if third party non network solutions fail, TOs may be disproportionately impacted. Experience shows that when faults occur that are out with the responsibility of the TO, TOs nevertheless bear the brunt of negative media and consumer frustration.

Transmission companies may suffer significant reputational damage as they are highly visible companies, servicing large regions of the population. This could have consequential impacts on the share price, in-turn impacting TOs' ability to front-end finance regulated activity and investment at the preferential rates of which consumers and system users currently benefit. Whilst we understand investigations can be undertaken, often faults cannot be traced to one specific interface or issue without considerable work. Investigations may be lengthy and require significant analysis, data gathering of records etc. We would like to highlight that TOs may bear a higher risk of reputational damage and resultant consequences than the ESO has accounted for in this model.

Example – NGET Power Cut 9 August 2019

This example demonstrates the lengthy time it takes to investigate an incident, with NGET receiving negative media attention, despite not being at fault.

An unplanned outage occurred on National Grid's network on the 9th of August 2019. Arguably, National Grid (TO) suffered significant reputational damages, despite not being at fault⁹.

Demonstrating this is a BBC article¹⁰. The article opens with "*The National Grid outage affected homes, businesses and transport, and while power was restored quite quickly, disruption continued into the next day. Regulator Ofgem has opened an investigation into National Grid*". The article does not mention the lesser known companies who were at fault, whilst NGET TO bore the brunt of the wrath of negative media and reactions from consumers.

Furthermore, Ofgem published its report four months after the incident, providing no immediate relief of negative press.

⁹ Ofgem's investigation, amongst other things found that the coincidental loss of two large generators (owned by others i.e. Orsted and RWE) in conjunction with DNO load shedding and ROCOF trips exacerbating the issue that caused the power cut. Ofgem's full report is found here: <https://www.ofgem.gov.uk/publications-and-updates/investigation-9-august-2019-power-outage>

¹⁰ <https://www.bbc.co.uk/news/business-49402296>

We also highlight that TOs have no rights within their current licences to recover any costs or remuneration, should a third-party solution fail. Nor would there be any such mechanism where the TO is not a party to the contractual arrangement. Any fault that may occur due to a non-network solution failure, or other reason outside of the control of the TO may have significant impacts on the network.

Example – 132kV Fault on SSEN Transmission

This example demonstrates the complexity and joined up approach required to address a fault on the network, and how TOs are best placed to do this for faults within and out with our control.

In 2018, the SSEN Transmission network suffered a fault on the 132kV Fort Augustus to Quoich circuit, due to a landslide¹¹. The extent of the damage was severe. The landslide destroyed a pylon, cutting the electricity supply to 23,000 customers in Skye and the Western Isles, as well as destroying telephone cables.

This example does not exemplify failure of a non-network solution; however, it demonstrates a failure outside of the control of the incumbent TO and our ability to mobilise our resources quickly to in the interests of consumers to resolve issues

SSEN Transmission was able to execute a complex restoration plan involving a combination of on-island embedded generation stations, rerouting of the network and temporary mobile generation sets. This included sending power from the Western Isles via a subsea cable to help restore customers on the north of Skye.

At the same time, because TOs have a wider portfolio view and ability to coordinate across their networks, in terms of operational teams on standby which we can quickly mobilise, and redundancy built into our network due to our adherence to SQSS Standards, we were able to restore all customers at around 6pm that evening.

It is unclear how a third party would be able to take a coordinated view to quickly, efficiently, and effectively get supply back to customers. These types of incidents may impact the TO's Energy Not Supplied (ENS) performance, resulting in a potential 1.9% penalty against base revenue. It can also affect customer satisfaction scores and engagement incentives.

¹¹ <https://vimeo.com/300997438>

6. Do you agree with our position on the Payment Counterparty role and why?

We do not strongly oppose this proposal but highlight the potential changes due to wider industry development and changes to network charging. In particular, we would note the uncertain nature of responsibility and risk on the ESO, should charging methodology changes. We also highlight that the charging regime and prices are already very volatile through Transmission Network Use of System (TNUoS) charges. This mechanism for recovery may introduce additional risk to the ESO's proposed model.

We do not see the necessity of separating out the Payment Counterparty and Contract Counterparty. As the contract and payment counterparty undertake tasks that are closely associated. We welcome any evidence the ESO may have on the benefit of these roles being distinctively separate.

7. Do you agree with our proposed approach to conflict mitigation?

We do not agree with the proposed approach to conflict mitigation. The ESO's proposal for conflict mitigation strives only to meet the "level playing field" criteria, to appease third party bidders, ignoring legitimate TO concerns, and does not fully consider its effects on consumers.

We support the principle of a level playing field, however it should be done so in the best interests of consumers rather than for a group of potential participants in competitive process, who have their own financial gain as motivation. **The ESO's current proposal will result in a suboptimal solution for consumers.**

There are significant weaknesses in the ESO's proposals which we address below. The ESO's conflict mitigation proposal:

- Does not enable whole system solutions, where efficiencies can be found;
- Does not address practical implementation issues; and
- Inhibits a TOs ability to meet regulatory responsibilities.

Whole system considerations and efficiencies

The ESO states that *"The TOs are well placed to deliver competitive bids which benefit consumers due to their expertise in delivering such projects and will therefore increase competitive pressures. Incumbent TOs also have the potential to utilise their existing assets within their bid, which would not be the case if the TO's parent company participates through a separate entity."*

However, the ESO's proposals directly contradict and remove this benefit for consumers. Ringfencing a finite internal TO resource reduces the benefit network companies provide to consumers, as bidding teams will be unable to leverage inherent network specific knowledge, nor use knowledge of existing assets to provide the best solution for consumers.

The ESO has provided no evidence that ring fencing will benefit consumers, which is the key aim of early competition. The impacts of this proposal on the development and maintenance of the network has not been thoroughly explored. We are yet to see evidence that exceeds this to justify taking an alternative approach is more beneficial for network operation and consumers.

TOs have clear examples of how we coordinate the development and implementation of our networks have realised efficiencies to reduce costs for consumers. We deliver solutions that are evidence based and stakeholder led. TOs have an overarching view of their network and ongoing portfolio, allowing it to find efficiencies and synergies for load and non-load related works on its network to find the optimal solution for consumers. This ultimately delivers reliability, sustainability, security, and cost benefits to consumers.

The example below sets out how SSEN Transmission's coordinated development and implementation of The North East 400kV Reinforcement Scheme and East Coast kV Project approved by Ofgem as part of SSEN Transmission's RIIO-T2 Business Plan, benefited consumers and communities.

For the North East 400kV Reinforcement Scheme, a number of scenarios were devised and compared via a Cost Benefit Analysis against the benchmark dates. When compared against the baseline option, SSEN Transmission's approach demonstrated a Net Present Value saving of £45.73m and removed 70 weeks of future outages from the transmission network post 2023. This coordinated approach demonstrates significant value for consumers in terms of costs, but also reduction of risk of electricity supply failure for consumers.

For the East Coast 400kV Project, SSEN Transmission combined the replacement of insulators and conductors at the same time. In doing so SSEN were able to offer a Net Present Value saving of £15.82m and removed over 50 weeks of outages following 2026 by undertaking this approach. This coordinated approach demonstrates significant value for consumers in terms of costs, but also a reduction of risk of electricity supply failure for consumers. This would not have been possible through the ESO's proposed ring fencing and fragmenting of vital resource.

Example - The North East 400kV Reinforcement Scheme

This example demonstrates the efficiencies and financial savings SSEN Transmission were able to provide consumers by taking a coordinated approach to develop and reviewing options for network reinforcement to enable Net Zero.

SSEN identified efficiencies by reviewing the requirement to deliver 400kV operation in the North East of Scotland driven by load requirements from generator connections and combining this with the requirement to undertake non-load driven asset interventions on the same circuits.

There were a number of key efficiencies driven by this approach, firstly as SSEN Transmission was able to take an overview of all generator connections in the region, significant efficiencies were created by aligning the upgrade of an overhead line, originally scheduled for completion in 2024 with the upgrading of a busbar at Peterhead, scheduled for 2023.

Aligning these dates allowed SSEN Transmission to remove the two Super Grid Transformers, their associated enclosures and platform areas, transmission connection and control equipment from the scope of this project. **This resulted in savings to the end consumer and the removal of future outages from the system to subsequently remove the Super Grid Transformers and allow a direct 400kV connection into Peterhead.**

Additionally, we were able to review all data associated with the overhead line requiring upgrade to 400kV between Peterhead, Rothienorman, Blackhillock and Kintore to generate efficiencies. Under the load driver, only the insulators were to be replaced to allow 400kV operation, however via a review of the available data and through a coordinated sampling campaign, it was established the conductors on these circuits required replacement within the period 2026-2031, less than three years after the proposed completion of the load driven 400kV upgrade.

In some instances, it was noted sections of the conductor were already at the end of their lifespan, therefore reinforcing the requirement to replace these in conjunction with the insulators. It was therefore proposed to replace the conductors at the same time as replacing the insulators given the proximity of their replacement date. It was determined the programme would not be impacted through this work as replacement of the insulators requires removal of the conductor regardless.

Efficiencies are generated through no requirement to re-mobilise contractors later. This includes re-establishing welfare and access and to undertake the re-conductoring works separately. Additionally, combining these two activities removes significant outages from these critical circuits post 2023 which would otherwise be required to re-conductor. Reducing outages may also reduce single circuit risk which may have risks on electricity supply for consumers.

