RESPONSE TO OFGEM CONSULTATION ON CHANGES INTENDED TO BRING ABOUT GREATER COORDINATION IN THE DEVELOPMENT OF OFFSHORE ENERGY NETWORKS.

7 SEPTEMBER 2021

INTRODUCTION

1. SASES and SEAS are community groups which have been formed to challenge a number of offshore energy projects, none of which have development consent, which are planned to (or which are likely to) make landfall on the Suffolk Coasts and Heaths AONB, whose cables will then traverse the AONB along a series of routes. The first three of these projects all of which are NSIPs are:

    - A new National Grid Offshore Transmission Connection Hub being promoted by Scottish Power on behalf of NGET
    - East Anglia ONE North being promoted by Scottish Power
    - East Anglia TWO being promoted by Scottish Power

2. It should be noted that originally the EA1N and EA2 offshore transmission networks and connection points were coordinated with Scottish Power's EA1 and EA3 projects with the same landfall, cable route and connection point at Bramford, an existing National Grid Connection Hub.

3. For reasons which have never been entirely clear National Grid and Scottish Power abandoned a coordinated approach and have promoted these projects involving another landfall in the Suffolk Coasts and Heaths AONB, a new cable route across the AONB and Suffolk countryside to a greenfield location next to the historic rural village of Friston. There could not be a better example of:

    - lack of coordination
    - lack of efficiency
    - potentially wasted costs
    - unnecessary environmental damage
    - unnecessary disruption to coastal communities
    - unnecessary damage to the local economy and employment given tourism is dependent on the area's environmental quality and is a key part of the local economy,

    particularly when a coordinated approach was previously proposed based on the connection offers originally made by National Grid.

4. We welcome the Offshore Transmission Network Review and this associated consultation by Ofgem. For obvious reasons our particular focus is Early Opportunities given the current status of these projects notwithstanding that, so far, neither National Grid or Scottish Power have opted in to the Pathfinder programme. We believe that these projects could easily become Pathfinder projects given these projects were previously coordinated with

EA1 and EA3 promoted by the same developer. A submission in relation to that will be made to the OTNR.

5. Further the interaction of Early Opportunities with later workstreams needs to be considered given the impact and benefit which they may have for future projects. Accordingly it is in the interests of all stakeholders that as many projects which could fall within the Early Opportunities workstream become Pathfinder projects. In that context we welcome OFGEM's and BEIS's recent letter containing this statement,

   "We would strongly encourage developers to proactively consider opportunities for coordination ***with others in the same region*** *where they have not already done so",*

   and National Grid should also be strongly encouraged.

COMMENTS ON OFGEMS APPROACH TO POLICY ASSESSMENT

Narrowness of Ofgem's Remit

6. Ofgem (in paragraph 1.23) refers to its principal objective which "is to protect the interests of existing and future consumers". However it is submitted that this hampers effective policy assessment particularly when the issues which have prompted the offshore transmission network review go beyond consumers' interest.

7. Policy assessment should be conducted in the context of existing statutory obligations:

   - Section 9 of the Electricity Act 1989 which imposes general duties or persons engaged in electricity transmission to develop and maintain an efficient, coordinated and economical system of transmission.

   - Schedule 9 which requires such persons to have regard to the desirability of preserving natural beauty and heritage.

8. SASES has received correspondence from Ofgem which demonstrates a lack of focus on coordination and efficiency, given Ofgem's lack of supervision of National Grid's CION process, and no supervision in relation to environmental matters – see letters from Ofgem dated 28 May 2019 and 30 January 2020 attached at Appendix A.

9. Focusing on the interests of consumers risks only addressing "economical" issues. It should be remembered that "economical" and "efficient" have different meanings, and as a matter of interpretation are required to have different meanings. Arguably this limited focus has in part led to an uncoordinated and inefficient system which has not had regard to environmental matters.

10. Further the narrowness of Ofgem's remit runs contrary to the Policy Assessment Criteria referred to in paragraph 1.22 where the theme of "Environmental and Societal Impact" is

referred to. How can this theme/impact[1] be given at least equal weight as the other themes/criteria given Ofgem's remit?

