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Dear James,

**Yorkshire GREEN – Consultation on the project’s Initial Needs Case and initial thinking on its suitability for competition**

This response is provided on behalf of National Grid Electricity Transmission (NGET) in our role as Transmission Owner in England and Wales. As the party delivering the project, we welcome the opportunity to respond to this consultation on the Initial Needs Case (INC) for Yorkshire GREEN transmission reinforcement.

Yorkshire GREEN is one of several projects we are bringing forward under the Large Onshore Transmission Investment (LOTI) re-opener mechanism. These LOTI projects are linked to enabling the delivery of the UK Government’s targets of 40GW of offshore wind generation by 2030 and net zero by 2050, the meeting of which requires the timely development of a significant amount of onshore work to reinforce the GB electricity network.

We therefore very much welcome Ofgem’s findings that there is sufficient evidence of a clear needs case for the project, that the cost benefit analysis (CBA) undertaken is robust, and that Yorkshire GREEN is the optimal technical option.

As Ofgem acknowledges, the benefits of the Yorkshire GREEN option are partly in its earlier delivery date relative to longer overhead line options delivering later. Ofgem states that it expects us “to continue to progress the Yorkshire GREEN project in a timely manner to ensure that these benefits can be realised”. Current global trends in the availability of suppliers, equipment, materials and labour continue to add further challenges to delivering on the earliest in service dates (EISDs) of the net zero projects. We are investigating several ways to mitigate delay risk to maximise the chances of meeting the 2027 EISD for Yorkshire GREEN. We are also actively engaging our key stakeholders to ensure the capacity and capability in the supply chain to prevent knock-on implications for the broader 2030 targets.

It is therefore vital that Ofgem works with us to ensure an efficient LOTI and delivery model assessment process. We have responded to the consultation questions in a separate annex to this response. We have flagged below several concerns with the next steps laid out in the consultation:

- **Delivery model timing:** To prevent delay to the project, we require that a delivery model decision is made by Q2 2022 at the very latest to enable tender preparation and market engagement. This is particularly the case given the uncertainty in the supply chain referred to above. The recent BEIS consultation on Competition in Onshore Electricity Networks set out a competition timetable of at least 2 years, meaning that any such competition would need to be launched by May 2022. Given that a parliamentary timetable for legislation to implement the Competitively Appointed Transmission Owner (CATO) model is yet to be agreed, we consider that it is likely already too late to implement the model and run a competition to appoint a

CATO in time for the 2027 EISD. In view of the urgency of meeting the EISD, we are proceeding on the basis that we are delivering the project as the incumbent TO. We therefore urge that a decision on delivery model is made alongside Ofgem's INC determination.

- **Final Needs Case (FNC) timing:** We welcome the flexibility Ofgem has offered in proposing to receive the FNC prior to the decision on planning consents for the project, which we recognise is a departure from the default process specified in Ofgem's LOTI Guidance. However, Ofgem's position that it will not publish its decision on the FNC until after the planning consent decision would be likely to cause delay to the project. This is because the Main Works Contract awards are due immediately after the planning determination at the end of Q1 2024, and the FNC is a prerequisite to make this high-materiality commitment to LOTI construction spend. We believe Ofgem's approach is unnecessary, as the scope of the project is fixed well in advance of the planning application. Furthermore, we believe it may be advantageous to bring forward the procurement process to maximise the chances of meeting the 2027 EISD.
- **Early construction spend:** Our current programme is also dependent on undertaking various activities in advance of the determination of delivery model and approval of the FNC by Ofgem (e.g. orders for Supergrid Transformers (SGTs)). These activities would be funded by LOTI construction and are therefore not funded by the Pre-Construction Funding (PCF) allowance for the Yorkshire GREEN project. We are also investigating opportunities for possible detailed design activities that would assist in removing programme risk, but which would typically be carried out by contractors in their detailed design after contract award. We require confirmation that Ofgem will allow in full any early expenditure that we incur to maintain programme timelines and de-risk project delivery.

We would welcome a meeting to discuss these issues in the near future. We would also like to understand what, if any, Project Delay Charge arrangements Ofgem intends to apply to the Yorkshire GREEN project prior to engaging the market and we would welcome discussion about this at the earliest opportunity.

### **Confidentiality**

I confirm that this response and the attached annex can be published on Ofgem's website.