East Coast 400kV Project

The above approach with regard to the replacement of the conductors on a non-load asset intervention basis, combined with a load driven upgrade was further replicated on the East Coast 400kV Project on the upgrade of the existing 275kV overhead line from Kintore to the Scottish Power Boundary. This scheme was also required due to load drivers in the form of increased renewable generation necessitating the uplift of the operating voltage to 400kV. Sampling of the conductors on these circuits established that replacement was generally required

between 2028 and 2033, with one section requiring replacement by 2027. At its shortest this is less than one year after works would have been completed to replace the insulators on a load driven basis, which as per commitments to the Networks Options Assessment was to be delivered for October 2026.

As per the North East 400kV scheme there was no programme impact in replacing the conductors at the same time as the insulators, with the same efficiencies triggered by not re-mobilising Contractors at a later date to establish welfare, access and to undertake the re-conductoring works separately. Additionally, combining these two activities removes significant outages from these critical circuits post 2026 which would otherwise be required to re-conductor.

A further example is the Skye 132kV Reinforcement project which was included as an Uncertain Scheme in SSEN Transmission's RIIO-T2 Business Plan. Efficiencies have been driven on this project through alignment of both load driven capacity upgrades and asset condition replacement requirements. By delivering this project as a coordinated scheme will provide efficiencies through not re-mobilising contractors later to establish welfare, access and to undertake works separately on a phased programme. Furthermore, combining these two activities removes significant outages from this critical circuit which would otherwise be required to rely on diesel generators to provide security of supply. This project has realised benefits to both local stakeholders, the environment and will increase the reliability of the area.

Example - Skye 132kV Reinforcement project

This example demonstrates the efficiencies and financial savings SSEN Transmission were able to provide its consumers by taking a coordinated approach to develop and implement its network.

The current transmission network connection to Skye consists of a single 132kV overhead line that extends over 160km of challenging terrain from Fort Augustus substation to Ardmore on Skye. From Ardmore, there are two SSEN Distribution owned 33kV subsea cables; one to Loch Carnan on South Uist and the other to the Isle of Harris. The 132kV transmission circuit continues from Harris to Stornoway.

The security of supply on Skye and the Western Isles is dependent on this single 132kV circuit as the only connection to the main transmission network. The existing construction is now considered unsuitable given the terrain and climate in which it is located, meaning it is subject to poorer reliability. Where faults or required asset interventions are needed currently to repair the circuit, backup diesel generators located on the Islands are utilised to supply the required electricity whilst the circuit



is on an outage. This results in significant environmental impact when an outage is required.

Key to the Skye reinforcement project strategy is the asset condition data. The current 132kV circuit has undergone a review of all available asset condition data, with findings indicating that between Quioch and Broadford (64km), and Broadford and Ardmore (68km), the conductors and towers will need replaced between 2026-2029 respectively. This means that the existing asset (constructed in two sections between 1978 and 1989), is nearing the end of its operational lifespan, so a 'do nothing' scenario is not an option and intervention will be needed to maintain security of supply. This date falls, at its shortest, less than a year after load driven requirements to upgrade the circuit to Skye.

The key efficiency provided by this project is to align the required asset condition works (non-load) with known load requirements of contracted generation. In aligning load and non-load requirements, SSEN can take a strategic approach to facilitating all generator connections in the region by seeking to align generator connection agreements with the energisation programme for the overall reinforcement works considering the asset condition driven replacement works, limiting the need for mobilisation of multiple commissioning teams over a longer time frame. This means that current connection agreements for new load along the length of the 160km reinforcement will occur in a timely fashion and not rely on a phased connection programme. In addition to connecting generators cumulatively, as opposed to phased, our key statutory consultees have expressed agreement with this approach. They feel a 'build it once' approach to the Skye reinforcement will limit the need for revisiting and reopening construction sites in environmentally sensitive landscapes. This approach also reduced the need for abortive works caused by installing assets on the network that cannot accommodate further generation growth and need reinforced later.

Lastly, ringfencing bid teams is directly contrary to this policy direction given by Ofgem. As part of RIIO-2, Ofgem has clearly set out that network companies need to be considering whole system solutions. They have provided several mechanisms to allow companies to do so. TOs are inhibited from pursuing whole system solutions if it is ring fenced from its wider business.

Implementation Issues

Practically, each employee within SSEN Transmission does not work on a sole project by project basis. Responsibilities are mixed and matched to ensure the right skills and knowledge suit the required task. One staff member from our System and Planning team may be involved in several areas of the business, such as Large Onshore Transmission

Investment (LOTI) projects, NOA, innovation, etc. due to their specific knowledge area and experience. Removing them from the business would be detrimental for network management, inefficient and not in the interest of consumers.

We welcome further clarity of what the bid teams consist of, that the ESO proposes to be ringfenced. A clear remit of responsibilities is required. Currently, teams that prepare network options consist of system planning engineers, project development staff, procurement specialists, project managers, legal advisors, control room staff, environmental specialist, regulatory and commercial staff, etc. Therefore, in practice, a bid team could be very large. It should be highlighted that regulated networks would still require a system planning function as current to perform coordinated GB MITS analysis. Ringfencing system planning, development, and other teams may take away resource from the licenced TO activities, and it would be unable to deliver its main task of running a reliable and safe network.

The ESO anticipates that “there could be between 1 and 3 projects tendered every 2 to 3 years”. As a regulated business, it is unclear what tasks the ring-fenced bidding teams would undertake when there are no bids to be prepared. It is not in the interests of consumers for us to retain staff without work to do whilst waiting to prepare a bid. Bid teams could return to the wider TO business, however this would go against the principle of level playing field, as this could be perceived as disadvantaging other bidders once more, as those employees would once again have access to network information which could be relevant to a future competitive process. The ESO’s proposals do not address this issue.

Furthermore, it is unclear whether a new CATO licensee would require to ringfence future bid teams. Once a third-party bidder wins a CATO licence under the proposed early competition model, we would expect it also be required to ring fence their bid team, as is currently expected for TOs.

Ringfencing bidding teams and their costs is not only impractical, but also not financially viable for TOs, and may inadvertently put TOs at a disadvantage. TOs cannot partake in income generation activities outside their licenced area or licenced activities, and therefore cannot raise finances to fund a ring-fenced bid team, should it not be funded by the price control. Unlicensed, third party bidders can shift and re-organise their spending and finances freely to sustain operations, unlike TOs who are bound by their licence conditions and strict price control deliverables. When considered practically, this proposal may put TOs at a stark disadvantage in terms of financing its bid team.

Regulatory responsibilities

As stated in our responses to the Phase 2 consultation and the ESO’s Thought Paper on Roles and Responsibilities, SSEN Transmission continue to have concerns on how

ringfencing will inhibit our ability to meet our legal and regulatory obligations. As a TO we have significant obligations enacted through Parliament which require us to plan and manage an efficient and economic network. Such a fundamental change must be subject to appropriate risk and impact assessment; we therefore encourage the ESO to share with stakeholders how it intends to approach this essential element of its policy development. This issue is further exacerbated with the publication of Ofgem's Review of GB energy system operation.

The UK has one of the most secure and efficient networks in the world, decentralised planning and management of the network could put this at risk. We are strongly calling for a thorough impact assessment to be undertaken before any final decisions are made. It is imprudent for the ESO to make these proposals without fully understanding these impacts.

8. Do you agree with the key differences between early competition and these case studies, and that the key differences would limit the lessons that can be learnt for the purposes of developing the model for early competition?

Whilst we agree there are key differences in the case studies, we disagree that there are limited lessons learned for the purposes of developing a model for ECP.

We think the ESO could have investigated the case studies earlier in its process. For example, the model used in the Thames Tideway Tunnel may work well in the transmission sector because as stated, "Thames Water is akin to the transmission owner". Thames Water, as the asset owner plays a central role in this model. It oversees procurement and also maintains direct engagement/commitments with the interested party. This works well because Thames Water manages the network area, and is, therefore better placed to find efficiencies and organise solutions.

Chapter 3 – Identifying Projects

1. Do you agree that only competing projects that appear in at least 2 FES scenarios will provide sufficient confidence that the project will go ahead?

We do not agree proposed projects appearing in at least two FES scenarios provides enough confidence that the project will go ahead. We think that this threshold is arbitrary with the sole aim of appeasing third party bidders. The proposed threshold is not a good proxy measure for certainty and falls short of giving confidence to proceed with projects.

We make two key points: this proposal is at odds with the NOA methodology and sets a considerably lower bar in demonstrating project need than that experienced by TOs in submitting projects through the Strategic Wider Works (SWW)/LOTI project to Ofgem.

First, the NOA acknowledges the uncertainty of network scenarios by revisiting and re-iterating its recommendations on a yearly basis. Trying to establish some certainty of FES scenarios contradicts the purpose of NOA.

Secondly, Table 2 below sets out two project examples that fit the competition criteria and demonstrates the volatility of NOA recommendations. Future Energy Scenarios (which underpin NOA) are susceptible to year on year change as well, as the drivers may vary due to generation volumes across different fuel types.

Example – Reactive Compensation at Tummel and Beaulieu to Blackhillock 400 kV Double Circuit Addition

This example demonstrates how volatile NOA recommendations are, and that two proceed signals may not guarantee certainty.

NOA can signal that a project may be delayed for one year, but there is no certainty that the following year the signal to proceed is resumed. Moreover, solutions may not disappear from NOA, another characteristic could arise, by which the solution may be amended and more efficient.

