

The ESO Network Stakeholder Group's (ENSG) Report on National Grid ESO's Early Competition Project

April 2021

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Executive Summary

The energy landscape is undergoing a revolution, with changing generation and demand patterns driving the need for substantial network capacity in order to reach the UK Government's Net Zero target by 2050. The Electricity System Operator (ESO) is keen to support the transition to Net Zero through an ambition of Net Zero operation of the electricity system by 2025 and through working with the industry to transform the way Great Britain's electricity system is developed. The energy transition must be affordable, and competition could be vital to encourage innovation and delivering needed network capacity by keeping prices as low as possible.

The ESO are working with industry stakeholders to identify, in particular, how competition can be introduced to network expansion in an exercise they describe as "co-creation". This means organisations can compete for the design, build and ownership of network and non-network solutions to transmission system needs, encouraging new innovative ways of working and potentially delivering millions of pounds in savings for consumers and at the same time respecting the environment and local communities.

The ESO, at the request of Ofgem, are delivering an Early Competition Plan (ECP) that outlines how Early Competition could be introduced. Early Competition refers to competition that occurs prior to the detailed design, surveying and consenting phases of asset or service development.

The plan will describe an end-to-end process of how Early Competition may work, set out how models for Early Competition could be implemented and outline the roles and responsibilities of all parties in the end-to-end process. It will also consider what role the ESO could play in Early Competition at distribution level.

In addition to working in partnership with a wide variety of stakeholders as part of the project, the ESO has set up the ESO Networks Stakeholder Group (ENSG), with broad industry, consumer, local planning and environmental representation, to review and challenge the outputs and processes from the project and the ESO's approach to stakeholder engagement.

This report sets out the ENSG's assessment of the ESO's approach to stakeholder engagement, their proposals for Early Competition and the reasoning. The group has felt that the ESO had carried out extensive engagement and taken on feedback from the group on how they could improve their engagement. The result was remarkable considering the difficulties in the last year caused by COVID-19.

There have been some challenges from the group to the ESO on the TOs role in Early Competition and the mitigation of potential conflicts of interest. The ESO has responded by carrying out more bilateral and joint discussion with the TOs on this topic but the group felt that the counterfactual approach could have been considered explored formally as part of the consultation process.

The ENSG paid several compliments to the ESO on the amount of effort that they put into their stakeholder engagement. The ESO did listen to the group's suggestions on allowing more time for response to consultations and targeting key organisations which delivered more responses in Phase 3. Any disappointment with the quality or quantity of response on some issues may be less to do with a lack of detail at this stage or lack of in-depth knowledge as to how things would be made to work in practice and more to do with the stage of development of the ECP. Once Ofgem and BEIS have taken the necessary decisions on next steps, other stakeholders would be more likely to engage, and market appetite could be assessed. The ESO had taken the plan as far as they reasonably could for the time being.

The ENSG felt that presentation of the input that the ESO had received from stakeholders was key. It was important to refer to the stakeholder input and the ESO position item by item and to avoid conflating issues and arguments. This would enable the ESO to demonstrate and justify how they had arrived at their conclusions, demonstrating to stakeholders that it had listened. The detailed "You Said, We Did" document that the ESO had prepared was impressive, even though the ENSG was, obviously, not in a position to audit or check every response against each statement in the ESO's documentation. The references to stakeholder views in the ECP itself avoided making it too lengthy, achieving an appropriate balance.

For the ENSG, the key controversial issue was whether the perceptions surrounding incumbent TO participation in Early Competition in some manner would deter third party investors.

Overall, the ENSG has been impressed by the extensive stakeholder engagement by the ESO and recognises that the ESO has acted on the feedback and recommendations made by the ENSG. The ECP represents a journey in the development of Early Competition which will provide a lens through which the level responses can be assessed. Some stakeholders will not engage until more detail has been developed and Ofgem and BEIS have made the key decisions on next steps. The ENSG is very grateful to have received such excellent support and responsiveness from the ESO team.

The Early Competition Project

What is Early Competition?

The onshore electricity transmission networks in Great Britain are owned by the three regional licenced Transmission Owners (TOs): Scottish Hydro Electric Transmission, Scottish Power Transmission and National Grid Electricity Transmission.

The three TOs are regulated by Ofgem, which manages their licences and sets their regulated revenue streams through periodic price reviews. Ofgem is now considering how competition can be introduced into the provision of the onshore transmission infrastructure by introducing Competitively Appointed Transmission Owners (CATOs). Early Competition relates to transmission competition before the initial solution design has been done and preliminary works, including surveys and consents, have been undertaken.

The ESO have begun introducing competition in onshore transmission through the Network Options Assessment (NOA) Pathfinder projects¹. The Mersey High Voltage pathfinder has shown that non-network solutions provided by third parties can be competitive compared to transmission asset solutions. The ESO's RIIO-2 proposals set out their ambition to roll out this approach to become business as usual for network planning by 2026.

The Pathfinders use competition to identify whether non-network solutions, or distribution network solutions, could provide more efficient alternatives to the solution proposed by the incumbent TO. A non-network solution is anything that is not a transmission or distribution asset (i.e. it does not require a transmission or distribution licence). This could include energy storage, services provided by existing generators or utilising existing or new assets to provide the services required. Early Competition differs from this by facilitating competition to design, build and own transmission assets as well as non-network solutions; whereas the Pathfinders are limited to seeking alternatives to transmission assets. As the development of both processes continues, the ESO will consider the circumstances in which each approach is appropriate.

