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By Email Only to: RIIOElectricityTransmission@ofgem.gov.uk

Thomas Johns
Senior Manager
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Ofgem

14th September 2021

Dear Thomas

Consultation on our views on Early Competition in onshore electricity transmission networks

Transmission Capital Partners (“TCP”) – a joint venture formed of Transmission Investment LLP (“TI”) and Amber Infrastructure Group Limited (“Amber”), with in-depth knowledge of financial, technical and regulatory issues associated with electricity transmission in the UK – is pleased to provide you with this response to the “Consultation on our views on Early Competition in onshore electricity transmission networks”.

TCP manages one of the largest offshore electricity transmission portfolios in terms of the capacity of offshore wind connected. By the end of 2021, our offshore wind transmission portfolio will comprise circa £2bn of assets under management. In addition, TI and Amber have a strong and proven track record in the procurement of large-scale infrastructure projects through their respective involvement in the France-Alderney-Britain (“FAB”) interconnector and the Thames Tideway Tunnel (“Tideway”), and TI is an active participant in the ESO’s Pathfinder tenders.

TCP has for many years been a strong advocate of introducing competition into the delivery of electricity network assets as a way to bring long term investment into the electricity system at the best price for customers. We continue to support the development of the required arrangements for these competitive processes *inter alia* through industry groups, responding to consultations such as these and, when called upon, providing evidence to parliament.

As such we are very supportive of the early competition model being developed, alongside the late model, as a tool that can be used to introduce competition into onshore networks.

In our response below we set out some of the key challenges which, in our view, will require adequate resolution to successfully implement the early competition model. We also provide responses to the specific questions asked in the consultation in Annex 1 to this response.

The ESO as Procurement Body

From our experience on the Pathfinder tenders in which we have participated, we have significant concerns around the ESO’s expertise to run fair and transparent competitive tender processes. Whilst as the name “Pathfinder” suggests, these may be “learning-

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by-doing” processes for the ESO, we have experienced several aspects of these processes which mean that these tenders are not fair and transparent (see Annex 1 for more detail). Whilst bidders may, for a time, be willing to give the ESO the opportunity to improve its processes, it is unlikely that bidders will be so accommodating on more costly tender exercises. We do however, consider that these concerns are resolvable if the ESO were to work to adopt best practice in these processes, and avail itself of expertise in the market. If the ESO is tasked with the Procurement Body role, it should be a focus for Ofgem to ensure that the ESO gains this expertise, its performance in this regard improves, and does so quickly.

It will also be even more important that the ESO is wholly (in every respect) independent of any participant in the procurement process – essentially the only way to achieve this will be via separation of ownership between the ESO and any participant.

The ESO as Network Planning Body

We recognise, and indeed are contributing to, the work underway to review GB-wide network planning processes. However, the direction of this work appears to leave a significant role for the incumbent TOs.

We believe that the only satisfactory solution is that responsibility for planning the system to meet the planning requirements in the SQSS should be allocated to a fully independent (in both ownership and control terms) body, most likely the ESO. This would both ensure a whole system approach to network planning (onshore and offshore), an independent identification of projects suitable for competition, and a level playing field in that competition.

The network planning process, and its interface with the procurement process, also need to be designed to minimise any inefficiencies or risk of delays that would undermine the opportunity to deliver network infrastructure through a competitive process.

Our specific concerns are:

- There is a strong conflict of interest in TOs identifying solutions to system requirements that may then be competed for delivery (see below for our views on TOs competing under any early competition model) – one example of this will be the continuing claim of TOs that solutions cannot be competed as there is insufficient time to do so;
- It is questionable whether TOs will have the ability to identify solutions to system requirements with a background of increasing development of offshore renewable energy and associated network infrastructure (for which they are not responsible), greater integration with DNOs, and system requirements being met by third party providers such as CATOs or Pathfinder project providers; and
- The TOs can have no role in assessing the impact of bids in a tender exercise, for obvious reasons.

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Role of the TOs

We continue to have serious concerns over the role of the TOs in any early competition process. TOs should not have any influence over whether a solution is competed, or any part in any tender process in which they are allowed to bid, for obvious reasons of conflicts of interest. The separation suggested by the ESO clearly does not work as it would not ensure a proper separation of entities involved.

We have previously noted that regulators in other sectors have specifically excluded incumbents from bidding in similar competitions when introducing competition to deliver network infrastructure, where the incumbents are involved in the delivery of the competitive procurement processes.