11. Accordingly if Ofgem's remit is not widened the resulting policy options will be flawed.

The Role of National Grid ET/ESO

12. The consultation document indicates that National Grid is regarded as a facilitator/enabler both of the OTNR and the Ofgem consultation. However effective coordination of offshore transmission requires coordination onshore and the coordination of onshore and offshore transmission with each other as well as in isolation. By not addressing these issues the policy options resulting from the consultation will be flawed.

13. Further National Grid is a developer in its own right. Its SCD1 project connecting East Suffolk to East Kent will cut across a number of current and future cables connecting OFWs to the shore. It could be regarded as form of domestic interconnector and might be capable of being a TO owned bootstrap as illustrated in Figure 8.

14. The respective roles of NGET and NGESO are not entirely clear and there is the possibility of an actual or perceived conflict of interest. National Grid's divisions' roles need to be clarified in the context of this consultation and the OTNR and the possibility of a conflict of interest analysed and addressed.

15. Ultimately a holistic transmission strategy offshore and onshore can only be designed by a completely objective party whose primary interest is the national interest not the interests of shareholders.

Anticipatory Investment – the need to assess risks relative to benefits

16. Ofgem is rightly concerned about the risk inherent in anticipatory investment and stranded assets however the degree of concern is excessive for the following reasons.

17. There is a substantial "prize" on offer, namely the delivery of £6 billion in consumer savings – see paragraph 1.13. Not taking the steps necessary to secure the savings is a risk in itself. Put simply not taking a risk on anticipatory investment will cost the consumer £6 billion.

18. There needs to be some assessment of the relative quantum of risks as the level of anticipatory investment may be low compared to the potential of £6 billion of consumer savings.

[1] It should be clarified that these are two separate albeit related impacts, not one. There needs to be greater clarity as to what environmental and societal impacts mean. It should for example include damage to wellbeing and the risk of damage to key sectors of existing local economies, recognising that "consumers" may well be affected by these impacts. Consumers are people whose interests go beyond simple cost.

19. In terms of assessing the real risk of stranded assets there should be some consideration of geography. Looking at the coastline of East Anglia and the need for power to be transmitted to London and the South East, given the small areas involved onshore how likely is it that assets will be stranded? This geographical proximity should also give comfort to developers who currently lack sufficient entrepreneurial vision to engage in anticipatory investment.

Behavioural Issues

20. Policy and regulatory changes need to be effective in changing behaviour i.e. moving developers and National Grid away from inefficient, uncoordinated and environmentally damaging transmission systems. Changes were made in 2015 – see paragraph 2.11 – and yet developers, including National Grid did not take advantage of these. Therefore are there commercial/behavioural factors other than the regulatory regime which are acting against greater efficiency and coordination? If such factors are not investigated and understood then any further regulatory changes could be equally as ineffective as those introduced in 2015.

EARLY OPPORTUNITIES QUESTIONS

1. *Are there any concepts we have not identified developers (as defined in this chapter) may wish to progress?*

The observation we would make is that these concepts may need offshore generation to be consented separately from the offshore network transmission system sometimes referred to as a "split decision". This would allow the windfarm itself to be developed and provide time for coordination of the offshore transmission system and onshore connection.

Further these concepts should be tested against approaches used by other national transmission operators. For example do these concepts accommodate the Modular Offshore Grid (MOG) approach pioneered by ELIA, the Belgian national transmission operator? The UK should seek to benefit from the experience and knowledge of other countries.

2. *Should anticipatory investment risk be shared with consumers? If it should, what level of risk is it appropriate for consumers to bear?*

In answer to the first question yes given the substantial benefits/savings to the consumer which may result. Further as Ofgem acknowledge (see paragraph 2.23) *"a significant proportion of all network investment is anticipatory"* and therefore by definition anticipatory risk is already shared with the consumer.

In terms of the second question both (i) magnitude of the risk in financial terms and (ii) the likelihood of the risk transpiring needs to be considered. In terms of magnitude of risk this should be considered in the context of how the benefits/savings arising from the anticipatory investment are likely to be shared.

In terms of likelihood the higher the likelihood of the anticipatory investment delivering benefits the lower the level of risk the consumer should bear.

Given climate change and the UK's need for renewable energy as reflected in the Government's targets, it seems unlikely that an offshore wind project with a seabed lease will not progress. In fact it should be assumed that it will progress unless there is a clear reason why it might not. Further practical factors should be taken into account. For example as referred to above if there are windfarms and transmission systems in relatively close geographical proximity, in reality there is a small risk that anticipatory investment will be wasted.