The Benefits of Early Competition

Competition plays an important role in creating value for consumers. Requiring firms to compete can lead to lower costs and increased levels of innovation. A study commissioned by Ofgem on the impact of the offshore regime showed that offshore transmission owners (OFTOs) achieved significantly lower costs when compared against various counterfactuals.²

As part of the Integrated Transmission Planning and Regulation (ITPR) project, Ofgem also undertook an impact assessment of the use of competitive tendering in transmission³. The case for extending the use of competitive tendering is informed by the expectation that applying competitive pressure will lead to better value for consumers through efficiency and innovation. Savings can be achieved through:

- **Capital and operational cost savings** – competitive tendering will place downward pressure on capital and operational expenditure. TOs currently submit costs to Ofgem who calculate the efficient

¹ NGENSO (2018) Network Development Roadmap. Available at: <https://www.nationalgrideso.com/research-publications/network-options-assessment-noa/networkdevelopment-roadmap>

² Ofgem (2014) Evaluation of tender round 1 benefits. Available at: <https://www.ofgem.gov.uk/ofgempublications/87716/140508coveringlettertocepareportfinalforpublication.pdf>

³ Ofgem (2016) Extending Competition in Electricity Transmission: Impact Assessment. Available at: https://www.ofgem.gov.uk/system/files/docs/2016/05/extending_competition_in_electricity_transmission_updated_impact_assessment_0.pdf

costs using a range of analytical tools but there is information asymmetry which puts Ofgem at a disadvantage.

- **Innovation** – competitive pressure and involvement of new parties is likely to drive innovation, resulting in lower costs and better value for consumers and, potentially, greater environmental and biodiversity protection. Depending on the tender model, there could be innovation in areas such as technology, design, supply chain management, raising of finance and operations.
- **Diversified sources of labour and capital** – investment opportunities for new parties allows different sources of labour and capital to enter the industry.
- **Financing** – bidders in a competitive process are likely to put forward financing solutions that deliver better value for consumers.
- **Enabling investment in low carbon generation** – a significant benefit is that it will enable investment in low carbon electricity generation. Cost savings driven by innovation will drive lower transmission charges and make investment in low carbon generation more economically viable. This benefit is particularly important considering the role of the ESO in supporting Great Britain achieving Net Zero.

There are several additional costs associated with competition which offset some of the benefits outlined above. These include set up costs, procurement costs, bidder costs, network planning costs, and contract management costs. The cost of these needs to be considered before any decisions are made to run a competition.

The process for developing the ECP

A central theme of the ESO RIIO-2 business plan is unlocking consumer value through competition. In May 2019, Ofgem requested that the ESO develop an Early Competition Plan (ECP) to sit alongside the ESO's business plan, including:

- Proposed scope and form of Early Competition
- Identification of competition functions the ESO is already undertaking
- Pathways and timeframes for achieving the plan
- Roles and responsibilities to underpin the arrangements
- Required legislative provisions and/or conditions
- Potential regulatory or legislative barriers.

Further to this, in September 2019 Ofgem provided clarification as to their expectations for the ECP. The clarification related to two main areas:

1. **A clear description of proposed Early Competition models** – the proposals should consider the whole lifecycle of the competition model, from project identification to tendering and post-tendering processes. In addition, it should cover:
 - How the same model can operate with and without Competitively Approved Transmission Owner (CATO) legislation
 - An outline of the criteria to determine which types of system needs are better suited to Early Competition

- For non-network solutions, an outline of which party is the most appropriate contractual counterparty
- A consideration of how the model will allow for fair and transparent competition, including equal access to all necessary information required to submit competitive bids
- Consideration of the role of data in the design in terms of data management improving the performance and design of tender processes and how operations should treat and share data for the benefit of the whole system.

2. **Roles and responsibilities** – the proposal should consider the roles and responsibilities of all parties involved in Early Competition at each stage of the process. For the ESO:

- The scope of its own role, including practical implications of its role including estimated cost, expertise and risk implications
- The role it could play in supporting competition for solutions at the electricity distribution sector level from 2023 or RIIO-ED2, identifying aspects the ESO may be able to provide.

As part of the plan, Ofgem expected the ESO to engage with relevant stakeholders including through workshops, working groups and consultations.

The ENSG Process

The ENSG was an independent body that was part of the governance arrangements agreed with Ofgem for the Early Competition and Offshore Coordination Projects. Its role was to help ensure that the ESO developed fair and transparent Early Competition and Offshore Coordination proposals that incorporated and balanced feedback from all affected stakeholders. The group did this through constructively challenging the content and the outputs developed in the Early Competition and Offshore Coordination projects, in addition to the ESO's own stakeholder engagement. A separate report has been published on ENSG's work on Offshore Coordination [provide link].

Members of the Stakeholder Group were responsible for scrutinising and providing input and expert challenge to the Early Competition and Offshore Coordination projects. While members did not formally represent all of the organisations in their sector, the expectation was that members' views would be influenced by the type of organisation they were from, and their experience of a particular sector. They should have, to the best of their knowledge, attempted to reflect the views of as many stakeholders in their category or sector as possible in order to achieve as wide sector input as possible. This is why the ENSG has broad representation from across the industry, as well as representation of consumers, local communities and the environment.

The ENSG met periodically since August 2020.

The group was representative of the ESO's role and the wider industry. The ENSG was comprised of the members below.

Sector	Representative	Organisation
Chair	Dame Fiona Woolf	
ESO	Craig Dyke	NGESO
Transmission owner	Hedd Roberts	NGET
Distribution network owner	Lynne Bryceland	SP Energy Networks
OFTO	James Dickson	Transmission Investment
Interconnector	John Greasley	NGV
Asset infrastructure investor	Darryl Murphy	Aviva Investors
Asset infrastructure constructor	Simon Rooke	Balfour Beatty
Technology provider	Marko Grizelj	Siemens Energy
Existing service provider	Cathy McClay	SembCorp
Offshore Developer	Andy Paine	Vattenfall
Onshore Developer	Douglas Allan	SSE Renewables
Consumer representative	Ed Rees	Citizens Advice
Seabed Manager	Richard Clay	Crown Estate
Environmental Representative	Tania Davey	The Wildlife Trusts
Scottish planning representative	William Black	Energy Consents – Scottish Government
England and Wales planning representative	James Harris	Royal Town Planning Institute

NGESO Members

Representative	Job Title
Craig Dyke	Head of Strategy & Regulation
Alice Etheridge	Offshore Coordination Senior Manager
Hannah Kirk-Wilson	Network Competition Senior Manager
Alice McCormick	ENSG Technical Secretary

The Chair was appointed by the ESO. It was recognised that the Chair would play a critical role and was chosen to act as an individual and not represent any particular organisation.