The reasons why TOs should not be able to be a bid to deliver competitive networks are:

- The assets, experience and capabilities of the TOs have been entirely paid for by customers – these assets, experience and capabilities should be made available to the market in general to provide the best solution for customers, and not reserved to the incumbent;
- Some of the experience and capabilities noted above, paid for by customers, are difficult for the market in general to replicate, such as the volumes of equipment supply and installation contracts awarded due to a market participant not having a monopoly business to generate these volumes;
- There is a significant risk of cross-subsidisation between the regulated and competitive parts of a TO's business;
- Prior to competition in onshore networks the TOs have enjoyed a monopoly in delivering these networks to meet customers' needs. However, the main reason that competition is being introduced is that monopoly TOs have not met customers' needs cost-effectively. Competition is the result of a failure of the TOs and as such the TOs should be considered as having forfeited their right to deliver network solutions that are competed; and
- Any competitive process in which the TOs are allowed to bid would not be seen by the market as a fair process and would likely result in much lower interest (if any at all) from the market.

These reasons still stand even without TO involvement in delivering the procurement process.

The role of the TOs if they are allowed to tender

Notwithstanding the above, if Ofgem considers that TOs should be allowed to participate as a bidder then it should take steps to deal with issues that we have already encountered on the ESO Pathfinder tenders in which TOs are also allowed to bid (see Annex 1 for examples).

Tender process

We continue to have concerns that the tender process, as currently devised, would be inefficient, subjective, and potentially biased towards incumbent TOs.

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Our concerns centre around:

- i) Inefficient risk allocation of funding and limited flexibility on equity pricing which could lead to significant equity risk premiums being locked in for longer than necessary (and could have significant cost implications for consumers);
- ii) The preferred option outlined in the consultation document would not allow the full efficiency of the capital markets to be captured, with the bidder not being incentivised to undertake a comprehensive funding competition, despite debt costs being one of the most significant components of the TRS. We strongly believe that any equity competition must be run at the same time as the debt competition to allow bidders to properly construct and optimise a funding solution (debt and equity) which will deliver the best value to the UK consumer;
- iii) The ability to seek to game the tender process by submitting low bids with a view to adjustment at the Post-Preliminary Works Assessment (PPWCA) stage; and
- iv) The very subjective nature of the ITT Stage 2 process which seeks, as far as we understand it, to adjust the TRS bids both in respect of capability for project delivery (which we consider should be a threshold test) and the risk that the bidder may seek to increase the TRS at the PCWA stage.

The first two points appear to risk losing a significant amount of the benefits of competition. In respect of the last two points, any competition run along these lines, may therefore not only be perceived to be unfair, but may actually be unfair. If this process is to be successful for consumers, it will both need to extract the best value for them from the competitors that take part, and to attract a strongly competitive field.

As noted above we respond to the specific questions in more detail in the following Annex 1.

Yours sincerely



Chris Veal

Director

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Annex 1 – Responses to Specific Questions

Chapter 3: ESO's Early Competition Plan	
<p>Question 1: Do you agree that the continued development of the arrangements to allow early competition in electricity transmission represents good value for money for consumers?</p>	<p>Yes, we agree these arrangements should be continued to be developed.</p> <p>The CATO model has been under discussion for about ten years now, when it was first suggested in the RIIO-1 price review. Consumers are paying and will continue to pay more for their energy as a result of onshore network competition not yet being in place.</p> <p>We consider that the late CATO model should also continue to be developed and that Ofgem and/or ESO should be able to select the model which is likely to provide the best value for consumers for any given project. We do not expect that this would always be the early CATO model, for example timing reasons (changing need during the development process) may dictate that a late CATO model may provide a better outcome, or large but relatively standard technology solutions (such as point-to-point HVDC links) may gain more from a competitive tender process at a late stage when more pressure can be brought to bear on the cost of capital and capital costs generally, and less focus is needed on design innovation.</p> <p>We strongly believe that running some late competitions would provide experience and learning for procurement bodies, bidders and regulators before the more difficult process of running early competitions commences.</p>
Chapter 4: Identifying which projects are suitable for Early Competition	
<p>Question 1: Do stakeholders have any views on how a very early competition could be accommodated within the network planning process without having a detrimental impact on the planning of the rest of the network, or whether there are any specific network situations where a very early competition could be run for a</p>	<p>We believe that further work is required to define the specification of the tender, i.e. what parameters are set by the procuring authority and what is left to the "Detailed Design" stage before this question can be fully addressed.</p> <p>Without this clarity on specification, it is not clear what the definition of an "early" competition" is versus a "very early" competition. For example, if nodes on the system and additional capacity between those nodes are specified, we would expect this to be termed an "early competition", and then it is likely to be able to be more easily incorporated into</p>