Yours sincerely,

[By email]

Hêdd Roberts

Director of Regulation, National Grid Electricity Transmission

## **ANNEX: RESPONSES TO CONSULTATION QUESTIONS**

### **Question 1: Do you agree with the technical need for investment on the transmission network in Yorkshire across the B7a and B8 boundaries?**

We agree with Ofgem's finding that there is a need for reinforcement of these boundaries and that there is a technical needs case driving the project. The project is a key net zero investment.

### **Question 2: Do you agree with our initial conclusions on the cost benefit assessment and the appropriateness of the option taken forward?**

We agree with Ofgem's overall conclusions on the robustness of the CBA and that Yorkshire GREEN is the optimal technical option.

In the table on page 22 of the consultation document, Ofgem states that "analysis suggests that, when compared to a scenario with OPN2 delivered on time but E2DC delivering a year later, it would theoretically be marginally better to delay both projects by one year". It could be clearer that this conclusion relates only to the *Leading the Way* scenario. As shown in the delay sensitivities reproduced on page 33, £220m is the regret for 'OPN2 with E2DC 1 year delay' vs. £214m for 'OPN2 1 year delay & E2DC 1 year delay'. However, on a Least Worst Regrets (LWR) basis across all four scenarios, this position is reversed: £234m LWR for 'OPN2 with E2DC 1 year delay', ranked 13<sup>th</sup>, vs. £258m for 'OPN2 1 year delay & E2DC 1 year delay', ranked 15<sup>th</sup>. For the avoidance of doubt, we do not believe this analysis means there is benefit in delaying either project. The CBA shows the opposite – delivering both in 2027 ranks first in the LWR analysis (with no regret across all scenarios), and 'OPN2 1 year delay' (with E2DC on time) ranks 5<sup>th</sup>, with £106m worst regret (in *Leading the Way*).

### **Question 3: Are there any additional factors that we should consider as part of our Initial Needs Case assessment?**

Para. 3.30 states that Ofgem has yet to receive a detailed technical report, to form a clear judgement as to the extent to which the scope and costs needed to be increased. We will work with Ofgem to ensure full understanding of this issue. However, the amended scope was not only "to factor in customer connection agreements" but also following wider studies against the 2020 Future Energy Scenarios. In all scenarios, including those assuming the local connections are late or do not connect at all, a 2027 delivery date with 1500MW capability is still required, demonstrating that the rating is not dependent only on the need to connect local generation.

Para. 3.31 refers to cost information not being provided. We provided this information in Ofgem's assessment process. In subsequent discussions, this has been acknowledged by Ofgem, and we therefore request that Ofgem confirms that we do not need to provide further information on these points.

We have concerns about the timing of the FNC stage, and the requirement for some construction activities to begin in advance of FNC (regardless of whether this is brought forward) referred to in Section 5 of the consultation. We have discussed these further below in our response to Question 5.

### **Question 4: Do you agree with our views regarding the assessment of Yorkshire GREEN against the New, Separable and High Value criteria?**

We broadly agree with Ofgem's conclusions on competition criteria. In particular, we agree with the conclusion that reconductoring of the XC line and various other works (OHL Line Entry Mods; Steelwork Replacement; Circuit Breaker x 2; Isolator x 1) do not meet the 'new' and 'separable' criteria. We agree that the value of the remainder of the works are likely to exceed the high value threshold. However, we note that several elements of the works are not geographically near to each

other or contiguous once the reconductoring section is discounted – e.g. the new Monk Fryston substation and the associated Super Grid Transformers, and the 275kV cables from the XC line to Monk Fryston and associated Cable Sealing Ends.

**Question 5: Do you consider there is likely to be any consumer detriment if we defer our decision on competition until the FNC stage at latest? If so, do you have views on how such detriment could be quantified?**

Yes, we consider that Ofgem’s deferral of a competition decision to beyond the INC stage will cause consumer detriment for the reasons stated below. The detriment could be quantified with reference to the additional constraint costs caused by delay (between £29m and £106m per year according to the INC CBA Delay Sensitivities). Ofgem’s current view is that the FNC will only be determined after the planning decision in Q1 2024. For the reasons below, we consider that the latest a competition decision can be made without delaying the EISD is Q2 2022. Therefore, deferring the competition decision until as late as the FNC could delay the ESID by approximately 2 years. This would cost consumers approximately £58m to £212m in constraint costs according to the INC CBA Delay Sensitivities. This shows that making earlier competition and FNC decisions will have significant benefit to consumers.