Dame Fiona Woolf, an energy and infrastructure lawyer and a former partner with CMS Cameron McKenna Nabarro Olswang, was chosen as Chair of the ENSG as she is one of the UK's most respected energy lawyers and has extensive experience and expertise in the energy industry. She also chairs Regional Market Advisory Panel of the Power Potential project.

The ENSG Terms of Reference can be found [here](#).

Meetings

Meeting	Date	Key topics discussed
ENSG 1	11th August 2020	Welcome and introduction of the members Who is the ESO? Early Competition project overview Offshore Coordination project overview Purpose of group and method of working
ENSG 2	2nd September 2020	How ENSG will work with other groups Future ENSG meetings Early Competition proposals Offshore Coordination consultation approach and workstreams overview
ENSG 3	12th October 2020	Early Competition report structure and meeting plan Roles in competition

		Offshore Coordination consultation update and key messages
ENSG 4	3rd November 2020	Early Competition process update and deep dive into Roles in Competition
		Offshore Coordination Phase 2 update and ENSG report
ENSG 5	19th November 2020	Offshore Transmission Network Review update from BEIS
		Offshore Coordination Phase 2 scope review
		Early Competition consultation and stakeholder interactions
		Views from ENSG on ECP proposals
ENSG 6	26th January 2021	Early Competition Consultation Q&A
		Offshore Coordination update on position on Phase 2
		Offshore Coordination Phase 1 stakeholder engagement
ENSG 7	2nd March 2021	Early Competition Network Planning Roles and Responsibilities (Including TO counterfactual approach)
		Early Competition Commercial Model
ENSG 8	30th March 2021	Early Competition Feedback on ECP Final Report
		Early Competition summary of TO counterfactual approach
		ENSG Early Competition Report
		Offshore Coordination summary of Phase 2
		Offshore Coordination draft stakeholder approach vision and principles

The meeting minutes can be found [here](#).

Stakeholder Engagement Approach

The ESO's Stakeholder Strategy

Members of the ENSG spent a significant amount of time understanding and providing feedback on the ESO's stakeholder strategy for ECP. The ESO provided pre-read materials ahead of the meetings to promote discussions. Following each meeting the ESO followed up with any outstanding issues with further information and follow up meetings with individuals where requested.

The ESO presented and provided evidence of their stakeholder engagement for each of their consultations. Figure 1 below shows the timeline that the ESO had been following for their consultations and stakeholder engagement.

Figure 1 - ECP Stakeholder Timeline⁴



ENSG Initial Views

ENSG recognised that ahead of the group being formed in August 2020, the ESO had carried out a large amount of engagement with stakeholders on Phase 1 and Phase 2 of the project.

Overall, the ENSG was impressed with the effort put into the stakeholder engagement the ESO carried out for Phase 2 of the ECP and said that it was above and beyond what was expected. Though the group did highlight they were disappointed in the number of responses received for the Phase 2 consultation, it was recognised the ESO did receive a lot of feedback through their webinars, workshops and bilateral conversations.

⁴ <https://www.nationalgrideso.com/future-energy/projects/early-competition-plan/upcoming-and-past-events>

Phase 2 Stakeholder Engagement

Meeting 1

The ESO introduced the Early Competition project, explaining what the ask from Ofgem was, what stage the project was at and the timescales for the project.

It was explained in the meeting that Phase 1 of the project had been to explore a range of models at a high level to decide which options to review further. Phase 2 was focussed on a more detailed development of the options and stakeholder engagement.

At this point, the ESO planned more interactive workshops in September to gather opinions and further develop the Early Competition model, which were open to all.

Meeting 2

The ENSG was not able to review the Phase 2 consultation collectively, as it closed a week after the group's first meeting. Although the ESO explained, in response to the ENSG's question, that they did not expect the ENSG to review the Phase 2 consultation as a group and feed into it, the ESO hoped that organisations in the sectors or groups represented at ENSG would have already reviewed the consultation and replied. The ESO agreed that in a future meeting, the feedback received would be presented back and the ENSG could hold the ESO to account on how they would take the feedback forward to ensure the ESO were allowing all stakeholders to be involved and not unfairly prioritising one group over another.

The group made the point that with a lot of consultations coming out, it was difficult to respond in the timeframe, so they needed to allow stakeholders sufficient time to be able to formally respond. The ESO agreed with the feedback and allowed more time. They also said that they would look at the structure of the document to make it more bitesize and to give it more visuals for the next consultation. The ESO said they had already extended the consultation period from four weeks to six following stakeholder feedback.

ENSG also said it is important to understand the reason and purpose of different types of feedback and the best channels for collecting. Consultations are very time consuming and the lone voice that can be valuable can be lost. Then, once you have the feedback it is important to consider what you do with it. Stakeholders want to know what is being done with their feedback to know they are not wasting time providing it. It was suggested that the ESO could have one-to-one conversations with stakeholders and ask if other channels were found useful. The ESO confirmed many channels were used, including bilateral conversations with all who responded to the consultation to get better insight into their responses. ENSG suggested that less but more detailed, higher quality conversations may be better in some cases or on some issues. The ESO said they could ask stakeholders how they want to be engaged.

The ESO encouraged ENSG members to attend the upcoming workshops.

Meeting 3

The ENSG gave feedback on the consultation period timeline, recommending the ESO extend it. The ESO confirmed they had listened to the feedback and will be extending the consultation period from 6 weeks to 10 weeks to allow stakeholders more time to respond. The ENSG felt the new timeline was acceptable.