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<p>solution without it having a detrimental impact on the planning of the wider network?</p>	<p>wider network planning than if for example a boundary is defined with a capacity to be provided across the boundary.</p> <p>However, it is not clear to us whether the high voltage Pathfinder tenders, in which in general the nodes at which the system requirements are measured, but not the technology that meets the requirements or the nodes where the solutions have to be connected, would be classified as “early” or a “very early” competition.</p> <p>We agree that the question is an important one, and we would consider that the ESO should be best placed to decide how it specifies its system requirements to be tendered in a way which does not have a detrimental impact on the planning of the wider network. But it also provides additional weight to the need for the ESO to be responsible for network planning as a whole, and not just part of it.</p>
<p>Question 2: Do you agree with our assessment of the ESO’s proposed process for defining the technical scope of a tender under an early competition?</p>	<p>We are actually not clear how the ESO proposes that the technical scope is defined (see our response to question 1 above). Fig 3 in the consultation document says the ESO proposes that the network need is defined by “reference solution/market engagement” – this is all too vague to be meaningful.</p> <p>Para 4.17 states that <i>“Where a project meets the proposed criteria for early competition, the scope of the indicative solution is used to define the scope of the early competition tender process. The competition would not be run for the delivery of the specific indicative solution but, rather, that indicative solution would be used to set high-level technical and locational limits within the tender that bids would need to adhere to.”</i></p> <p>Again, this is too vague, all we know is that there would be some technical and locational limits. We consider that further work is required here and some worked examples would be useful.</p> <p>We do have concerns with TOs putting forward projects for the NOA, paid for by consumers as we consider this would give them a material advantage in any tender process as they could:</p> <ul style="list-style-type: none"> • Put forward a sub-optimal proposal and keep the best in reserve for their own bid; • Put forward a proposal for which they know they have a competitive advantage (or could gain one) through for example land rights they already own or could acquire, or relationships with particular suppliers etc.

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	<p>We continue to have concerns that the NOA process could be used to delay decisions so that competition is not possible. This is one of the reasons why we consider that both:</p> <ul style="list-style-type: none"> • It should be the ESO that is proposing indicative solutions; and • The late CATO model should be available if there is insufficient time to conduct an early competition. <p>We are yet to be convinced that the Interested Persons process will be productive given there appears to be very little benefit for any bidders to put suggestions through this process.</p>
<p>Question 3: Do you agree with our assessment of the ESO's proposed criteria for early competition? Specifically, do you have any views on whether:</p> <ul style="list-style-type: none"> - there is a need for a 'high value' criterion? - 'new' and 'separable' are necessary or appropriate as specific criteria for identifying projects for early competition? 	<p>We do not agree that a CBA should, as a matter of course, be carried out to determine whether competition should be run for a project whose need has been identified in two of the NOA scenarios. If a project meets high value/separability/newness criteria, then the CBA should not be required and the decision should be solely as to whether an early or late competition should be run. This is particularly so if any of the parties involved have conflicts of interest, for example if either (or both) the ESO is not separate in ownership terms from the TOs, or if the TOs have any role in network planning.</p> <p>In general, anything above a 'high value' threshold ("no need for a CBA" threshold) should always be competed and a CBA, which could be biased or manipulated, should not need to be undertaken for these 'high value' projects. 'High value' in this case being perhaps £50m.</p> <p>We could accept that under certain circumstances (as described earlier) it may be more appropriate to run a late model competition, but the option to do this would be unlikely to incentivise bias or manipulation. We do not consider there should be any situations where projects which meet the "no need for a CBA" threshold but which are not competed either under the early model or the late model. In order to ensure this, it would be sensible to align the late model 'high value' criterion with the 'early model' "no need for a CBA" threshold.</p> <p>We agree with Ofgem's conclusion that no 'high value' criterion is required if a project specific CBA is carried out before deciding on whether to run a competition, unless of course there is a <i>de minimis</i> threshold below which it is not even worth conducting a CBA. If there is a <i>de minimis</i> threshold this would be very low given the benefit derived from the Pathfinder process which has in our view been beneficial for projects with a capex of circa £5m. We are also not convinced that 'new' and 'separable' would be required criteria if a</p>