Table 2

NOA	Reinforcement Option	
	Reactive Compensation at Tummel	Beaulieu to Blackhillock 400kV Double Circuit Addition
2015/16	Not included	Delay
2016/17	Do Not Proceed	Do Not Proceed
2017/18	Hold	Not included
2018/19	Hold	Not included
2019/20	Stop	Do Not Start
2020/21	Not included	Proceed

The ESO fundamentally acknowledges uncertainty within its NOA report and underlying methodology. Thus, the historical analysis undertaken by the ESO may not necessarily be a good indicator due to a fast-evolving energy landscape. For example, the future introduction of an electrolysis plant in the north of Scotland has potential to alter historical investment signals that have been predominantly driven by the requirement to export large amounts of renewable energy south.

In addition, we note the different experiences in demonstrating needs for SWW/LOTI projects, where the frequency of network requirement changes is exacerbated by the next step in the process i.e. taking the investment signal and initiating the LOTI/SWW needs case, and its associated timescales. In practice, a project can receive two or three, or more NOA proceed signals, however the need may continually be challenged by Ofgem, for example in relation the Eastern HVDC project. It may be that construction of these projects does not start until 4 or 5 years after its original proceed signal, once Ofgem is satisfied with the evidence to support the needs case and the estimated costs of a project.

The approach Ofgem undertakes demonstrates an unequal playing field, and that for SWW or LOTI projects, there is a higher barrier of evidence TOs must provide. We would raise to the ESO that this is an issue to consider, as the requirements to demonstrate need is considerably higher for projects under the SWW/LOTI process than what the ESO is proposing for competition (i.e. appearing in two FES scenarios).

We reiterate our point that TOs are naturally best placed to manage uncertainty. Generally, a project pipeline needs to be better guaranteed ahead of TOs and third parties ramping up their operations to be able to participate in early competition. We recognise it may not be possible to assure certainty of a project pipeline. This reinforces our continued position that TOs are best able to manage this uncertainty through the current price control, as we are able to absorb some changes given due to our overall management of the network and mechanisms available to us in the price control.

2. Do you agree with our proposed approaches for different drivers of network investment? Are there ways single party connections could be identified as having sufficient certainty to compete?

We do not agree with the ESO's approach for different drivers of network investment. Our view is that:

- A project value threshold is required for projects to be competed;
- A clearer definition of these network drivers, that is connections, compliance, asset replacement and voltage/stability, is required;
- The ESO must provide analysis on how it thinks third parties can deliver these drivers more efficiently than TOs, given our ability to find efficiencies across different drivers of network investment;
- There is no obvious useful indicator of certainty for single party connections; and,
- There is lack detail relating to interface and role for TOs to play within a contract of a third-party bidder.

We do not consider it possible to maintain coordinated development of the network under the ESO's Early Competition Plan proposal.

Firstly, we do not consider the removal of the project value threshold to be a balanced approach. We continue to strongly disagree with the ESO's proposal that projects with a capital value of under £50m should be subject to early competition. Whilst we recognise the ESO's intent for encouraging all solutions that may provide benefit to the network, this detracts from key responsibilities of asset owners, which is to deliver solutions quickly and efficiently. It also contradicts Ofgem's policy precedent of reducing regulatory burden¹².

We continue to hold significant concerns that any decision to run a competition process, especially for projects under £50m, must not hinder delivering infrastructure critical for safety, energy security and for facilitating Net Zero. For example, infrastructure should be able to be delivered in the time period between Contracts for Difference (CfD) auction results and delivery year. It is critical that the ESO includes within its criteria a timeliness assessment to run the competition process. This should assess whether the time taken to run the end-to-end competition process is acts as a hindrance to delivering critical infrastructure required for safety, security of supply and delivering Net Zero. A tendering process which delays a project from being delivered in its required year (i.e. when NPVs are greatest) should be avoided and the incumbent TO allowed to deliver the project.

We acknowledge and welcome that the ESO is proposing to undertake a CBA ahead of recommending Ofgem to tender a project. It is important to quantify the costs and benefits expected from competing each project. These CBAs must be undertaken transparently, with the input of TOs. Competing certain small, lower cost projects may increase prices elsewhere in delivery, as economies of scale may not be realised.

We re-iterate that a financial threshold of project cost helps reduce regulatory burden (e.g. CBA, and other analysis) of assessing a myriad of competitions for projects with small cost, when it is more efficient and cost effective for incumbent TOs to undertake them. For example, in our T2 Business Plan, SSEN Transmission has several smaller projects worth less than £50m. We are able to benefit from economies of scale by bundling projects to obtain volume discounts and efficiency in delivery programmes. Competing these small projects is unlikely be efficient for consumers, as a procurement process can be costly and require a significant and wide range of expertise and resource, when TOs are able to find significant cost efficiencies for consumers using our economies of scale, and through the price control ongoing efficiency challenge.

There has been no quantitative assessment to provide evidence as to whether competing projects that are less than £50m in costs would realise net benefits or the potential impact this could have on TOs network planning activities. It will become a significant challenge for TOs to address the needs of the network and its customers, if all potential schemes are subject to the time-consuming requirements of an uncertainty mechanism and subsequently early competition.

¹² Paragraph 7.32 https://www.ofgem.gov.uk/system/files/docs/2020/07/draft_determinations_-_core_document_redacted.pdf

Whilst we agree that it may be unlikely that asset replacements, and other drivers are unlikely to meet the proposed definition of ‘separable’, we reiterate the need to carefully define drivers such as connections, compliance, asset replacement and voltage/stability. Specifically, we continue to ask the ESO for a clearer definition of connection assets subject to competition and how this relates to asset ownership boundaries as per the rules set out within Connection and Use of System Code (CUSC).

We continue to highlight that, currently the NOA does not assess customer connections, network compliance, asset replacement and system voltage/stability requirements which don’t increase network transfer capability and that its focus is limited to wider system constraint relief. Oftentimes, these works do not explicitly correlate to a reduction in network operational costs through increased boundary transfer capability. TOs are able to derive efficiencies from economies of scale, and our ability to combine load and non-load drivers to deliver these works quickly and efficiently for consumers.

We do not think there are obvious indicators of certainty for single party connections. Network companies themselves have difficulty managing the uncertainty around developer connections. Needs cases for undertaking these works often change or disappear. As the Government has indicated a push for more renewable sources, establishing a measure for certainty may be more challenging and potentially unhelpful, as it may prevent evolving shared use connection works to proceed. We note our experience whereby sole-use infrastructure has often become shared-use infrastructure (sometimes following further investment) to accommodate new connecting parties.

Sources of uncertainty include:

- Generators requesting to change connection dates
- Reliance on Contract for Difference auction results
- Delay in planning or other consents
- Delay in planning or other consent resulting in change of project scope
- Potential public inquiry or political influences
- Outage planning to accommodate connections

Should single party connections be included in the proposed Early Competition Plan, it will have to allow for significant flexibility.

We reiterate that TOs are best placed to manage single party connections. We are able to rationalise connection studies and designs because of our oversight of generation background and other contexts. Our portfolio view allows us to execute efficiencies.

Another critical aspect of planning for connections is planning outages on the system to accommodate new load. This process involves scheduling with other TOs, DNOs, the ESO on the system, existing connection customers like generators and demands, scheduling with other projects as well as ongoing operation and maintenance activities. This is a complex and challenging process for delivering connecting on time. Third parties must quickly get up

to speed to ensure connections are not delayed. Furthermore, the practicalities of providing contextual information for connections for early competition has not been set out by the ESO.

We continue raise our concerns on the lack detail relating to interface and role for TOs to play within a contract of a third-party bidder.

Example – Interface between connection customer, third party, and TO

This example demonstrates that further thinking is required by the ESO to consider interfaces between different parties

Should a third-party successful bid for a project developing a piece of radial work, and subsequently a generation developer wishes to tee into that piece of work, a customer would approach TOs to discuss pre-application. Interfaces and relationships between the customer, third party, ESO and TOs are not defined.

We welcome further clarity on the interaction and practical arrangements if a third-party bid is successful. To connect customers, the third party would have to have an updated system model, which may or may not be included in costs for design and build and have the expertise and information to schedule an outage on the system. The TO or ESO would then have a project management role to ensure the third-party sticks to their programme to deliver the connection on time during the required outage. This scenario could arise for several pieces of infrastructure owned by third parties.

3. Do you agree that continuing to develop the Interested Persons Option process is the best way to engage stakeholders in initial solution design?

We do not strongly support any of the five options provided by the ESO. We do not think that the Interested Persons Option works particularly well. The ESO received only one response in last year's NOA.

If the Intellectual Property (IP) process will be undertaken for early competition, we request that the ESO provides further clarity on the roles of TOs and the ESO in this process, and how it fits into the current NOA process, and how these IP options will be accommodated.

Chapter 4 – Commercial Model

1. Do you agree with the partial indexation of the TRS and the adoption of CPIH as the index? Why?

We agree in principle with the adoption CPIH as the index. This is consistent with the approach undertaken in RIIO-2.

However, we continue to disagree with the ESO's assertion that TRS is the most suitable model of remuneration for a successful bidder. We note the ESO has provided no quantitative or qualitative examples to demonstrate the overall benefit for consumers of this approach. We understand and appreciate this might be the most suitable option for potential bidders, but the net benefit compared to say, the RAV model has not been set out in detail. The lack of any robust analysis to evaluate different models is a serious flaw in the consultation and requires significant work to ensure a level playing field.

We also consider the RAV model to be more suited to developing a network that has an ever-changing set of requirements and risk profiles (as is the case in GB electricity transmission). We would therefore welcome the ESO's analysis demonstrating that *"the RAV based regulated model would be unnecessarily complex and costly to implement"*. Without adequate justification of the advantages and disadvantages using a clear and consistent methodology, this assertion is simply unfounded.

We are also unclear as to why the ESO has not considered other models of remuneration such as a fixed investment period and bid cost of capital to mitigate strange incentive properties and bias decisions on different solutions.