The ESO confirmed they had run workshops in September where 19 stakeholders attended representing 8 different organisations. The workshops covered:

- roles in Early Competition;
- operational incentives;
- risk allocation and post-preliminary works cost assessment;
- industry codes insights;
- indicative solution identification process;

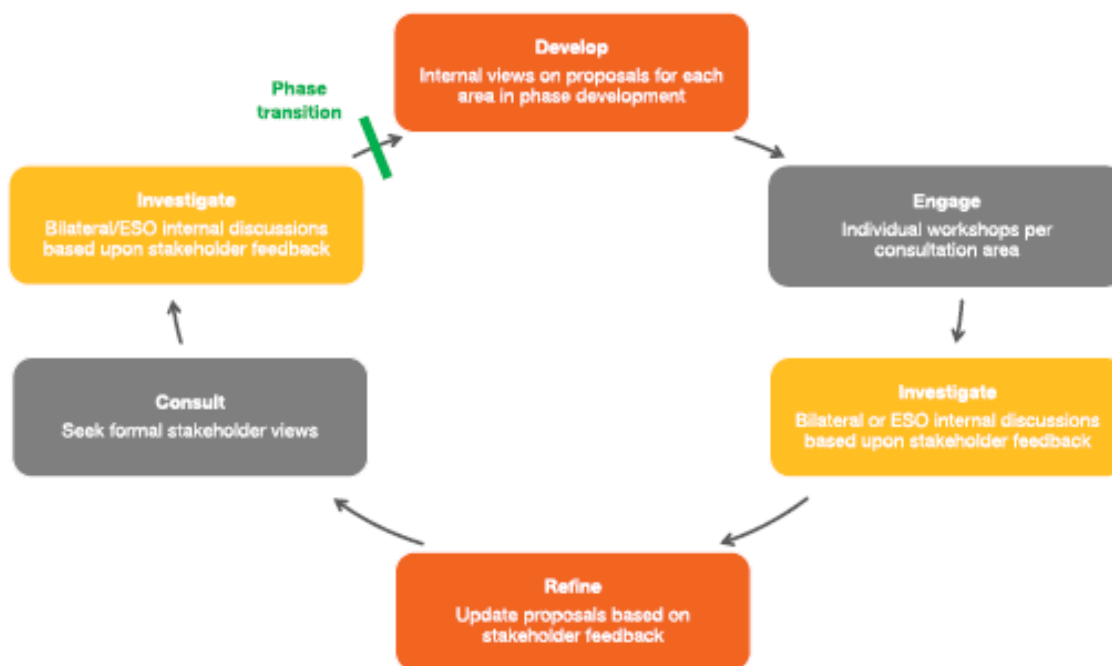
- provisions of network information; and
- potential ESO roles in distribution Early Competition.

The ESO received a lot of feedback on their proposals and the feedback received from stakeholders would be built into the ESO's Phase 3 consultation. The ENSG were comfortable with the workshops the ESO had run to get a wider range of feedback.

Meeting 4

The ESO presented to ENSG what stakeholder engagement had been carried out during Phase 2 and how the ESO had listened to stakeholder feedback. Figure 4 below shows the ESO's process.

Figure 2 - ESO's stakeholder engagement process



The ESO presented how they had listened to stakeholders and investigated by:

- ESO internal discussions with relevant teams
- Bilateral discussions with their stakeholders
- Engagement with TOs
- Consulting industry experts, or BEIS and Ofgem
- Exploring industry codes
- Liaising with the Electricity Networks Association (ENA)

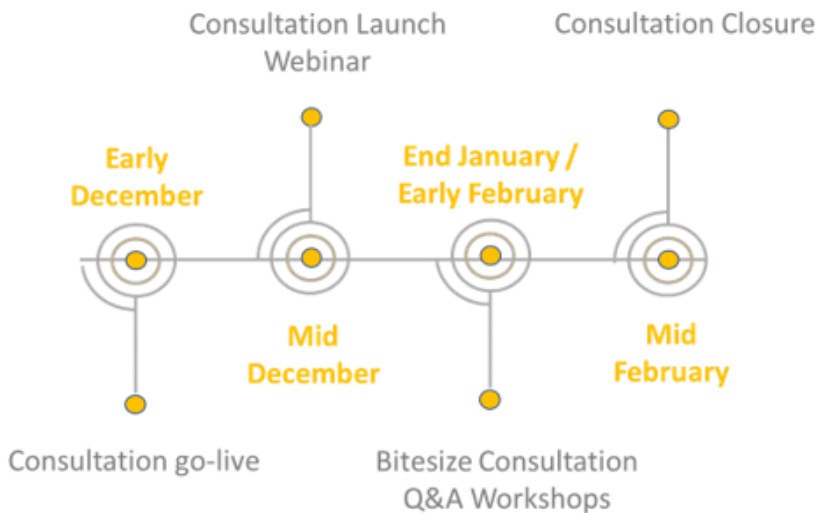
The ESO confirmed they will be publishing a document including the stakeholder feedback they had received and how the views have been used to inform their proposals for the Phase 3 consultation.

Phase 3 Stakeholder Engagement

Meeting 4

The ESO gave an overview of what engagement was planned for Phase 3 and how the feedback received had been used. The ESO used the below figure to show the approach for the consultation.

Figure 3 - from ESO slides in Meeting 4



The ESO said they had been speaking with Ofgem to confirm when the final RIIO-2 determinations would be published to ensure their next phase consultation would be published ahead of it, which was planned to be in early December. The consultation was planned to be open for 10 weeks. The ESO said they were going to notify stakeholders that the consultation would be going live through Twitter and newsletters. Then a week after publication there would be a launch webinar which was recorded and published on the website. The ESO considered the feedback from the ENSG that the consultations are large documents and are time consuming to reply to. The ESO informed ENSG that they planned to run some Q&A workshops to allow stakeholders to ask questions and feedback comments. Each of the webinars would be run twice, looking at specific chapters in the consultation:

- commercial model and implementation
- roles and Early Competition at distribution level
- project identification and end-to-end tender process

The ESO confirmed that they were happy for people to feedback verbally instead of in writing. In these cases, someone else from the ESO would take notes and then they will get written confirmation from the respondent that it was captured correctly.

The ENSG asked the ESO, based on the lower than expected responses to the Phase 2 consultation, if they planned to do anything additional for Phase 3 engagement to solicit additional number of responses. The ESO said they were looking at different approaches and speaking to their internal communications experts on what can be done through Twitter. The ESO also runs an Operability Forum which would include an agenda item on Early Competition. Newsletters from the ESO were also to be used to get to a wider audience as well as calling new stakeholders to ask how they could engage with them and get them more involved.