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	<p>CBA is conducted, as Ofgem points out these are criteria which can be assessed for the indicative solution but not necessarily for the winning solution ahead of competition.</p> <p>We are not clear what the ESO's (or Ofgem's) position is if a non-network solution was identified as being part of the optimal mix of projects in more than one scenario in the NOA analysis, but didn't meet the criteria for competition – who would then deliver it?</p> <p>We are unsure as to why TO's feedback as described in para 4.30: "<i>we also recognise the feedback from all three TOs, that not including a value threshold would lead to uncertainty over what projects will progress to early competition</i>" is that relevant here. If they could assume that everything is competed, then there would be no uncertainty at all. The answer is not to provide certainty by excluding projects below a threshold from competition, but by ensuring that everything is competed at one point or another.</p>
Chapter 5: Roles and Responsibilities within Early Competition	
<p>Question 1: Do you have any material concerns about the ESO's expertise, incentives, or independence, should they be appointed to carry-out the Procurement Body role for early competitions?</p>	<p>We do have concerns with the ESO's expertise and capabilities in running procurement processes where they are not purchasing commodity items. Our experience of this relates to the Pathfinder tenders that the ESO has run and is still running. These are closely related to the proposed early competition tender process. Examples of our concerns with the Pathfinder tender process are as follows:</p> <ul style="list-style-type: none"> • <u>Delays to tender processes which increase costs and risks to bidders</u> – both the Stability-2 and Pennine pathfinder processes have had their bid dates extended. In the case of Sability-2 by circa 6 months and without the required in service date changing. This has increased bid costs significantly as bidders will now need to continue to develop their proposals (including accepting grid connection agreements and assuming liabilities under these agreements) ahead of knowing whether they have been successful in the tender process; • <u>ESO has not employed best practice in conducting tender processes</u> – there are no written tender rules and regulations which has allowed the processes to be manipulated by bidders (for example the ESO has published all bidders' bid prices and then allowed a successful bidder to increase its bid price post bid to just below the second placed bidder);

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- The ESO has unnecessarily increased costs for bidders and therefore consumers – for example by specifying the locations of system requirements but not securing land rights at these locations and making these available to bidders, the ESO has caused prices for land at the relevant locations to increase dramatically causing a windfall for landowners at the expense of consumers (they have though reserved spare bays in Stability-3 which may remove the grid connection costs bidders have been faced with at the bid stage on previous Pathfinder tenders);
- Inability to level the playing field – the ESO has run tender processes in which independent bidders and incumbent TOs are allowed to participate, but has not adequately sought to “level the playing field” between these two different types of bidders. One example of this is in the treatment of losses for which the incumbent TOs do not pay but independent bidders do. Whilst the ESO has added a cost of losses to a TO’s bid it has not done this in a way which adequately levels the playing field between the TOs and independent bidders;
- Inability to deal with TO monopoly rights - the ESO has not been able to adequately deal with the incumbent TOs in these processes, who have been able to:
 - With-hold relevant site data which they own, and which has been paid for by consumers, from bidders;
 - Make proposals feeding into connection offers to bidders which disadvantage bidders unreasonably in respect of offer type, cost and time;
 - With-hold land, or spare bays, again paid for by consumers, instead reserving them for their own proposals; and
 - Even when making non-operational land available to successful bidders, being obstructive in so doing.

The ESO needs to learn lessons from these tenders, unfortunately we are already seeing some mistakes repeated in successive tender processes.

We are also very experienced in the OFTO tender processes that are run by Ofgem. Whilst they present different, and perhaps easier challenges, they are much better run than the ESO Pathfinder tender processes.