2. Which of the options for extending the revenue period do you think are most appropriate? Why?

SSEN Transmission does not hold a view. However, as noted above, the rapid pace of change of the electricity network in GB is such that it is difficult to define and agree upon options for extending the revenue period today. It is therefore highly unlikely that the system needs upon which the original tender is based will be identical to that at the point of contract or licence award. The coordinated and economic approach would require a review of the future system requirements, at that point in time, to determine whether the current solution remains fit for purpose and delivers economic benefit through an extension of revenues. Assets should be held to the same standard as incumbent TOs to ensure like for like comparisons can be made on counterfactual investments.

3. Do you agree with the preferred option of a fixed payment to the successful bidder upon the delivery of key milestones during the preliminary works period? Why?

Yes, we agree with the preferred option of a fixed payment to successful bidder upon the delivery of key milestones during the preliminary works period. It is important to provide the successful bidder with working capital as it undertakes works, rather than the successful bidder assuming costs and being compensated ex post. Whilst we prefer that the successful bidder receive payment for preliminary works ex ante, we think this option aligns with principles adopted in RIIO-2. As we have seen during RIIO, the ability to support cash flow and investment is an important requirement to ensure efficient delivery of transmission infrastructure.

4. Do you agree with our revised views and preferences in respect of the PPWCA, Performance Bond and IAEs? Why?

As in our Phase 2 response, for PPWCA, we strongly believe that all participants involved in the development of onshore transmission network should be subject to identical processes for fixing underlying costs after preliminary works are completed. Within the existing RIIO-2 framework, Ofgem's costs assessment mechanism under the SWW (soon to become LOTI) uncertainty mechanism has worked well. We would therefore advocate a similar process is adopted for any competitively tendered projects.

We note the concerns of stakeholders that this might be subjective, but it has been deemed appropriate and in the best interests of consumers by the regulatory authority for Great Britain over the last eight years and is continuing for RIIO-2. There is no evidence to suggest an alternative approach would lead to additional benefit. We therefore expect that all third parties potentially seeking to provide transmission infrastructure are held to an identical standard (as is all the case for OFTOs under Ofgem's cost assessment process). Introducing further process will only increase the perception that cost assessment is subjective. We would need to see further analysis and justification to warrant this conclusion.

5. Do you agree with our preferred option regarding margins and overheads? Why?

We do not agree with the ESO's preferred option that at the point of tender award, the cost of equity, overheads and margins are fixed.

Depending on the outcome of preliminary works, costs and scope of solution may change, affecting construction margins and overheads. Therefore, we do not think that margins and overhead relating to construction can be fixed at this point.

However, generally, we think margins and overheads relating to operation and maintenance can be fixed at point of tender, as these costs may not change significantly, even if there are slight changes in construction costs and scope. This is likely to lead to a skewed model that has inherent bias built into its assessment. The approach to any

commercial model should not be forced and should permit fair and equitable assessments over consistent asset periods, solutions, and operating costs.

Again, this decision fails to have any adequate justification or analysis to support it. It is a repeat of similar models that have proven to introduce inconsistencies into the process. We believe strongly that this conclusion is in fact a failure to undertake the full and proper analysis of the available options and commercial models by the ESO. It is also unclear how this would align to the limited contractual change mechanisms permitted under the UCRs.

6. Are there any additional measures a Procurement Body could take to further drive value for consumers in securing debt finance?

SSEN Transmission has no view on additional measures.

7. Do you agree with our current preferred option with regards to equity? Why?

SSEN Transmission has no view on additional measure. We would however agree with the ESO's proposals in relation to the Contract or Licence Counterparty, as appropriate, seeking oversight of any equity sales process and the identity of potential buyers e.g. for strategic or operational reasons.

We would also note the stringent financial requirements placed on regulated TOs within the standard and special licence conditions. We would expect that successful bidders/CATOs are subject to identical requirements, particularly in relation to financial distress etc. The consumer must be protected from any financial failure of a Contract/Licence Counterparty or any potential new buyer.

8. Do you agree with our views on indexation? Why?

We broadly agree the current preferred option to partially index the TRS to provide a natural hedge against inflation. However, we do not agree that this should be required via any commercial model as each party may adopt a different bidding or funding structure which may be more efficient.

9. Do you agree with our updated views on licence/contract and industry codes? Why?

Whilst we broadly agree with the ESO's updated views on updating industry codes, very little detail has been provided to date in terms of what those changes will be or look like despite our requests for this throughout the consultation process. The ESO's statements are extremely high level for what we view as not only a complex but pivotal aspect of this review. Changes to codes and licences may be complex and very time consuming.

It is our view that the ESO may have underestimated the complexity and timescales to change licences and codes. We, therefore, continue to invite an impact assessment of the

scale of change(s) required. We emphasise the need again that any changes in codes, licences and / or other applicable legislation must go through formal processes that allow for thorough scrutiny. For example, what conditions and obligations will be placed on licences such as investment grade credit rating, reporting, and compliance with codes and connection requirements. Any inconsistency does not allow a level playing field and more importantly is likely to be detrimental to customers and stakeholders. More detailed analysis covering all obligations should be undertaken to ensure any decision is robust, consultative, and complete.

The ESO has not set out its thinking on the UCR 2016 for Phase 3. We continue to emphasise the need for UCR 2016 to apply to any procuring body remain. The introduction of an alternative regime would add unnecessary delay and pose additional risks and costs to consumers than would otherwise be the case under the existing approach model.

10. Do you agree with our views on need change or disappearance? Why?

We do not agree with the ESO's proposal should the need change or disappear. The ESO is proposing that TOs undertake the role of "provider of last resort". To this extent, we think it's necessary for the TO to be compensated for the works undertaken to develop a solution, despite a change or disappearance in needs case.

There could be significant detriment to consumers, should TOs do not develop a solution, and third-party solutions fail. TOs must be compensated for the works undertaken should the need change, post tender launch, but ahead of tender award. This would be an unwarranted risk and could introduce material financeability concerns particularly during a period of significant expenditure and the potential failure of a bidder.

11. Do you agree with our views and preference in respect of the 'provider of last resort' arrangements? Why?

We do not think that the OFTO 'provider of last resort' model is necessarily the best comparison and suitable for extension to onshore assets. The ESO notes that it can '*see no reason why these arrangements cannot be extended to cover network solutions*'.

The ESO has not provided us with confidence that TOs are protected should it take over an asset built by a third party. There are significant liabilities issues that have not been addressed by the ESO in its proposed model. This would need further analysis to evaluate the risks and potential material issues it could cause in a given scenario. Any attempt to have an incumbent TO as a provider of last resort would require significant protections in place and assurances otherwise this is an open-ended risk that TOs would not be able to accept without breaching obligations under the Companies Act, their Licence, or both.

Chapter 5 – End to End Model

1. Do you agree with our preferred position on pre-tender activities? Please explain your answer.

We broadly agree with the ESO's preferred position on pre-tender activities. The proposals encompass standard principles that align with the UCR 2016.

We continue encourage the ESO to consider the experience of the retail market and ensure that it has designed, upfront, a suitably robust pre-tender framework that will ensure financial stability and appropriate governance in the management of poor performance or company failure that minimises the impact on other market participants and consumers.

2. Do you agree with our preferred position on impact studies?

We do not wholly agree with the ESO's preferred position on impact studies because:

- We do not have enough information on who will undertake these impact studies and request the ESO provide a practical plan on how the Procurement Body will undertake this coordination.
- We do not have enough information on how often these impact studies will be undertaken, and what is required of the bidders, TOs, and the ESO, nor the transactional cost and benefit. We request the ESO set out its expectations for time, cost, and resource required.
- The ESO has not defined "material changes"

Network impact studies must be undertaken iteratively to reflect a continuously changing network, including generation backgrounds to ensure the optimum solutions are being taken forward at any time. We appreciate the intent for the Procurement Body to organise the needed network impact studies, however we would highlight this will be challenging, given the number of potential participants, and coordination required with TOs and the ESO. When developing options, impact studies (albeit not full studies) are undertaken continuously and require regular contribution from TOs and ESO relating to generation, outage planning, or other contextual information. We request the ESO to provide clarity on how it intends to coordinate network impact studies, whilst considering the ESO and TO's BAU licenced responsibilities of running the network.

It is unclear who the Procurement Body will commission to undertake these studies, and what information they will require about the network. Should network information be required from the TO, time, cost and resource expectations should be set out, as it is not certain TOs have this capacity on top of their BAU responsibilities of running and maintaining the network. Relevant parties responsible for providing up to date information for these impact studies should be adequately compensated. There should also be clear position set out as regards reliance and liabilities which could manifest for those

undertaking impact studies, should information change over time. Network impact studies only provide a “snapshot in time”, as these studies are being done against a ‘live’ network background. Impact studies may become quickly out of the date and not be reflective of the current network status.

Example – Argyll 275kV Scheme and Orkney Subsea Connection Scheme

This example demonstrates the volatility of a live network, and how impact studies must be continuously undertaken to accurately reflect the need.

Changes in the generation background have resulted in the need for a project or scheme changing substantially or indeed, ceasing to exist. This has been regularly noted in LOTI type projects, which fall within the criteria of early competition. Within SSEN Transmission, a change or termination of generation connections can influence or change funding decisions of these projects. Within the last decade we have seen the East Coast 400kV Scheme, the Argyll 275kV Scheme and the Orkney Subsea Connection Scheme all placed on hold. Without the significant generation connections which were associated with these schemes, the current network condition was deemed sufficient to continue to manage the current connected generation, and the need fell away.