The ENSG said that in order to get the best feedback, the ESO needed to identify who the audience was and be clear on who the potential competing entities may be and ensure they are targeted and are aware of the process, as this might not be something the targeted audience has yet focussed on. For the process between Phase 2 and Phase 3, it would make sense for there to be a reassessment through the terms of reference for development of the ECP to understand whether it has been clearly identified and adhered to, as there is currently no visibility of that. The ESO said they had the Ofgem published letter which was high level in terms of specific models. They also had an advisory committee to ensure they were delivering against the scope.

The ENSG also challenged the ESO on how they know the individuals are competent and are giving the views of the company or sector without a formal response when receiving feedback during the workshops. The ESO agreed to consider that more.

The ENSG wanted to highlight the importance of the feedback the ESO had received and wanted to ensure it was being considered ahead of the next consultation. The ENSG also wanted the ESO to provide reasoning behind their decisions to give comfort that the points being made had been well thought through and that it had considered all the feedback received. The ESO agreed with this.

Meeting 5

The fifth ENSG meeting mainly focussed on the Offshore Coordination project. In terms of Early Competition, the ESO gave an overview of their positions that were stated in the ECP Phase 3 consultation published in December. The ESO said they had taken on board the feedback from the group that the last consultation was long and difficult to get through, so they had restructured the document to make it as easy as possible to read and respond to.

The ESO gave an overview of what engagement had been done during the project so far and what engagement was planned.

The group recognised that the ESO had reviewed the Phase 3 consultation timeline and extended the consultation period to 10 weeks, thanking the ESO for giving a more realistic timeline.

Meeting 6

The ENSG was keen to understand how the Phase 3 consultation engagement had gone so far and what the views were on the engagement as there had been various virtual sessions on the consultation that were open to its members. The ESO said they had been getting positive responses and the sessions had been going well. 65 people downloaded the consultation with 300 views of the news articles and 40 people attended the launch webinar. 20-25 people had signed up for each of the upcoming Q&A sessions. For other engagement, the ESO had worked with the International Project Finance Association (IPFA), to target the financial community as they were missing from the Phase 2 responses. Twitter was used to communicate as well. The ESO Future Energy Scenario (FES) team and the ESO Electricity Ten Year Statement (ETYS) team supported by presenting to the industry how Early Competition may fit in with their annual publications and what the impact could be on the Networks Options Assessment (NOA).

The OFTO representative said he attended the IPFA webinar and thought it was good to get more engagement in that particular area.

The Chair asked whether the ESO had received any feedback on the structure of the Phase 3 consultation report and how they posed the questions in each section. The ESO said it is not something on which they had received any feedback but had tried to make questions straight forward to answer with a “yes” or “no” and that they had tried to make it clear that respondents could respond with as little or much as they wanted to.

The ENSG asked whether the ESO had sought input from focussed infrastructure banks. The ESO confirmed they had and were hoping to get some responses from them to the detailed proposals. The ESO had been having conversations with the banks throughout the year to help inform their proposals. The banks had not responded to the Phase 2 consultation.

Meeting 7

The ESO presented the engagement that had been done to date as part of the project. The ESO had received 12 responses to the Phase 3 consultation, which was an improvement on the Phase 2 consultation response.

The ESO carried out a deep dive of the role of the TO. The ESO had been considering three main questions:

- Should TOs be able to compete and participate in Early Competition?

- If they can, what form should that take?
- If they are participating, how are conflicts of interest to be managed?

The ESO had held further bilateral conversations and joint discussions with the TOs, building on what had been discussed during Phase 2.

The ENSG OFTO representative said there had been a lot of effort from the ESO to solicit feedback in their consultation and he was conscious of the difficulty to get responses. He said the ESO had done what they could to get feedback from the industry. He went on to say the issue was not in the efforts to solicit feedback but rather how the results are presented, what is done with the feedback it and how subsequent ESO positions have been justified.

Meeting 8

The ESO had circulated the draft ECP report to the group prior to the meeting and were keen to hear views on how comments from ENSG have been included. A paper on stakeholder engagement on the roles of the TOs and responses to the feedback had also been circulated to the group.

The group said the ESO had done well to have taken on board the ENSG's views on the need to argue their recommendations and justify them. The ESO had also linked those positions and recommendations to the understanding of the inputs from stakeholders. The Chair said the stakeholder views had been included in the report but there were sections where they were missing. The executive summary also did not include much detail on the reasoning. The ESO said they were trying to give a view of where there was the most diverse range of views or where they have a consensus rather than leaving the reader to dig into an annex to find it.

The DNO representative commented that Ofgem would usually set out who the stakeholders were rather than keeping it anonymous. That would have made the report sharper and made it clearer why some stakeholders disagree and have issues. The group agreed that the ESO could do more to identify which stakeholders or which categories of stakeholders support which position.

The group discussed the "You Said, We Did" document. ENSG said the document was a detailed read and it is quite a long document. ENSG said it would be useful to flag in the ECP report where to look in the "You Said, We Did" document to link the two documents better, or at least include more references to the "You Said, We Did" document in the report. The group agreed the document provided an important backing to the detailed consultation and recognised it is difficult to get the right balance as it is a very systematic and functional document. The ECP needed to be readable.

The ESO said they would submit the ECP report to Ofgem at end of April and publish it on their website at the same time. They were planning webinars for mid-May to go through some of the content of the plan submitted to Ofgem. Ofgem intend to run their own consultation on it in the summer.

Assessment of Proposals

The following section summarises the discussions and challenges from the ENSG on the ESO approach to assessing and developing their proposals for the ECP.

Overall, the ENSG felt that the ESO has explored many of the options thoroughly and used data, feedback and other examples, including international experience to assess the proposals.