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	<p>In our view, Ofgem would be a better organisation to run the Early CATO tender processes given its successful track record and its undisputed independence. We recognise though that Ofgem seems unwilling to do so.</p> <p>It is not clear to us what incentives the ESO has to run these processes efficiently.</p> <p>Para 5.25 states that “<i>As such we consider that the Procurement Body should be responsible for the preferred bidder decision. This aligns with our wider view that the Procurement Body should be making all tender process decisions, e.g. bidder shortlisting, issuing of documentation, cancellation and disqualification events, etc</i>”. Clearly this needs a wholly independent ESO, and whilst the ESO remains part of the National Grid Group it will not be wholly independent. It is not clear whether the FSO will happen before early CATO or not, but unless it does there will be enormous scepticism about whether the ESO can run a fair process, scepticism which would be increased significantly as soon as National Grid were awarded preferred bidder on a project (indeed that would likely be the end of independent interest in the process until an independent ESO/FSO was established).</p> <p>We already have concerns in the ESO having the role of proposing the tender process in which a subsidiary of its parent is likely to take part. The longer this continues the more concern we will have.</p>
Question 2: Do you agree with Ofgem’s proposed roles?	<p>We assume that this question relates to the roles proposed for Ofgem (as opposed to by Ofgem).</p> <p>As noted above we are currently of the view that Ofgem should also be the Procurement Body. Even if it is not, we would consider that until the ESO is wholly independent, that Ofgem should be the decision-making body during the tender process, effectively setting the scope, criterion and performing the bid evaluation. Only once the ESO is wholly independent should it be allowed to perform these roles itself.</p>
Question 3: Who should undertake the network planning body role? What role should TOs play in network planning?	<p>In our view a competitive delivery model for onshore electricity transmission, coupled with the need to take a whole system view in designing the network given the growth forecast for offshore renewables and the grid that will be required to integrate these within the GB network and internationally, means that the ESO should have the sole responsibility for designing the grid.</p> <p>The TOs should become network asset managers (similar to OFTOs) and have no role in the CATO process other than to provide non-bidder specific information about their</p>

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	<p>networks. As such TOs should not be assessing the impact of bids on their networks (which should instead be carried out by the ESO).</p> <p>It must be recognised that all TOs have a strong incentive to avoid competition (indeed they have been doing what they can to delay the introduction of competition or to narrow its scope and continue to do so). TOs also have a significant conflict of interest in the event there is a competition, which we do not believe business separation measures will address. They should therefore have no role in the tender process as a TO.</p>
<p>Question 4: What are your views on the proposed conflict mitigation arrangements for TO roles? What might be an appropriate level of challenge from the ESO on solutions put forward by TOs as part of their network planning role?</p>	<p>We cannot see that any conflict mitigation measures short of the TOs not having a role in network planning will be sufficient to mitigate the obvious conflicts that exist (see for example our responses to Chapter 4 Question 2 and Chapter 5 Question 1 above).</p> <p>In our view either TOs should have no role in the tender process (including the network planning) or they should not be allowed to bid, or ideally both (again for the reasons set out above). In fact, our understanding is that only one of the three TOs is in favour of their participation as a bidder in a competitive process.</p>
<p>Question 5: Do you agree with our views on the TO counterfactual approach?</p>	<p>We fully support Ofgem's (and the ESO's) views in this regard. The only way that we could see a counterfactual working is if the TOs provided their counterfactual proposal prior to the tender process (including price tendered) and bidders could then decide whether they wanted to try and better it.</p> <p>We find it interesting that the ESO has recognised the deficiencies in the counterfactual model as many of the same issues exist with the TO participation in the Pathfinder tender processes in which the TO is allowed to provide a counterfactual – we think this should cease.</p>
<p>Chapter 6: Tender process and commercial model</p>	
<p>Question 1: Do you have any material concerns with the commercial model proposed by the ESO?</p>	<p>In general, we consider the commercial model is appropriate. Our main concerns centre around the Post-Preliminary Works Cost Assessment (PPWCA) process and the financing aspects.</p>

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Whilst the PPWCA has been described at a high level, whether it is successful will depend on the detail and how it is implemented. It is difficult to know how it will turn out until it has been specified in detail and the process has perhaps been gone through a few times.

We very much support the proposal of guidance documents on the application of the PPWCA. Whilst there is experience from Ofgem's cost assessment process we would expect that relatively few bidders will have been through this process (OFTO bidders for example do not go through the process, they only pass-through the outcome).

The PB stage of an OFTO could be regarded as similar (albeit far narrower process) and we have seen a considerable shift in how cost adjustments have been applied at this stage over the 10 years of OFTO tenders. There is no guidance available for this and perhaps there are lessons for Ofgem to learn here.