It remains unclear what a “due diligence approach” consists of when providing up to date information to the Procurement Body. The extent which TOs and other bidders are required to continually update information being provided (and how the additional cost of doing so factored into the overall benefits case) has not been developed further by the ESO. We continue to welcome further clarification from the ESO as to how it intends to mitigate this risk throughout the procurement process.

It is also unclear what the ESO means by “material changes” that affect the tender process. We welcome further definition and parameters around this, and how these will be considered.

3. Is there anything in our approach to sharing network information that you believe is unworkable? If yes, please provide details?

Whilst we do not think the ESO’s proposed approach in sharing network information is unworkable, there are a few key risks we would like to highlight.

We agree with the principle that all bidders should have access to the same network modelling data. However, it should be noted that TOs are able to provide additional value to network development and management, as it collects practical, real world knowledge, such as location factors and safe transportation of assets. This “non-system related”

information comes from years of managing the network, and brings significant value when designing, developing, and constructing the network, that cannot be captured in the ETYS. This knowledge helps to ensure TOs are effective in developing solutions for consumers that are effective and economical.

Currently, the analysis of Main Interconnected Transmission System (MITS) can only be undertaken in a co-ordinated manner with the ESO and other TOs. Identifying the requirements and the subsequent options that meet those requirements is a key aspect, however delivering them is another. This must be done in coordination.

Contextual information is essential for delivery, particularly in the north of Scotland. Inherent information of the challenging locations and topography, sensitive environments, transmission specific environmental impact assessment, and logistics of transporting assets through these areas need to be considered when delivering solutions. This non-system related information has not been considered by the ESO in its proposal.

The knowledge and expertise that SSEN Transmission has built up allows effective constraint and risk information to be considered early on in project development. This allows key influencing factors to be understood, controlled and resolved in such a way that streamlines and de-risks the consenting process. This, coupled with the long-term relationships developed over many years with consenting bodies, statutory authorities, NGO's, elected officials and community groups, places TOs in a unique position to judge the most effective route to successfully balance what are often competing priorities.

Examples of applying this judgement to the benefit of local stakeholder relationships include our Lairg to Loch Buidhe overhead line (OHL) project. Our consistent approach has allowed for a high-quality standard and common expectation of construction environmental management. These benefits may be lost if individual third parties are delivering solutions on a piecemeal basis, with varying and inconsistent approaches. This may be equally disruptive for the local environment and key stakeholders.

Example – Lairg to Loch Buidhe overhead line (OHL) project

This example demonstrates the importance of practical knowledge, expertise, and consistency to successfully deliver projects in sensitive areas and work with a wide variety of statutory stakeholders.

The Lairg to Loch Buidhe project comprised of an OHL and substation within a NATURA site (international designation) for protected bird species. There were competing priorities between Scottish Natural Heritage (now NatureScot), SEPA and the local community. Nature Scot wanted one route to avoid increasing the risk of bird collisions, SEPA had concerns over impacts on peatland and hydrology, and the local community were opposed to the route

favoured by NatureScot due to the landscape and visual impact on the village. Ultimately our knowledge of the environmental factors, local priorities and appropriate technical mitigations and alternatives allowed us to reach a compromise that successfully avoided statutory objections and appeals.

On this, our track record over the last decade speaks for itself whereby we have had no development consents refused through the planning system and are recognised by many of our local stakeholders as setting the standard on effective engagement. Having the oversight of a portfolio of works within a given region also allow us to build day to day working relationships with each of the key consenting bodies and statutory authorities allowing process improvements to be openly discussed, developed and implemented quickly and consistently across our portfolio. Examples of these are standard assessment methodologies for OHL landscape and visual assessment, and species protection plans appropriate to the North of Scotland, which are agreed upfront for all of our projects.

As we set out in our Phase 2 response, the ESO has not addressed our concern on how it intends to ensure that the data provided by bidders will be assured, quality controlled, updated, managed, and secured. Information that is being shared is highly sensitive and could have significant impacts on the security of the system, if data standards aren't met and access tightly restricted. Highly sensitive information could include system studies, intellectual property, as well as land owner and customer personal information. Proper data governance is essential, and this is especially true if the ESO needs to later refer back to data provided that turned out to be incorrect. Further, in this situation, we welcome that the ESO set out what course of action will be taken against parties liable and what action will be taken to protect parties affected.

4. Do you agree that individual pre-submission reviews should not be offered to bidders during the tender process if the clarification question process is in place?

Yes, we agree with the ESO's proposal to offer a clarification process rather than individual pre-submission reviews, as this follows well established, good procurement practice, as well as compliance with the regulations set out in the UCR 2016. Pre-Submission reviews could be seen to direct bidders to a solution, and this would not align with the UCR principles of transparency and equal treatment of bidders.

5. Do you agree with our preferred position on the Pre-Qualification assessment and process? Please explain your answer.

We broadly agree with the ESO's preferred position on the Pre-qualification assessment and process, with the UCR 2016.

However, we disagree with omitting sustainability criteria at this stage, as this is contrary to the spirit of GB's drive to Net Zero and increases risk of pre-qualifying unsustainable solutions. The interests of consumers include delivering infrastructure in a sustainable way. As a minimum consideration should include having science-based targets and commitments to restore nature like natural capital or biodiversity. This should be considered alongside affordability and costs of projects. We have seen limited evidence of this being considered to date. Omitting sustainability criteria at the pre-qualification stage may delay the UK Government's legal requirement of reaching Net Zero or result in damaging critical relationships with key stakeholders. In its over-arching aim, the ESO set out that early competition will support the transition to a carbon free network. It states, "We hope that early competition could also encourage sustainability as we are exploring whether this could be part of the criteria for tenders". We do not think that the ESO's Phase 3 position of not including sustainability as a criterion during PQQ reflects this ambition. During our T2 Business Plan engagement, stakeholders have stated that Net Zero is a priority in their feedback to us.

As an organisation, SSE maintains a Responsible Procurement Charter¹³. This sets out key principles to ensure our business is conducted ethically, sustainably, within the law, and requires the same from its supply chain. We would expect a similar standard from any entity competing to deliver onshore transmission infrastructure. This charter includes several commitments:

- **Health, Safety and Environmental:**
 - At SSE, if it's not safe, we don't do it. SSE seeks to work with contract partners who have a similar positive approach to safety.
 - SSE aims to prevent environmental damage and at all times comply with legislative and regulatory requirements. Furthermore, SSE will actively seek to develop positive environmental impacts as a responsible energy operator, develop and supplier.
- **Bribery and Kickbacks**
 - SSE has zero tolerance of corruption, fraud and criminality (including financial crime), and the giving or receiving of bribes for any purpose in its business and supply chain
 - SSE's suppliers must not engage in any form of commercial bribery or kickback, or offer any incentive to any SSE employee, their family or friends, in order to win or retain SSE business or induce those with a public function to perform it improperly.

¹³ https://www.sse.com/media/1kynkfr4/responsible-procurement-charter_0818.pdf

- SSE's suppliers must keep current, accurate written accounts of all payments made on behalf of SSE, or from funds provided by SSE, and make a copy of these accounts available on request.
- **Supporting Local Economic Supply Chains**
 - SSE is committed to ensuring that real economic and social benefits flow to local businesses and communities as a result of our investment in new energy infrastructure throughout the UK and Ireland
- **Modern Slavery and Human Rights**
 - SSE has a zero tolerance of modern slavery in all its forms in its own business and supply chain
- **Fairness at Work**
 - All SSE employees, including contracted employees working on its site must be treated and treat each other with fairness and respect.
 - SSE is a Living Wage accredited employer and the pays the 'real Living Wage' in the UK
- **Information Security and Data Protection**
 - SSE's suppliers should protect confidential information and personal data and must take due care in handling, discussing, or transmitting confidential information and personal data that could affect SSE, its employees, its customers, the business community or the public, even after their assignment or contract with SSE has expired.
- **Payment Practices**
 - SSE has voluntarily signed up to the obligations of the Prompt Payment Code which is accredited by the Institute of Credit Management.
- **Conflicts of Interest**
 - SSE's suppliers should avoid any interaction with SSE employees that may conflict, or appear to conflict, with any employee acting in the best interests of SSE.
- **Reporting**
 - SSE's suppliers who believe that an SSE employee, or anyone acting on behalf of SSE, has engaged in wrongdoing, should report the matter to SSE. Suppliers similarly should report any potential violation of this Charter.

SSEN Transmission has also set itself clear commitments on how to engage with the supply chain as part of its RIIO-T2 Business Plan¹⁴. We have committed to achieving a step change beyond our own operations and to take responsibility to address environmental, social and economic issues across our entire value chain. This includes the management of

¹⁴ <https://www.ssen-transmission.co.uk/media/3761/a-network-for-net-zero-final-business-plan.pdf>, p.102

environmental, social and economic impacts and the encouragement of good governance practices throughout the full lifecycles of goods and services.

SSEN Transmission holds itself and its partners to a high standard, which we've guaranteed and committed to. This may not be the case for third party bidders. We think as a minimum, all bidders should follow and commit to corporate responsibility principles. This is in the interest of consumers and establishes behaviour that is ethical and sustainable.

6. Do you agree with our preferred position on Invitation to Tender stage 1 assessment and process? Please explain your answer.

We do not wholly agree with the ESO's updated preferred position on ITT Stage 1 assessment and process. Whilst the position broadly follows the principles set out in the UCR 2016, we do not think this process will add significant value in narrowing down potential solutions. We also do not think the proposed timelines are achievable, and we do not agree with all the criteria proposed. We ask the ESO to clarify what it intends to achieve from ITT Stage 1. There are several risks with the current proposal we would like to raise.