The main challenges from the group were around the conflicts of interest and roles of the incumbent transmission owners (TOs) if they are allowed to compete in some manner. The ENSG asked for a “deep dive” on this which the ESO was happy to provide. There was a particular interest in the TOs role in transmission planning and how decisions are made under the Network Options Assessment (NOA) process. The possible option of the ESO taking on more responsibility in the planning process was met with some hesitation initially on the part of the ESO, citing lack of/duplication of expertise to take on the role. It was also felt that more time could have been spent exploring the option of the TOs providing a counterfactual. In response, the ESO organised an industry workshop to allow more feedback to be given to this option and produced a paper for the group detailing stakeholder engagement in relation to it in more detail.

These issues lie at the heart of the ECP and opinion is bound to be divided. Recognising the difficulties of policing the proposals for managing the potential conflicts of interest (including ring-fencing the TO bidding team where further detail remains to be developed), the ENSG was concerned about the perception that potential competitors may have about the TOs’ participation in the competition, either as a counterfactual or as a market bidder, and suggested that a concerted market engagement exercise should be undertaken to assess investor appetite. The market is not likely to respond until Ofgem and BEIS have taken the key decisions as to next steps in turning the ECP into reality.

Meeting 1

The ESO gave an overview of the ECP in the first meeting.

ENSG questioned what might cause a project to not be suitable for Early Competition. The ESO said that a project does not meet the necessary criteria where new, separable and certainty are all criteria, so there may need to be a few iterations of the NOA process before it becomes clear. It also may not meet the criteria if it is an urgent project or is further along in development. It had also been set out in the consultation where Early Competition may need to be abandoned part way through. In any of these cases it may be considered as part of the Late Competition model⁵.

The ENSG challenged the ESO on whether they had considered legislation changes and what options could be taken forward without these changes. The ESO said it was limited on what could be run without legislation changes and had taken legal advice on the subject. The ESO have looked at UCR and whether you could run anything under that, which is difficult due to the potential level of change post-tender and that you may not always be awarding a contract at the end. The pre-legislative form of competition comes in the form of Pathfinders and evolving them toward the Early Competition proposals.

The ENSG also raised an issue around third parties owning and operating transmission assets connected to a reticulated network as causation and liability are difficult to prove if there is an incident (even if the project is separable). The ESO confirmed this issue had been raised and there was a need for assurance of technical quality and to put in place frameworks that can provide clarity of what additional requirements there may be to enforce the right standards.

Meeting 2

⁵ A project would be considered for Late Competition after the project has secured planning consent. It will be the responsibility of the relevant regional TO (National Grid, SHETL, or SPT) to undertake any preliminary works necessary to progress the project to the point of securing consent for the project.

The ESO led discussions on the following areas with the group:

- Suitability for competition
- Roles and responsibilities
- Tender process
- Commercial model
- Post tender award
- Distribution

The ESO were challenged about saying in the consultation that code changes were minor to introduce Early Competition. The ESO said it was too early in the process to discuss in detail how the codes may be impacted. A high-level assessment has been included.

The Onshore Developer representative questioned whether developers had been engaged with and if the benefits had been made clear to them. The ESO said they had engaged with developers, with some responding to the consultation, and the ESO had been clear that, in its view, introducing Early Competition could support low cost and faster delivery.

The Chair asked how planning would work post legal separation of the ESO from National Grid Electricity Transmission and how it could be ensured that it is done independently and transparently to create the necessary level playing field. The ESO replied that the TOs have had a strong input into the process but going forward the ESO will need to take on more responsibility and they are looking into how to make that planning process work. The ENSG felt that it is fundamental and that they can see why TOs might be sensitive, not the least because it is not straight forward when something goes wrong to understand who is responsible for the fault when you have two sets of assets interacting with each other. It was agreed it is difficult to carry out this part of the process without knowing that a thorough planning process review is going to take place. The ESO said this will be considered as part of Phase 3.

The ENSG said that the process the ESO are considering seemed to be a standard procurement pattern and having a two-stage process would help to resolve issues.

The Asset Contractor representative said they would support not having a bid bond at this stage as the aim is to attract as many competitors as possible and bid bonds always add cost which would deter bidders. A key argument was that project funders would likely be requiring performance bonding, and this would represent duplication. It was discussed that it may be good to consider keeping options open and if it is found projects are not moving fast enough over the first few years, it would be possible to consider what can be used to encourage them to be faster. The ESO said the consultation was not as clear as it could have been on bid bonds and there was little support for performance bonds as well. The ESO would need to retest bid vs performance bonds.

Meeting 3

The ESO gave an overview of the proposed roles for Early Competition and highlighted that they had published a thought paper on the proposed roles and gathered stakeholder feedback through written responses and bilateral conversations. Feedback suggested there was some overlap of the roles and there would be benefit from being defined further.

The Asset Infrastructure Investor representative asked whether the ESO had looked at examples elsewhere to support development of their proposals, including networks in other sectors. The ESO confirmed they had looked at Thames Tideway and how that is set up as an example as well as Pathfinders.

The OFTO representative asked if any potential conflicts had been identified in the roles the ESO are considering against the Late Competition model as it is not clear how a project might transition from being considered for Early Competition to the Late Competition model. The ESO confirmed they had created a map of how the process will work and how decisions will be made. The first stage gate will require the

planning bodies to decide on the need and as part of that there will be a decision by the Approver, Ofgem, on whether the project will go into Early Competition or Late Competition. The ESO said they are discussing with Ofgem what the roles for Late Competition are. It was felt the issue is that the TO moves from bidder to contracting counterparty between Early Competition and Late Competition. This has not been addressed.

The group challenged the ESO on whether they had considered what would be required for the ESO to be able to take a greater role in the transmission planning process leading to Early Competition themselves. The ESO said it had been considered as an option, but the TOs have other planning functions based on their licence conditions (notably asset health and new connections) and if the ESO perform this role there may be duplication and loss of synergies. The ENSG said this is a key contentious part of the programme. If the ESO recommends they do more of it, they are increasing their role, but they have their own interest at play as the system operator. Equally, there is a clear conflict where TOs are bidding into a competition when they have had a role in designing what is to be competed in the planning phase. But part of the role of the ENSG was to input on the need ensure there was a fair and transparent process. The ENSG wanted to see views and arguments of what would be put forward to Ofgem, particularly from stakeholders. It was agreed that this needed to be discussed further in future meetings.