In answering this question substantial weight needs to be taken of the substantial reduction in environmental damage.

3. *For concepts that [are] intended to provide a wider system benefit, e.g. by mitigating an onshore constraint, how should the need for investment be demonstrated by the developer?*

No comment

4. *What options are available to developers in demonstrating a reasonable expectation they intend to connect to the system?*

It is really a matter of how it can be demonstrated that there is a reasonable expectation that a potential generation project will connect to the system. As indicated above there is a factual matrix which can inform the degree of expectation including for example:

- agreements with the Crown Estate, whether this be of an agreement to lease or the arrangements whereby investigatory works on the suitability of the seabed for a OFW can be determined
- the demand for renewable generation capacity and where that demand is located
- the geographical proximity of other OFW projects offshore
- the number and geographical proximity of connection points onshore
- the timetable for development

Such a factual matrix needs to be further developed to determine degrees of expectation.

5. *To what extent do you agree with our proposals to remove barriers to the early opportunity concepts? Please explain your answer.*

Ofgem's proposals are a big step in the right direction however the following additional issues needs to be considered:

- effective enforcement of Section 9 and Schedule 9 of the Electricity Act against transmission system operators and in particular National Grid
- treating National Grid as a developer
- there needs to be an understanding of why previous changes to the regulatory environment were not effective to ensure that further changes have the desired result - see paragraph concerning behavioural issues above.

6. *Do you believe a Significant Code Review is required to give effective potential decision to "share" AI risk between consumers and developers?*

No comment

7. *Do you agree with Ofgem's proposed approach to deliver the objectives of Early Opportunities work stream?*

To an extent but Ofgem's remit is not enabling a complete approach. National Grid's pivotal role in coordination and efficiency and in reducing environmental damage is not being directly addressed by Ofgem – see "Narrowness of Ofgem's Remit".

Ofgem needs to take proactive role beyond "strong encouragement" to ensure that every potential opportunity is explored recognising the vacuum in addressing coordination, efficiency and environmental impacts which National Grid has allowed to develop despite its statutory obligations.

APPENDIX A

Letters from Ofgem dated 28 May 2019 and 30 January 2020

(see attached)

ofgem

Making a positive difference
for energy consumers

W. R. Halford
SASES
[redacted]

28th May 2019

Dear Mr Halford,

RE: Scottish Power Renewables substations proposal

Thank you for your letter which sets out SASES' concerns in relation to the process followed, as well as the conclusions of National Grid Electricity System Operator's (NGESO) connection recommendation for Scottish Power Renewables (SPR) EA1N and EA2 windfarm projects. To respond to your letter I have sought to clarify Ofgem's role in the context of the NGESO's process for making connection recommendations under its Connection and Infrastructure Note (CION) assessment process.

Ofgem's role in the context of the NGESO's CION assessment process

The CION assessment is an industry process that is initiated when an offshore developer makes an application to the NGESO for an onshore transmission connection. The process formalises the way in which the contractual parties to the connection offer will work together to evaluate options for an onshore connection point and design. The contractual parties for the connection are the offshore developer, NGESO and the relevant transmission owner in whose licence area the connection point is to be made. It should be noted that this occurs at a relatively early point in the development of a project.

The main objective of the CION assessment is to select the preferred connection option that is the most economic and efficient design connection option for the overall benefit of the GB energy consumer. The selected connection option forms the basis of the connection offer that is issued to the developer, and importantly informs the developer's further development of their offshore windfarm project and its consenting process. After the offer is issued to the Developer, it is for the relevant transmission owner and/or the developer to obtain the relevant planning consents and to fulfil the consenting requirements, including stakeholder engagement on their proposals. A CION assessment can be re-visited if there is a material change that comes to light that could affect the preferred connection point and design. This might include changes in the expected generation, technical issues, environmental constraints, planning issues etc.

As a general rule, Ofgem does not have a role overseeing or approving the CION assessment process. In the event that the contractual parties cannot agree on the preferred connection option, the matter can be referred to Ofgem for a determination but this is the exception rather than the rule.