For example, the ESO is not necessarily going to know whether a solution is optimal at ITT Stage 1. Conceptual designs will be high level and have a low degree of accuracy this point. It is also unclear whether the Procurement Body will be able to make adequate assessment of deliverability issues so early in the process.

It is also not clear whether third party bidders will be able to present meaningful and accurate solutions, as network information and studies will not have been undertaken, and tender documentation will be high level and technology agnostic. It is not possible to estimate an Earliest In Service Date if detailed designs have not been undertaken.

ITT Stage 1 tender submissions will likely be heavily caveated with circumstances that are unlikely to be realistic. For example, bid submissions may caveat that bidders can provide a solution, given:

- It has unlimited access to the required working areas,
- That the programme is undertaken without the need for the full suite of checks,
- Reviews or approvals needed by the Employer or that the Employer will work to the timescales set by them,
- All designs will be accepted following first submissions and there will be no revisions,
- All its requested outages to undertake the works will be made available, assumptions that all equipment can be procured without significant lead times,
- That no interfaces with other contractors working on the system will be required,
- Availability of resources such as the Network Management Centre and Senior Authorised Persons will continually be available to allow works to be undertaken
- etc.

These caveats are unlikely to materialise in practice. The solutions submitted will be highly optimistic and will provide limited actual value in determining solutions that should progress to ITT Stage 2.

We also consider that the timeline proposed for ITT Stage 1 is unrealistic. Given that the volume of submissions in the Pathfinders Programme surpassed 1500 solutions from 27 providers, we do not think the ESO will be able to complete Stage 1 evaluation in a maximum of six months. In comparison to the LOTI projects process, the assessment of the Initial Needs Case takes between 6-9 months¹⁵, and that is for one single solution submission.

In terms of bid submission assessment criteria, the Procurement Body must undertake appropriate modelling for technology agnostic tenders, to assess how the existing system will react and interact with the proposed asset in each bid. It must also undertake economic modelling to consider costs, including output/capability against capital expenditure and operating costs over the lifetime of the asset.

For the criteria of “Meeting the Need”, we welcome additional information from the ESO that sets out how it intends to resource shadow studies to verify the results of bidders’ feasibility studies. The RII0-2 LOTI Guidance requires the ESO to undertake CBAs for network reinforcement projects for all three TOs, which it is already strained for time and resource. We welcome a practical plan to demonstrate how the ESO will manage its increased responsibilities, including managing additional shadow studies for each bid as well.

For the criteria of “Risk to network reliability”, it is unclear how the TO will be compensated for running connection feasibility studies for bidders as part of ITT Stage 1. TOs will be stretched in doing so, on top of its workload of running and maintaining the network.

The ESO has not set out the timeline for the Procurement Body between ITT Stage 1 and 2. We would expect that the Procurement Body would provide more detailed information to bidders invited to ITT Stage 2, to allow bidders to further develop their bids. We think it is important that this timeline is set out, as well as what further information the Procurement Body can provide bidders, prior to Stage 2. This needs to be clarified ahead of Stage 2 submissions. Some information that we think is important for the Procurement Body to provide more detailed information includes:

- Impacts on connections;
- Outages;
- Programme Dates; and

¹⁵ <https://www.ofgem.gov.uk/publications-and-updates/large-onshore-transmission-investments-loti-reopener-guidance>

- Constraints (planning conditions, landowners constraints, other statutory requirements).

7. Do you agree with our preferred position on Invitation to Tender stage 2 assessment and process? Please explain your answer.

Whilst we broadly agree with the ESO's principles set out for its preferred position on ITT Stage 2 assessment and process (as this appears to follow the procurement processes currently in place internally within SSE, as well as principles set out in the UCR 2016) we are surprised and concerned by the suggestion of introducing material changes to scope and value post tender award. It is unclear what the term "materially" means in this context but, in any case, we ought to highlight that under the UCR material changes to terms may not be compliant and have the effect of triggering a new procurement process.

On the specific point of post award material changes, we are mainly concerned that:

- Significant changes to the scope once a preferred bidder is chosen is unfair to unsuccessful bidders, and exposes the procurement body and others involved to legal challenge if the change is not compliant with UCR (with significant potential penalties as well as new processes);
- The application of UCR 2016 for the Procurement Body, as well as bidders;
- Bidders will be exposed to significant risk at the front end of the early competition process which may lead bidders to submit inflated risk pots;
- Findings of preliminary works could significantly impact the scope, value, and programme timeline of a project works; and
- The evaluation criteria does not account for maintenance in the delivery assessment nor does it consider what contingencies and liabilities are in place when third party solutions cause issues or fail, which are important factors to consider and may impact licensee networks.

The scoring areas are in principle acceptable. We welcome the additional information the ESO has provided on evaluation criteria during its Phase 3 consultation. We generally agree with the ESO's proposals for technical evaluation, as this aligns with SSE's internal approach, and what's required under the UCR 2016. We invite the ESO to clarify the specific pre-determined weighting levels. The evaluation criteria are critical to the selection of the preferred bidder and should be clear to avoid challenge.

We continue to reiterate our concern around the application of UCR 2016, and the need that the Procurement Body and third-party tenders must be subject to these regulations. Particularly for the new Procurement Body, the UCR directs to ensure fairness with any interaction. This could relate to provision of information, timing of information and

appropriate timescales. We contend it is a legal requirement that the Procurement Body adheres to these regulations to ensure a fair outcome for all bidders.

We remain extremely concerned on the limitations of change for contracted options, should material changes arise after preferred bidder (PB) is selected. We do not agree that preliminary works should be undertaken after PB is selected. Preliminary works are usually undertaken as part of project development. Bidders would have to undertake significant risk at the front end of this process, which ultimately is not in the interest of consumers. Furthermore (and as noted above), the ESO's proposal is completely at odds with the UCR and (on the basis we have assumed they would apply) and leaves the procuring party(s) exposed and open to challenge.

This approach may also prompt bidders to submit an inflated risk pot, which is not in the interest of consumers, who will ultimately bear the cost. Until detailed investigation is undertaken, bidders are undertaking significant risk. It is becoming less common to pass these risks onto contractors, as they also experience detrimental consequences (e.g. Carillion's collapse).

If preliminary works are scheduled after the preferred bidder and solution is chosen, there could be severe issues if obstacles are identified after this period. Any discoveries during the preliminary works, or any time after PB is selected, may change the fundamental nature of the contracted solution (e.g. value and scope). These changes could affect the final rankings of bids submitted, and on the basis that they are substantial (amongst other things) would not be compliant with UCR 2016 on the assumption the regulations are to apply. There is a significant risk for legal challenge for those parties who would be involved in the proposing and acceptance of any substantial changes after the preferred bidder is accepted. Moreover, it is unfair to unsuccessful bidders, should the successful bidder be permitted to change its proposals after more detailed works are undertaken.

As we assert, the findings of preliminary works could significantly impact the scope, value, and programme timeline of a project works, such as applications for consents may take significant amounts of time. Contracted solution may need to be amended or changed if consents cannot be acquired. Furthermore, if solutions are to be evidence based and stakeholder led, there must be some flexibility to take these into account.

Example – Argyll 275kV Strategy

This example demonstrates how preliminary works could uncover issues that require significant reassessment of the scope and programme timeline of projects.

SSEN Transmission is currently developing a scheme to increase generation capacity in Argyll which will accommodate increasing renewable generation as well as address known asset condition requirements. A section of this scheme requires the construction of new 275kV overhead line from Creag Dubh to connect into the existing 275kV overhead line at Dalmally. Initial routeing had the overhead line routed adjacent to Dalmally for the connection, however on presentation of this proposal during a Public Consultation in the area, there were significant objections raised to the route being located near to Dalmally. The significance of the objections received from both the public, the Community Council and other stakeholders indicated proceeding with this route could result in a Public Local Inquiry, resulting in either significant delays of 1 to 4 years to the connection date or the rejection of the required consent for this route. SSEN Transmission was able to take these objections into account and prepare a revised proposal which routed the overhead line to the south east of Dalmally village, addressing the concerns raised during initial consultations and providing a viable project to progress.

In terms of assessment criteria, requirements for maintenance continue to be omitted as part of the delivery assessment. We remain concerned and would welcome more information from ESO on its proposal to exclude requirements for maintenance in the delivery assessment. We require further detail on how to manage any new third-party assets and their interface with our existing assets. As discussed in earlier in Chapter 2, interface agreements can be onerous, as network companies must manage permits, outages, SAP availability and access to substations, etc.

We think that the evaluation criteria must consider what contingencies and liabilities are in place when third party solutions cause issues or fail. As we have set out several times in our response, TOs may suffer significant reputational damage should a third-party solution impact the network, with potentially far-reaching consequences for share price, credit rating and the ability to raise financing efficiently. These details are not related to Provider of Last Resort and need to be clarified.

8. Do you agree with our updated views in respect of late project delivery? Why?

Generally, we agree that no parties should profit from project delays. We agree with the ESO's approach to deliver an early competition specific approach to late delivery whilst considering Ofgem's RIIO-2 proposals.

We are concerned with the lack of clarification and definition of the concept of acceptable reasons for late delivery. Often, it is difficult to set out the specific root cause of any delay. A working example of this is the Western HVDC link¹⁶. The £1.3bn subsea cable link suffered several delays. The root cause of the delay and determining whether the project's late delivery was a breach of the TOs' licence conditions, has been challenging to identify. The issue was not resolved between Ofgem and the TOs', and Ofgem ultimately launched a formal investigation. We are raising this issue for the ESO to consider, as "acceptable" and "unacceptable" reasons for late delivery may not be straightforward to identify

We request further detail on what recourse is available if the preferred bidder disagrees with the decision that the delay is unacceptable. There should be a route to challenge and provide evidence for this decision.