The DNO representative said the ESO needed to consider the fact that the proposal that TOs should be allowed to compete as any other bidder was essentially taking the TO out of the regulatory framework in which it was designed to operate and questioned if this would deliver additional cost benefit to the end consumer. This was felt to be an issue which had not been considered as no cost benefit analysis exercise had been undertaken as part of the ECP work. The DNO representative said the organisation they represented was becoming increasingly nervous that the ESO, as a licenced entity, was consulting on the roles and responsibilities of other licenced entities, which included proposing to expand the roles and responsibilities of the ESO itself (in order to manage potential conflicts of interest in the planning process, that would identify what was to be competed).

The group felt the role of the ENSG was to make sure the process the ESO proposes is balanced and fair. The ESO were asked what processes and controls they had in place for carrying out consultations; Ofgem have very strict processes on managing consultations. The ESO said Ofgem would see the ENSG as a key part of the ESO process on stakeholder engagement. Ofgem had also asked the ESO to do QA on the process and then said that Ofgem is planning on scrutinising how the ESO had carried out this process.

Meeting 4

The ENSG challenged the ESO on whether they planned to provide reasons for the decisions and the ESO said that the consultation document would signpost how the decisions had been made.

The group said the risk allocation and operational incentives will determine what type of investors will be attracted and asked to what degree the ESO had done any assessment into that in comparing the counterfactual of the current arrangements in place. The ESO said that in the early stages they looked at having similar incentives in place to those that the onshore TOs have but felt they would be less appropriate. So, they had been looking at the OFTO regime and Pathfinder regimes. Currently, the OFTO floor is 90%, whereas in the Pathfinders, where you might have a different type of participant, the floor is 0%. The ESO looked at having something similar but as there are different investors, they needed to consider the floor and having some elements of these regimes for incentive design on a case-by-case basis.

The ENSG asked the ESO whether the ESO had considered risk allocation between the consumer and TOs. The ESO said it was not something they had fully considered yet and they would consider it as part of the next consultation. They had not started with the existing RIIO risk allocation, they were building it from bottom up whilst keeping an eye on OFTO regimes and current regime as well as looking at what Ofgem are considering for the Late Competition model. When they get to a built-up position for Early Competition, Ofgem will demonstrate what they think is an appropriate balance between consumers and bidders to make the process work at an earlier stage. Then they will need to look at that against the RIIO regime.

The ESO said they used webinars to test the question of whether more information is required up front as part of the tender or if it is a case of additional studies to be done once bidders have set out their outline proposal. Feedback suggested that it would be very difficult, if not impossible, to provide all the information on all the different permutations that might come back and that studies, particularly network impact studies, are generally unique to the proposal. So, feedback said impact studies will be necessary and it will not be possible to provide the information up front to remove the need for additional studies once outline proposals have been prepared.

The ESO had planned workshops to look at who would be best placed to do those studies; currently it is the TOs. It needed to be considered how to complete those studies without creating a conflict of interest. There also needed to be further consideration of what information is available with more granularity, and how to work around the lack of availability.

Meeting 5

The ESO gave an overview of their positions set out in the consultation published in December 2020. There were no challenges from the ENSG at that meeting.

Meeting 6

The ESO spoke about the responses to the Phase 2 consultation document on the roles of the TOs and perceived conflicts of interest and how these were used to inform the ESO position. The ESO recognised that stakeholders wanted more detail for the post-tender award costs assessment process, so this was provided in the Phase 3 consultation.

The ESO led a Q&A on the proposed commercial model. The group challenged the ESO on their proposal for a debt competition. The ESO said they needed to do some market soundings and research and will provide bidders with assumed terms of debt. The group also challenged whether the ESO had done enough engagement to inform their proposals. The ESO confirmed they had taken input from infrastructure banks throughout the year through a number of bilateral discussions to inform their proposals. Some were also represented in the May workshops.

The group discussed what the ESO were considering for performance bonds. The ESO replied that in their proposal they set out a performance bond or some other equivalent form of security. The ESO have used the phrase “bond” but are not sure whether that means “bond” in the strict sense of the word (it could be a letter of credit) or whether something more similar to what exists for offshore projects is appropriate. For offshore, there is already a form of performance bond through the construction period in the codes set at 20% of the capital. It can be considered whether that is the correct number. How security is provided currently depends on the organisation’s credit rating; at a certain level there is no need to provide security, otherwise there would be a need to provide a letter of credit or escrow arrangement, for example. The ESO said there is the potential for double counting where the party may need to provide security to their debt provider for the same risk, so it needs to be explored whether more than that which is necessary is being asked for.

The ESO then led a Q&A on project identification and the end-to-end process. The group questioned whether the ESO had considered how environmental and social implications would be considered and fully taken into account. The ESO confirmed that they had considered this and expect the impacts to be a key feature of what is assessed. A separate meeting would be organised with the environmental representative. Environmental requirements would be a key requirement of the first stage invitation to tender (ITT).

The ENSG also challenged the ESO on whether they had considered in detail how the Early Competition process will fit in with the NOA, FES and ETYS annual processes. The NOA⁶ considers options for upcoming projects each year, with more certainty in later years. The ESO said it had been considered and the pre-tender process will fit with NOA cycles. The process will be to identify that the project meets the criteria in the first year

⁶ More information on the NOA process can be found here: <https://www.nationalgrideso.com/research-publications/network-options-assessment-noa>

NOA. When the project is considered in the NOA the following year, it will be considered if there are any major changes, and if not, the ITT will be launched and the project will not be assessed further in future years of the NOA and be frozen in essence as the ESO need to commit to high level solutions.

The group then discussed the roles and responsibilities proposed by the ESO. The group said they had raised concerns regarding this in the past. However, it was important to consider the views of prospective bidders in light of this approach to include TOs and what this may do to their appetite to participate in the competition process. This will define the success of the proposed competition and the whole Early Competition concept.