[1] RIIO-ET1 price control policies relating to transmission infrastructure impacts on visual amenity (enclosed) https://www.ofgem.gov.uk/system/files/docs/2019/01/final_report_for_publication_visualamenity_stocktake.pdf

We understand that in the case of the onshore connection point for SPR's EA1N and EA2 windfarms that the CION recommendation was not location specific (other than being located within the Leiston area) and that SPR has taken forward the specific site selection for the onshore connection design, including the proposing the substation compound near Friston. We also understand that SPR is also taking responsibility for progressing the planning requirements under the Planning Act 2008 for the entire project (including the substation that will be owned and operated by National Grid Electricity Transmission (NGET) ahead of making an application to the Planning Inspectorate for a Development Consent Order. The planning requirements include conducting an environmental impact assessment and stakeholder consultation.

As noted by my colleague Frances Warburton in her previous correspondence with Chris Wheeler, a member of SASES, decisions on planning consents for new generation and associated onshore transmission infrastructure are not matters that Ofgem has a role in. We recently published a report[1] which explains our role as economic regulator in respect of the development of new transmission infrastructure project and sets out our policies in the current price control for transmission owners in relation to visual amenity issues (i.e. NGET not NGESO).

We'd encourage you to continue to engage with the developer, SPR, and the Planning Inspectorate about your view that the current siting of the proposed onshore works are not acceptable in planning terms.

Yours sincerely,

Jonathan Brearley
Executive Director, Systems & Networks

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Making a positive difference
for energy consumers

Mr Michael Mahony
SASES

By email [redacted]

Date: 30 January 2020

Dear Michael,

Thank you for your patience in waiting for our response to the set of questions you left with us at the end of 2019. Before responding to your specific queries I'd like to make a couple of general comments first.

We share a similar view to SASES that the UK is fast approaching a tipping point in the development of the UK's significant offshore generation resources, particularly in areas such as the east coast of England. As a result, there is likely to be considerable benefit, in terms of mitigating the onshore environmental impacts and reducing the costs for consumers, from adopting a more strategic approach to the coordination and integration of the offshore and onshore connection infrastructure.

There are specific challenges to doing this because of the different licensing and regulatory regimes and the range of parties involved e.g. the RIIO price control regime for onshore networks, the competitive tender regime for offshore transmission assets, cap and floor regime for interconnectors, the Contract for Difference subsidy arrangements and the land-use and development planning regime.

As a result, it will likely need a cross-government approach to set the strategic direction and a plan to develop an integrated solution that aligns all of the different parts. We understand that initial thinking is underway on a way forward to do this. For example, we expect to set out our view on this issue in our soon to be published Decarbonisation Action Plan.[1] It will also be of interest to you that National Grid Electricity Transmission (NGET) has proposed in its RIIO-2 Business Plan a more strategic approach to designing the onshore network to facilitate the connections of offshore projects in future.[2]

I appreciate that while the serious implications of harnessing the UK's significant offshore wind resources is gaining traction, it is probably of little comfort to SASES and its concerns about the proposed development for connecting Scottish Power Rewewables' (SPR) windfarms EA1N and EA2 to the onshore transmission system near Friston.

As discussed when we met in October, Ofgem does not decide, under the current framework, on the specific offshore wind connection offers that the National Grid Electricity

[1] This will be published in early February.
[2] See pages 59 - 60 of NGET's RIIO-2 Business Plan accessible on their website: https://www.nationalgridet.com/planning-together-riio/our-riio2-business-plan-2021-2026, *"Delivering your future electricity transmission system"*, December 2019.

System Operator (NGESO) makes to developers through its CION process. Similarly, we do not have direct oversight of the optioneering for the point of connection works to the onshore transmission system, or the informal or formal stakeholder consultation processes that are part of this, regardless of whether these are undertaken by NGET or the developer of the offshore windfarm. One of the reasons for this is that the current planning legislation, which sets out specific requirements for stakeholder consultation ahead of an application for a Development Consent Order (DCO), seeks to streamline the approval process for Nationally Significant Infrastructure Projects, and allows the option to amalgamate related developments, such as the onshore system substation and the offshore windfarm connection works, into a single DCO.