On a similar note, we again raise our concerns on the lack of consideration at this stage as to how third-party providers of non-network solutions will be held to account with regards to solution delivery and impacts. The ESO has not set out any thinking or proposals in this consultation for the situation where a successful bidder fails to complete the project or defaults its commitments. It is unclear how consumers will be protected. We suggest the ESO review the energy supply sector, where negative unintended consequences have resulted from competition being incentivised prior to appropriate governance arrangements being in place to protect market stability and customer service.

9. Do you agree with our updated views on the preliminary works / solution delivery incentive regime being proposed for early competition? Why?

Yes, we continue to agree with the ESO's updated views on the preliminary works/solution delivery incentive. It will be in the interest of the successful bidder to do this to allow them to successfully commission their solution and for the revenue stream to commence. We agree that detailed and succinct industry codes and licence conditions can mitigate risks.

In terms of issuing licence/contracts, we continue to remain concerned around the lack of detail of the ESO's proposal to replicate code requirements across contracts for non-licensee bidders without providing any detail or proposals around how it would:

- Ensure contractual requirements mirror the detailed and complex code requirements, how parties would comply;
- Monitor and enforce compliance; and

¹⁶ <https://www.ofgem.gov.uk/publications-and-updates/ofgem-opens-investigation-national-grid-and-scottish-power-transmission-over-delivery-and-ongoing-operation-western-hvdc-subsea-cable>

- Ensure that the process required of non-licensed bidders does not provide a competitive advantage over licensed bidders, or that it does not introduce unintended consequences that damage the integrity of the network as it stands.

10. Do you agree with our updated views on the operational incentive regime being proposed for early competition? Why?

We continue to support alignment with RIIO-2 incentives in relation to environment, asset health, stakeholder engagement (including the reputational survey of communities impacted by infrastructure) and timely connections. We have concerns regarding:

- the potential reporting burden for TOs;
- target setting methodology for third party bidders; and,
- ensuring Network Access Policy is also considered by third party bidders.

The ESO must consider the burden of reporting requirements for both early competition and RIIO, for TOs. We do not think reporting requirements should be duplicated with that of RIIO-2 obligations. The format and type of data must be aligned between the proposed Early Competition Plan, and for RIIO-2 incentives.

Generally, setting targets on a case by case basis takes a lot of time and effort. It is unclear how baseline targets will be determined for bidders with no past data, this could create an uneven playing field for TOs, if the targets for third party bidders are not stretching enough. As well, under RIIO-2, targets for network companies have been more stretching than in past price controls. Any operational incentives included in ECP must also ensure this level of challenge for third party bidders.

We continue to suggest that we think a CATO would have to be subject to the GB Network Access Policy (NAP). The NAP is designed to facilitate efficient performance and effective liaison between the ESO and the TOs in relation to the planning, management and operation of the National Electricity Transmission System (NETS) for the benefit of consumers. This approach must be maintained in order to ensure a consistent approach to managing the GB network for all transmission owners. Doing otherwise potentially risks the safe and secure operation of the network.

As stated in our Phase 2 response, the only scenario under which new investment could default to a successful tenderer should be where a CATO licence has been granted (with identical obligations to that of a TO in respect of connection offers etc). Where this is not the case, the need for new investment on the network should default to the incumbent TO to develop through existing processes, subject to competition if the new network need meets the relevant thresholds and requirements.

We are unclear under which scenario new network investment would ever be required for a non-network solution. If the non-network solution was failing to meet its required output under the contract this should be managed through provisions within the contract (i.e. revenue tied to availability, no penalties if this is due to third party interference).

11. Do you agree with our revised views and amended preference in respect of decommissioning securities? Why?

Yes, we agree that decommissioning securities must exist. We would highlight that there is a risk that bidders may inflate their costs to include this requirement.

Chapter 6 – Implementation Plan

1. Do you think Table 1 is a comprehensive list of high-level implementation plan activities? If not, what has been omitted?

We broadly agree with Table 1 as a list of high-level implementation plan activities, but our concerns remain on the lack of detail provided on these matters to date and the compatibility of the ESO's proposals against the current regulatory and legal framework.

We strongly support early competition not taking place until amendments to applicable legislation, codes and licences have been subject to a thorough and detailed review (in consultation with TOs) and any agreed changes formally implemented.

Due to the complex way in which the regulatory and legislative frameworks sit and considering this against the ESO's proposals to date, we anticipate any such changes will be substantive and, therefore likely be far reaching / consequential impacts across of any such changes across the frameworks (and beyond) which will also need to be considered and properly followed through by the ESO.

As above, we strongly support that any changes to processes, methodologies, codes, and licences should follow the appropriate formal change process, including requiring statutory consultations before any decisions are made. Specifically, this includes:

- FES, ETYS, NOA, IP Process amendments;
- Facilitative Licence Changes and Industry Code Changes; and,
- Substantive Industry Code Changes.

The table sets out changes required to the regulatory and legal frameworks the TO is subject to but there no detail in the table on how the ESO intends to do to address the concerns we have raised around levelling the playing field and ensuring third parties are subject to the same industry standards and regulation as the TOs are subject to.

Other areas that should undergo consultation ahead of formal changes include:

- Any follow up from Ofgem’s Review of GB energy system operation report; and,
- Any follow up or lessons learned from Offshore Transmission Network Review.

We welcome the ESO to estimate costs and timing of the implementation activities it has proposed, when it puts forward its final recommendation to Ofgem. This quantitative impact assessment is critical to ensure that Ofgem can balance benefits and costs of the ESO’s Early Competition Plan proposal.

2. Do you agree with our proposed timing and sequencing for implementation plan activities? If not, what would you change?

We re-iterate strongly that licence and code changes should undergo statutory consultation processes, and that the implementation plan should not begin until primary and secondary legislation are in place.

In addition, without a clear parliamentary timetable from Government as to the introduction of primary legislation, we would question whether it is worth Ofgem progressing with early competition beyond April 2021 (i.e. the date on which the ESO submits its final report). The consultative process is exceptionally resource intensive for all of those involved and consider that efforts are better spent delivering a credible pathway to Net Zero. Otherwise, the effort to develop alternative models of delivery for onshore transmission network in GB are in vain.

3. Do you agree with the 'potentially advanceable' implementation plan activities? If not, what would you change?

We do not wholly agree with the “potentially advanceable” implementation activities. Whilst these activities may be “low regret”, they are not low cost. It is not in the interest of consumers for network participants to be spending time and funding on a model that has a high likelihood of change.

Specifically, we disagree with relevant parties for each of the relevant roles to start building capacity and capability. We think this is premature as roles have not been confirmed by Ofgem or BEIS. Roles and responsibilities could change significantly when drafting legislation. The suggested pre-implementation activities should not be progressed until Ofgem has made a firm decision on early competition, and legislation is complete.

4. Do you agree with our views on early competition prior to early competition legislation? Why?

Yes, we agree with the ESO’s view that that its proposed model should only be implemented once the appropriate legislation is in place. We think the Pathfinder programme is an

appropriate proxy to consider ahead of early competition legislation being put in place. We suggest the ESO adopt a transparent process to share learnings from the Pathfinders programme and publish how it will consider these lessons learned in the Early Competition Plan.

It remains imperative that legislation is in place to protect consumers and ensure that the security and effective operation of GB's critical national electricity infrastructure is not compromised.

Appendix B: Unresolved Issues

We ask the ESO to set out how it will address the issues set out in the table below and which we have raised during (and some, throughout) the consultation process, as they remain outstanding in its Phase 3 Consultation. We request the ESO to raise these unresolved issues with Ofgem.

Issue no.	Chapter	Issue	Concern
1	N/A	Recommendation to Ofgem	We ask the ESO to feedback to Ofgem our responses relating to the proposed Early Competition Model itself but urge it to also set out the key wider issues we've highlighted throughout the consultation processes. We propose that the ESO provides Ofgem with an annexe of unresolved issues to flag the continued development that is required on early competition.
2	N/A	Policy priorities	The ESO and Ofgem must identify the risks and impediments that current network arrangements pose, before they can suggest that early competition is the right or only solution to an affordable energy transition. The ESO and Ofgem must refresh and re-consider their policy priorities, as the network, consumer and Government priorities have changed significantly since the introduction of early competition as part of the Integrated Transmission Planning and Regulation (ITPR) Final Decision published back in 2015.
3	N/A	Obstacle to Net Zero	-The ESO must provide further assurance that their proposed Early Competition Plan is evidenced based, stakeholder led, and complements and enables a pathway to Net Zero. It must provide thorough qualitative and quantitative analysis that its proposal does not delay Net Zero and customer connections, at the expense of the GB consumer.
4	N/A	Lack of analysis and evidence of net benefit for consumers	-Whilst we agree with economic principles of competition, updated significant and targeted analysis needs to be undertaken to identify the key areas where competition delivers most value for consumers. We do not agree with the blanket assumption that competition delivers benefit in any scenario, which was based upon previous narrowly focused assessment, undertaken long before Net Zero considerations or targets. Principled policy making without underlying robust analysis makes it challenging to develop thorough and complete policy options and assess the best regime that optimises benefits for consumers.