We note that views on the commercial model are only highlighted in the consultation and will be considered in more detail as and when the early competition roles have been finalised and allocated and the relevant work has been sufficiently progressed. However, the proposed commercial model as described in the consultation appears largely targeted to allow successful bidders to efficiently finance projects and effectively recover their costs. We are concerned that the current overview provided would not meet either of these objectives and not provide bidders with sufficient incentive to participate in any competition.

It remains unclear the role of the equity providers in the risk allocation and particularly in respect to the preliminary works. The equity providers are required to fix the cost of equity ahead of any mitigation of project risks that would include elements of risk that may ultimately impact on the IRR of the equity.

We strongly believe that any equity competition must be run at the same time as the debt competition. This allows bidders to properly construct and optimise a funding solution (debt and equity) which will deliver the best value to the UK consumer over the construction and operating period of the asset.

The preferred option outlined in the consultation document would not allow the full efficiency of the capital markets to be captured. The proposals rely on the equity provider's commitment to effectively cover i) any bidders' risk in the preliminary works stage without being able to remunerate that risk, and ii) consumers' risk in the debt competition phase without having any control of such risk nor to have the opportunity to remunerate that risk through an adequate structuring or potential refinancing during construction.

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This approach may lead to higher equity return requirements. Our concern is that this addition cost or risk premium in the IRR will be significant and will end up locking the UK consumer into this level of pricing for longer than is necessary (i.e. once equity has priced these development risks in at the ITT stage, consumers will be paying for it throughout the life of the revenue period).

Having said that, we acknowledge the principals of early competition are to focus on developing a model for “design and delivery” and therefore aligning equity risk with the design is important to draw out the benefits of this model.

Further details of the PPWCA mechanism would be needed to ensure equity is suitably aligned to delivering an optimum design whilst avoiding having to build in significant risk premiums that would be detrimental to the UK consumer, especially due to the significant amount of time between fixing the IRR and Financial Close. The PPWCA should allow for, amongst other things, changes in i) insurance costs, ii) O&M costs, iii) decommissioning costs, iv) tax rates, v) deposit rates and vi) inflation i.e. it should not be penalised for things that it cannot control over this long period. Otherwise, as noted earlier, equity will introduce significant risk premia which would not be best value for consumers.

Alternatively, perhaps another approach is to allow equity the option of restructuring alongside the debt with a gain/pain sharing mechanism. The specifics of such an approach would need to be considered further but this might attract appropriate development capital during the design and preliminary works phase and meet the requirement of aligning design and delivery whilst introducing more cost-effective capital once the project is de-risked, with gains shared with UK consumers. This alternative has its own challenges, but the risk is consumers will be paying for higher than necessary equity returns if equity is forced to fix and maintain that level so early in the procurement process.

Size of equity commitment

The requirement to price a larger amount of equity than required to cover shortfall without providing the ability to restructure the financing may result in higher costs. The equity provider would not have the ability to flex its equity to capture value: where the actual equity demand is smaller than anticipated the equity provider would not be able to adjust the gearing.

This is especially important given the level of variability in the funding amount between the ITT (Stage 2) and Financial Close. This variability supports having an equity and debt

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	competition or giving equity the option to restructure at the point of the debt funding competition (with the right risk / reward with the consumer).
Question 2: Do you have any material concerns with the tender process proposed by the ESO?	<p>We have many concerns including the following:</p> <ul style="list-style-type: none"> • We are concerned that bidders will not be able to assess how their proposals will score against the evaluation criterion. This situation has arisen on the Pennine pathfinder tender in which (for the West Yorkshire region) the ESO has not published effectiveness factors for each node, nor provided a system model. The TO will have access to the system model and will be bidding itself. • We are concerned that the ITT Stage 2 Technical evaluation will be biased towards incumbent TOs and we do not understand the rationale for why the technical evaluation is not pass/fail (as it is in the OFTO tender process) unless it can be shown that the technical aspect clearly provides additional consumer value (as measured by effectiveness factors in Pathfinders for example). Why should consumers pay more for something that doesn't provide extra value? ESO should be required to demonstrate why any technical aspect that affects scoring has consumer value. • The ability to seek to game the tender process by submitting low bids with a view to adjustment at the Post-Preliminary Works Assessment (PPWCA) stage. Again, here the ability to do this will depend on the detail of the process and the steps taken to prevent it – as noted above we have already seen this happen in the Pathfinder tenders. • Any equity competition must be run at the same time as the debt competition in order to optimise the debt/equity structure and ultimately provide best value for consumers and in turn provide a fair return to investors.