The DNO representative said they agreed with what has been discussed so far in relation to Early Competition being considered in distribution. However, as the roles of DNOs potentially transitioning to DSOs under the RII-ED2 framework are currently being discussed and developed by Ofgem and the DNOs, the discussion in this area needs to continue. For the TOs, the group observed that there does not seem to be any significant difference from Phase 2 to Phase 3 and that no rationale for this had been adequately provided. It was recognised that the ESO had been engaging with them on what a counterfactual approach might be like, but it would have been good if this had been explored as an option in the consultation. The ESO confirmed that in their first consultation they talked about the manner of TO competition, whereas the second consultation looked more at TO conflict mitigation. It was felt that it would have been good to explore the TO counterfactual approach in the consultation to invite stakeholders to provide focused comments.

Meeting 7

The ESO presented their proposals and how they came to their decisions on the roles of the TOs in Early Competition.

The ESO was challenged by the DNO representative as they felt there had not been enough opportunity for stakeholders, including the TOs, to explore the option of having a counterfactual approach. It was felt by the group that more time and consideration should have been given to this option. The ESO said they had felt this option would be too difficult and complex to implement so had dismissed it as an option during Phase 2. The ENSG asked the ESO to consider recommending a market engagement survey at an appropriate time to get more interested views on TO participation.

The ENSG wanted the ESO to focus on the presentation of the consultation response results, the decisions that had been taken by the ESO and finally whether the consultation response could be considered comprehensive enough to shape recommendations. Concerns were raised that the ESO might be tempted to frame the responses to support their position. Two out of the three incumbent TOs disagreed with TO participation as a bidder, yet it was set out by the ESO as if there was overwhelming support for TO participation in that form. It was raised that it is important to consider how responses were presented and any accusation made to the ESO that they were trying to justify a position they would like to take, without full reasons needing to be dealt with.

The ENSG also said it was unclear if the ESO process to make decisions was entirely based on feedback or if there was a pre-existing direction from Ofgem. It needed to be clear that if it was based on feedback, whether it was appropriate to go with a simple majority and whether all stakeholders had the same say.

The ESO agreed that simply taking a majority view was not a fair reflection and this is not how they have used the feedback. The ESO took into account stakeholder feedback and international experience as well as other GB processes and infrastructure projects.

The ESO discussed that they had been looking at the Pathfinder projects to inform what the counterfactual process might look like. The DNO representative highlighted that the Pathfinder projects for the Merseyside and stability were developed by the ESO and were not the result of planning or dialogue with the TOs in advance. This caused a mismatch in the scope of the Pathfinder projects and where the TOs think network issues are. This then caused issues for the TOs with the connections process and volumes seeking connections. It was

recommended that the ESO needs to keep in mind that the Pathfinders were designed independently of the TOs. So, whilst it can be useful to look at the counterfactual approach by considering how a Pathfinder project may work, it was not the best example.

The ENSG highlighted that the consultation does not seem always to set out what is right for consumers and the ESO needed to consider further and focus on the benefits to consumers.

In response to the ENSG feedback, the ESO shared with the group a report covering “You Said, We Did”, how they developed the ECP and summarising the engagement carried out. They also produced a report on the TO counterfactual stakeholder approach in response to the ENSG’s comments. The ESO have also run an industry workshop in response to the ENSG’s concerns to allow more feedback to be provided on the TO counterfactual option.

Meeting 8

The group discussed the recommendations made in the draft version of the ECP report provided to the group ahead of the meeting.

The DNO representative said page 7 of the ECP draft report refers to Early Competition as “likely to drive more benefits for consumers”; however, there had been no impact assessment or CBA done to evidence this statement. It was recommended that statements like this needed to be caveated or it needed to be mentioned in the executive summary that the CBA still needs to be done. The view was expressed that clear language that says, why do it, and what benefits will be provided is missing.

The group discussed whether projects in the current year’s NOA could be considered for Early Competition and questioned whether that is realistic and whether there could be a risk of delay. The Ofgem representative said there is a difference between what might be eligible and what might be considered in the future. There are some projects that could have been eligible for Late Competition for a few years now, but Ofgem have not put them forward for Late Competition or delayed the projects. There should be no delay.

ENSG recommended that the ESO’s position on the TO counterfactual model should be included in the executive summary.

The TO representative said section 3.2.4 on certainty did cover the conversations that have taken place. If a competition process extends the lead time it needs to start early and accept the risk of a potential change in network need at a later date or accept that the Early Competition process will happen later. The TOs did have conversations with the ESO about circumstances where a more strategic approach might be needed on the network.

The Chair said it is important to know what the TO views now are and if this makes a difference from an investor /developer perspective. In the last meeting, it was recommended that there is a market engagement survey to understand the impact of the perceived TO incumbent advantage and conflicts of interest. ENSG said there needs to be a market survey as it is difficult to understand from the consultation what the investor/funder appetite is. There needs to be more market feedback at the right time and now still might be too early. Ofgem and BEIS will need to make some key decisions first to enable further work to proceed.

The ESO explained that the ECP would go to the ESO Board in mid-April and to Ofgem at the end of April, with a launch in mid-May.

Conclusion

Overall, the ENSG has been impressed by the creativity and energy of the ESO in their extensive and very transparent stakeholder engagement. Indeed, given the Covid environment, they have broken new ground in how to go about it. The ENSG recognises that the ESO has acted on stakeholder feedback and recommendations. The ESO were happy to provide more information and deeper discussion and webinars on key issues. The “You Said, We Did” document is impressive in its detail. The ECP reflects the ENSG comments on provision of reasons for the proposals.

Despite the numbers of attendees at launches, webinars and Q&A sessions and the in-depth bilateral meetings that the ESO organised, there was some disappointment with the number of full written responses. After some discussion, there was a successful effort including allowing more time, which achieved an increase in written responses between Phases 2 and 3.

The ECP represents a journey in its development which will provide a lens through which the level of responses can be assessed. Some stakeholders will not engage until more detail has been developed and Ofgem and BEIS have made the key decisions on next steps. The ENSG paid the ESO many compliments and is very grateful, not just for the opportunity to participate, but also to have received such excellent support from the ESO team.