5	N/A	Impact on the network	There should be no dilution of the obligations and standards expected by new entrants. This includes for safety, security of supply, competitive procurement, customer service and financial risk fence protections. Any assessment of early competition proposals must include detailed analysis of the potential wider impact and cost of failure. We request the ESO undertakes analysis to ensure there is no adverse impact on the operability and performance of the wider network.
6	N/A	Application of UCR 2016	-We continue to request further clarity and guarantee that the proposed Early Competition Plan is subject to the Utilities Contracts Regulations (UCR) 2016. This is imperative to ensure that entities operating in the energy sector are held to the same obligations and undertake a fair and transparent processes in the execution of works, the supply of products or the provision of service.
7	N/A	Impact of changing roles	We invite the ESO to consider and address how the fast-changing roles of players in the energy sector, including its own role, set out in the Energy White Paper and Ofgem's Review of GB energy system operation, as well as the outcomes of the Offshore Transmission Network Review will impact its Early Competition Plan recommendation.
8	Ch 2 - Roles and Responsibilities	Approver Role	We welcome further clarity on the challenge route, should Ofgem as the Approver not approve of certain stage gates. It's unclear what liability cover this process will offer the Procurement Body, impacted TOs who still need to address system need and could face penalties as a result of an early competition failure. Impact of delays of stage gate approvals must be clarified.
9	Ch 2 - Roles and Responsibilities	Approver Role	The Energy White Paper stated that GB's approach to system governance needs to evolve, including the roles of Ofgem, and other network bodies, as we decarbonise. We highlight this potential as a risk to the ESO and ask it to consider the fast-changing roles of players in the energy sector, including its own role, when making its Early Competition Plan recommendation.
10	Ch 2 - Roles and Responsibilities	Procurement Role	-We continue to think that TOs are best placed to undertake the procurement role. We ask that the ESO and Ofgem consider a different model that puts TOs at the heart of this role (as is done in the Thames Tidal Tunnel project), to provide best value for customers.

11	Ch 2 - Roles and Responsibilities	Procurement Role	If the proposed Early Competition Plan progresses, and new roles are introduced, significant effort should be given to supporting stakeholders in understanding this new structure and the roles of all the parties involved.
12	Ch 2 - Roles and Responsibilities	Contract Counterparty	<p>It is essential that the Contract Counterparty retains the same authority as the Licence Counterparty, to ensure that any contract obligations and penalties for network, and non-network solutions are equal.</p> <p>We invite the ESO to set out what specific powers it considers it would require to be able to hold third party bidders delivering non-network solutions to be held to account against contract breaches, non-delivery, or wider system impacts.</p>
13	Ch 2 - Roles and Responsibilities	Contract counterparty and failure of third-party solution impacts on network	We continue to ask for clarity on what enforcement actions will be undertaken if a third-party non-network solution fails. We continue to call for the ESO must provide comfort and be able to evidence to TOs that they will be able to operate the network under the existing compliance regimes, unaffected by non-network solutions. We also ask the ESO to provide its contingency plans on how a TO would be remunerated under its current licence, should a third-party solution fail. This could have adverse implications for our continued operation of the network.
14	Ch 2 - Roles and Responsibilities	Failure of third-party solution on TO network	We highlight that TOs have no rights within their current licences to recover any costs or remuneration, should a third-party solution fail. Nor would there be any such mechanism where the TO is not a party to the contractual arrangement. We also raise our concern with the lack of contractual requirement to cooperate and communication interfaces for TOs to interact with third parties
15	Ch 2, Ch 3,	Interfaces between TO and third parties, and failure of third-party solution on TO network	The ESO has not provided detailing of contractual requirements to cooperate and communication interfaces for TOs to interact with third parties. Any fault that may occur due to a non-network solution failure, or other reason outside of the control of the TO may have significant impacts on the network. We ask that the ESO set out its proposal in the interface and role for TOs to play within a contract of a third-party bidder that is connecting to a TO's network
16	Ch 2 - Roles and Responsibilities	Ringfencing proposal to mitigate conflicts of interest	We ask the ESO to explain its rationale on how ring-fencing bid teams is beneficial for consumers, specifically, how it will enable whole system solutions. TOs have an overarching view of their network and ongoing portfolio, allowing it to find efficiencies and synergies for load and non-load related works on its network.

17	Ch 2 - Roles and Responsibilities	Ringfencing proposal to mitigate conflicts of interest	We welcome further clarity of what the bid teams consist of, that the ESO proposes to be ringfenced. A clear remit of responsibilities is required.
18	Ch 2 - Roles and Responsibilities	Ringfencing proposal to mitigate conflicts of interest	It is unclear whether a new CATO licensee would require to ring fence its bid teams going forward. We welcome further clarity on how third-party bidders are treated after it wins a CATO licence. We expect the same requirements for these CATOs as is being proposed for TOs.
19	Ch 2 - Roles and Responsibilities	Ringfencing proposal to mitigate conflicts of interest	We invite further analysis and clarity from the ESO on how it has analysed and considered potential impacts ringfencing will have on our business and network, and whether it may introduce obstacles for us to meet our legal and regulatory obligations
20	N/A	Case studies	We ask the ESO to explain why it discounted the Thames Tideway Tunnel model early on. This model places the asset owner at the heard of its operations. The asset owner oversees procurement and maintains direct engagement/commitments with the interested party.
21	Chapter 3 – Identifying Projects	Defining drivers	We invite the ESO to carefully define drivers such as connections, compliance, asset replacement and voltage/stability.
22	Chapter 3 – Identifying Projects	Defining drivers	We invite the ESO to carefully define what non-network solutions.
23	Chapter 3 – Identifying Projects	Threshold to compete projects	We invite the ESO to undertake quantitative assessment to provide evidence as to whether competing projects < £50m would realise net benefits, or the potential impact this could have on TOs network planning activities. The ESO has not provided analysis as to whether this would be efficient
24	Chapter 5 – End to End Model	Impact studies	It is unclear who the Procurement Body will commission to undertake impact studies, and what information they will require about the network. Should network information be required from the TO, time and resource expectations should be set out
25	Chapter 5 – End to End Model	Impact studies	We request the ESO to clarify how the ESO and TOs will undertake early competition responsibilities (e.g. undertaking impact studies, feasibility studies, shadow studies, connection studies, etc) as well as its BAU activities, and to provide an estimate or resource required .

26	Chapter 5 – End to End Model	Impact studies	It remains unclear what “due diligence approach” consists of when providing up to date information to the Procurement Body. The extent which TOs and other bidders are required to continually update information being provided (and how the additional cost of doing so factored into the overall benefits case) has not been developed further by the ESO. We continue to welcome further clarification from the ESO as to how it intends to mitigate this risk throughout the procurement process.
27	Chapter 5 – End to End Model	Procurement	-It is unclear what the ESO means by “material changes” that affect the tender process. We welcome further definition and parameters around this, and how these will be considered.
28	Chapter 5 – End to End Model	Information sharing	It is unclear how the Procurement Body will gather and share “non-system related” information for the bidding process. This has not been considered by the ESO in its proposal. TOs are able to provide additional value to network development and management, as it collects practical, real world knowledge, such as location factors and safe transportation of assets.
29	Chapter 5 – End to End Model	Information sharing	We request the ESO to clarify ESO how it intends to ensure that the data provided by bidders will be assured, quality controlled, updated, managed, and secured. Information that is being shared is highly sensitive and could have significant impacts on the security of the system, if data standards aren’t met. Highly sensitive information could include system studies, intellectual property, as well as land owner and customer personal information. Proper data governance is essential,
30	Chapter 5 – End to End Model	Liabilities during PQQ	We continue to encourage the ESO to consider the liabilities period as part of PQQ, and how third-party bidders would ensure it can maintain liabilities over the period of the asset’s life.
31	Chapter 5 – End to End Model	Sustainability criteria at PQQ	We invite the ESO to evidence how its preferred option to omit sustainability criteria at PQQ aligns with its own and wider industry Net Zero and sustainability targets
32	Chapter 5 – End to End Model	ITT Stage 1	We ask the ESO to clarify what it intends to achieve from ITT Stage 1, as we do not think its proposals will achieve its intent
33	Chapter 5 – End to End Model	ITT Stage 1	We invite the ESO to set out the timeline and additional information the Procurement Body intends to provide to bidders between ITT Stage 1 and 2.

34	Chapter 5 – End to End Model	ITT Stage 2	We invite the ESO to clarify the specific pre-determined weighting levels.
35	Chapter 5 – End to End Model	ITT Stage 2	We invite the ESO to explain how it will manage potential material after preferred bidder is selected, due to findings of preliminary works. We remain deeply concerned on the limitations of change for contracted options, should material changes arise after preferred bidder (PB) is selected.
36	Chapter 5 – End to End Model	ITT Stage 2	We invite the ESO to elaborate more on its proposal to exclude requirements for maintenance in the delivery assessment and why this would be beneficial for consumers
37	Chapter 5 – End to End Model	Late Delivery	We invite the ESO to provide further clarification and definition of the concept of an acceptable reason and an unacceptable reason for late delivery, as these concepts are not always black and white.
38	Chapter 5 – End to End Model	Late Delivery	Similarly, to Issue # 12, the ESO has not set out any thinking or proposals in this consultation for the situation where a successful bidder fails to complete the project or defaults its commitments
39	Chapter 5 – End to End Model	Operational Incentives	It is unclear how baseline targets will be determined for bidders with no past data, this could create an uneven playing field for TOs, if the targets for third party bidders are not stretching enough. We invite the ESO to provide detail on how it intends to set targets that are equally as stretching for third party bidders.
40	Chapter 5 – End to End Model	Licence and contracts	We continue to remain concerned around the lack of detail of the ESO's proposal to replicate code requirements across contracts for non-licensee bidders without providing any detail or proposals around how it would ensure contractual requirements mirror the code requirements, how parties would comply, how the ESO would monitor compliance, and how the ESO would ensure that the process required of non-licensed bidders does not provide a competitive advantage over licensed bidders, or that it does not introduce unintended consequences that damage the integrity of the network as it stands.