Furthermore, in the event we are to deliver the project as the incumbent Transmission Owner (TO), the uncertainty created in the supply chain by deferring decisions risks a suboptimal procurement process. The impact of this is difficult to know and quantify until the procurement process is carried out, and even then the impact is likely to be unclear in the absence of a counterfactual. We nevertheless believe this is an issue that Ofgem should consider seriously.

We also have concerns about the requirement for some construction activities to begin in advance of FNC (even if the FNC is brought forward to align with planning decision freeze). We discuss these issues further below.

### **Competition timing**

We welcome Ofgem’s recognition that it “consider[s] that any material delay resulting from the application of the Competitively Appointed Transmission Owner (CATO) model on Yorkshire GREEN would not be in the interests of consumers” (para. 4.11). However, we disagree with Ofgem’s conclusion that the delivery model can be determined as late as the FNC, to be submitted in early 2023 according to the programme shared at INC stage and in Ofgem’s current view not determined until Q1 2024 at the earliest, to align with planning award.

We strongly agree with Ofgem’s recognition in para. 4.17 that “deciding to apply a competition model as early as possible is the best way to ensure that the consumer benefits associated with competition can be achieved without compromising on the timely delivery of key infrastructure that is expected to be critical in the meeting of Net Zero targets”. Given uncertainties in supply chains and the need to move at pace to deliver this and other LOTI investments to enable the UK Government’s decarbonisation ambitions, potential bidders require as much certainty as possible as early as possible. If the proposition we are offering to the supply base is not clear, there is a risk of a suboptimal procurement process, which risks potentially higher prices, lack of bidders or delay to the delivery dates.

Given that the delivery model decision will determine whether we will have the ability to offer the work to the supplier base we need to know whether we are to deliver the project in good time before Invitation to Tender (ITT). Furthermore, since the INC submission, we have looked to refine the programme to mitigate delay risk. The pressing need to deliver to the 2027 EISD and the current uncertainty in the construction sector generally, and the transmission sector in particular, leads us to believe that it may be necessary and prudent to begin the procurement process earlier to enable a more realistic construction programme. ITT may therefore be brought forward.

In view of the urgency of meeting the EISD, we are proceeding on the basis that we are delivering the project as the incumbent TO. The programme shared with the INC indicated that the ITT would take place in Q1 2023, meaning that a decision on delivery model needs to be made by May 2022 at the latest to enable tender preparation and market engagement. We believe this aligns with the very latest point at which a competition could be started without delaying the EISD.

In practice, we believe it is highly unlikely that there is time to run a competition to appoint a CATO without causing delay. The recent BEIS *Competition in Onshore Electricity Networks* consultation indicates that it would take approximately 2 years (assuming the minimum durations specified) from identification of constraint to the preferred bidder/contract finalisation stage<sup>1</sup>. A decision today would therefore mean a contract would be awarded in late 2023. The comparable date in our baseline programme is Q2 2024 (which we believe it may be advantageous to bring forward to reduce delay risk as discussed above), leaving only a 6-9 month window for legislation to be passed and the competition model to be created – i.e. by mid-2022. Given the acknowledged uncertainty in timing for the required legislation, this means it is likely already too late to appoint a CATO to deliver in 2027 (i.e. legislation would need be passed and the model developed within the next 6-9 months at the very latest). We therefore urge that a decision on delivery model is made alongside Ofgem's INC determination.

### **Final Needs Case (FNC) timing**

Similar timing constraints apply to the FNC. We welcome the flexibility offered in para. 5.2 to receive the FNC prior to the decision on planning consents for the project, which we recognise is a departure from the default process specified in Ofgem's LOTI Guidance. However, Ofgem's position that it will not publish its decision on the FNC until after the planning consent decision would be likely to cause delay to the project. This is because the Main Works Contracts cannot be awarded until Ofgem confirms the need for the project at the earliest. As we have previously discussed, in our view contracts should not be awarded until after the Project Assessment funding determination when details of funding, risk allocation and application of Large Project Delivery Mechanisms is settled.