We note SASES concern that due to the amalgamation of the related developments in a single DCO, there is a risk that the location of the connection point works (to the onshore system) is taken as a given and is not subject to appropriate optioneering, stakeholder consultation and scrutiny. As the Planning Inspectorate has now accepted the DCO applications submitted by SPR for examination, it is appropriate that SASES, as a registered interested party to the DCO, raise its concerns as part of the formal examination. It will be for the Examining Authority to decide on these matters. As such, it is not appropriate for Ofgem to take a view on specific issues that will be considered at the examination stage of an application.

The remainder of this letter responds to your specific queries, which are summarised as follows:

1. Whether the NGESO's CION Assessment process is fit for purpose in terms of NGESO's regulatory obligations under the Electricity Act, its licence obligations and its stated commitments
2. Whether the subsequent CION Assessment for EA1N and EA2 is an adequate basis for moving the connection offer from Bramford to the Sizewell/Leiston area, especially when that decision overrode a previous decision, and without any consultation or transparency?
3. Whether NGET has failed to fulfil its commitments in its Schedule 9 Statement (required under the Electricity Act (EA) 1989) because it did not consult local stakeholders on the potential siting options for its onshore infrastructure (substation, cable sealing end compound, pylon alignment) to connect SPR's windfarms EA1N and EA2 with the onshore system?
4. Whether Ofgem is responsible for monitoring and enforcing compliance with EA Schedule 9 matters?
5. Whether there is scope for Ofgem to look at how future potential offshore connections in the area, including an interconnector project being developed by National Grid Ventures, have influenced the CION evaluation?
6. Whether we could suggest any additional contacts, that have an involvement/interest in the connection of offshore wind that you could also raise your concerns with.

Response to question 1:

The CION process was originally developed by NGESO at a time when the nature of offshore generation projects (at least in round 1 and 2) meant that the connections have been radial, point-to-point links, which provided an adequate route to market for near-shore wind projects.

As explained earlier in this letter, we think that when a significant development of offshore generation resources is to be undertaken, there is likely to be a large potential for efficiencies and reduced environmental impact if a coordinated and integrated approach is adopted. It appears that NGET also considers that a change in its optioneering for the onshore point of connect is required, and it has set out proposals in its RIIO-2 business plan for the period 2021 to 2026 (that are also referenced in first part of this letter).

We are currently assessing NGET's proposals as part of the RIIO-2 price control review process, and continue to work with other stakeholders to address wider issues such as the risks associated with anticipatory investment and the challenges of aligning the various regulatory regimes and government support schemes. This would likely have implications for the NGESO's approach.

In case you are not aware, there is an opportunity for stakeholders to provide their views and evidence on any aspect of the RIIO-2 price control business plans of the network companies by responding to our Call for Evidence[3] (which closes on the 10th February).

Response to question 2 and 3:

As the DCO application for EA2 has now been accepted by the Planning Inspectorate, we consider that SASES should direct these concerns as formal matters for the Examination Authority to consider.

Response to question 4:

Ofgem is not responsible for monitoring and enforcing compliance with EA Schedule 9 matters.

Response to question 5:

Ofgem is not able to look into the influence, if any, other projects have had on the NGESO's evaluation of the connection points for EA1N and EA2. We would require some evidence to substantiate that there are reasonable grounds for opening a relevant line of enquiry.

Response to question 6:

We understand that SASES is in contact with colleagues at BEIS regarding the issues set out in this letter. As the DCO application is now sitting with the Planning Inspectorate, we think it is appropriate that SASES direct its concerns regarding the specific development proposal for EA1N and EA2 to the Examining Authority to ensure its concerns are given due consideration.

With regard to additional contact, we note that the National Infrastructure Commission (NIC), NIC published its report 'Strategic Investment and Public Confidence'[4] in October 2019, which looks at infrastructure in the regulated areas, such as energy. A key recommendation to Government is the need for a more strategic framework to deliver the UK's long-term investment needs. If you would like to initiate a more generic/strategic discussion on the issues raised in that document, or how you think these might be relevant to the future approach to offshore/onshore developments, you could contact Joanna.Campbell@nic.gov.uk.

Yours sincerely,

Min Zhu
Deputy Director, Systems and Networks

[3] https://www.ofgem.gov.uk/publications-and-updates/call-evidence-electricity-transmission-gas-transmission-gas-distribution-and-electricity-system-operator-business-plans-riio-2.
[4] https://www.nic.org.uk/publications/strategic-investment-and-public-confidence/.