For Yorkshire GREEN, the planning permissions are scheduled to be in place in February/March 2024, only marginally before scheduled contract award in April 2024. We also believe there is chance that the planning permission decision may be held up in purdah procedures prior to the May 2024 General Election. There would therefore be very limited time for an FNC determination to be made between planning decision and contract award, and no time to run the Project Assessment process. Furthermore, as discussed above, we believe there may be advantages in bringing the procurement process forward from this baseline position to maximise the chances of meeting the EISD.

Furthermore, there is a risk that leaving the FNC determination until so late in the procurement process would introduce risk of a suboptimal process in the same way as uncertainty about competition as referenced above. Being unclear to the supply base that there is a need for the project and that it will proceed risks potentially higher prices, lack of bidders or delay to the delivery dates.

We therefore urge that the FNC decision should be made as early as possible. We would welcome a meeting soon to discuss the programme and procurement strategy to give Ofgem visibility of our approach and give the opportunity to influence our plans at a formative stage.

### **Comfort in certainty of planning design**

Ofgem's reasoning for its view that the FNC decision should be aligned with the planning process is that the planning decision "is critical to the design of the project" (para. 5.2). We believe this is

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1008115/competition-onshore-electricity-networks-consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1008115/competition-onshore-electricity-networks-consultation.pdf) – see p.19

unnecessary for nationally significant infrastructure projects requiring a Development Consent Order (DCO). It is not possible to make material changes to the scope of the project once the DCO application has been made, because this would require fresh statutory consultation. The DCO examination and decision process itself therefore has very limited ability to alter the design of the technical solution – for example, in options selection or technology, such as different point to point connections, or overhead line vs. underground cables. The planning design solution is practically fixed approximately 2 years prior to the DCO decision.

Given there will be no material change in the planning process, it therefore follows that the design for FNC purposes is settled much earlier in the process, once we have undertaken statutory consultation (scheduled to be undertaken imminently) and finalised our submission proposals (planning design freeze is scheduled for May 2022).

This is especially the case when viewed in the context of the purpose of the FNC stage. According to the LOTI guidance, the focus of the FNC assessment is “to confirm the need for the project, by checking that there have been no material changes in technical and/or economic drivers that were established at INC” and is to provide Ofgem “with comfort that the project (and associated design/costs) will not significantly change”. In our view, in this context, the design and costs need only be fixed to the extent that the chosen option is still the economically optimal one in comparison to alternatives. The scope, design and costs of the project are likely to continually evolve up to the Project Assessment stage.

We therefore consider that Ofgem should be able to determine the FNC for DCO projects much earlier without risk of the technical solution or design changing. This would significantly de-risk these projects, given the likely need to parallel procurement with the planning process to meet EISDs, as is the case for Yorkshire GREEN.

As suggested in the INC, if Ofgem considered it necessary, an FNC decision conditional on the Secretary of State’s decision on the DCO would be satisfactory. Although this would not give full comfort, it would ensure that we are confident that Ofgem approves the need subject only to the outcome of the planning process (rather than uncertainty for us and suppliers over whether Ofgem supports the project). We would be happy to meet to discuss this to give Ofgem a fuller understanding of the planning process.

### **Early construction spend**

Our current programme is also dependent on undertaking various activities in advance of the determination of delivery model and approval of the FNC by Ofgem. Each of these activities would be funded by LOTI construction and are not funded by the Pre-Construction Funding (PCF) allowance for the Yorkshire GREEN project.

Examples of these activities include:

- Contracts for the design and delivery of diversion works on the local electricity and gas distribution networks;
- Substantial commitments for Supergrid Transformers (SGTs); and
- Main Works Contract detailed design to discharge DCO conditions and install enabling works.

We require confirmation that Ofgem will allow any early construction expenditure that we incur to maintain programme timelines and de-risk project delivery.

We are also investigating opportunities for possible detailed design activities that would assist in removing programme risk, but which would typically be carried out by contractors in their detailed design after contract award. These would be LOTI construction activities and therefore not funded by PCF.

These activities are a further reason why certainty on delivery model is required, as construction spend committed ahead of FNC would not have a route to LOTI funding if a CATO were to be appointed.

We would welcome discussion with Ofgem on how decisions on these activities should be taken in advance of confirmation of need for the project, and the balance to be struck between de-risking the programme and incurring early spend.

It is also critical for us to understand what, if any, Project Delay Charge arrangements Ofgem intends to apply to the Yorkshire GREEN project prior to engaging the market and we would welcome discussion about this at the earliest opportunity.