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Dear Keren,

Eastern HVDC – Consultation on the project’s Final Needs Case

This response is provided on behalf of National Grid Electricity Transmission (NGET) in our role as Transmission Owner (TO) in England and Wales. As one of the parties developing the Eastern HVDC (EHVDC) projects alongside the Scottish TOs SPT and SSENT, we welcome the opportunity to respond to the FNC Consultation document published on 30 March 2022.

NGET is committed to enabling a fair and affordable transition to a clean, net zero economy. For NGET, a key aspect of this is to enable the new, renewable resources to connect to the grid and to create the capacity for the transfer of the electricity they generate to end consumers. We are committed to maximising the amount of wind that can be effectively accommodated by the grid, both on our own network in England and Wales and to the networks in Scotland, by 2030.

We are currently examining options to accelerate delivery of new network infrastructure to accommodate the growing aspirations for renewable generation, in line with the growth in offshore wind targets from 30GW to 50GW by 2030 within the last three years. Continuing with timely delivery of the EHVDC projects whilst we seek to accelerate more broadly is key, with any delay to these projects having the potential to reduce the supply chain capacity available to deliver later projects. We have structured our detailed response around the questions included in the INC Consultation document. These full responses are included in the appendix. In summary, we would like to make four key points.

- 1) We welcome Ofgem’s agreement that there is a clear consumer benefit in the EHVDC projects progressing and that a clear case has been made for the two proposed HVDC links that form the EHVDC projects. These links form a critical part of the new infrastructure needed to enable a fair and affordable transition to a net zero economy.
- 2) We agree with Ofgem’s stated aim of ensuring network companies do not benefit financially from a delay to the delivery of LOTI projects. However, we do not agree with Ofgem’s view that there is a clear need to set a Project Delay Charge (PDC) in the form currently envisaged to protect the interests of existing and future consumers. Whilst we agree that there should be clear incentives on TOs to encourage timely delivery of LOTI projects, it is not clear that the PDC as proposed is the best way to achieve this. As we have stated in previous discussions with Ofgem, we remain concerned about the lack of clear policy on a PDC. This lack of clarity has a direct impact on tendering, given it makes the damage provisions we need to seek unclear. We would like to continue to work with Ofgem to define the policy and position urgently to ensure we can again preserve the EHVDC works schedule and protect the interests of

consumers. As we are now in an active procurement phase, with tendering to begin later this month for the first link (E2DC) and in June 2022 for the second link (E4D3), this is now critical.

- 3) We are concerned with Ofgem's view that it would be inappropriate for Ofgem to commit material consumer funding for construction before the grant of planning consent. It is likely that in order to maintain the programmes, several construction spend commitments that are not funded by the Pre-Construction Funding (PCF) allowance will need to be made in advance of final planning decisions and the Project Assessment stage. We would appreciate clarity on Ofgem's views of this issue, given its importance to maximising the chances of meeting the EISDs for the projects. We will work with Ofgem to identify these construction activities, when commitments need to be made, the value of the commitments and the delay avoided in beginning these activities.
- 4) Finally, we recognise that the Holistic Network Design (HND) assessment is being undertaken at the same time as Ofgem perform its assessment of the FNC of the EHVDC projects. Currently the HND timelines are compatible with the EHVDC project development timelines, however if these activities are tied together, we are concerned that a delay in the HND assessment could in turn delay the EHVDC works. In our view, these activities should not be formally tied together to preserve the EHVDC works schedule.

Yours sincerely,

[By email]

Patrick Hynes

New Infrastructure Regulation Manager, National Grid

Question 1: Do you agree that meeting the technical requirement with the two proposed HVDC links is appropriate?

We welcome Ofgem's acknowledgement that there is a clear need for both the EHVDC links to effectively relieve constraints on the North to South boundaries and reduce the future operating costs of the network for consumers.

Question 2: Do you agree with our conclusions on the appropriateness of the options considered?

We support Ofgem's assessment of the appropriateness of the options considered.

At paras. 2.37 to 2.39 of the consultation, Ofgem's refers to a schedule risk analysis carried out for E2DC, which concluded that there was a 40% likelihood that the 2027 EISD would be met, and that measures are available to increase this probability – including early commitment to certain construction spend activities (as per our response to Question 6 below).

Ofgem notes it "expected earlier engagement from NGET and SPT if they considered there was a significant chance that E2DC may be delivered later than previously estimated". However, the assessments throughout have been carried out on the basis of 'earliest in service dates' (EISDs) which by their nature imply some chance of delay. The alternative would be to test potential reinforcements on the basis of later delivery dates with much higher confidence, which would result in unduly pessimistic assessments of the benefits these options could deliver for consumers. For the avoidance of doubt, NGET and SPT are working towards a 2027 delivery date, subject to feedback from suppliers on the feasibility of this programme during the imminent procurement event.

Question 3: Do you agree with our conclusions on the technical design and the costs of the proposed E2DC and E4D3 projects?

Yes, we support the conclusions on technical design based on the indicative costs of the proposed projects. We are committed to working with Ofgem to demonstrate efficient costs through the next phase of Project Assessments for both projects.

Question 4: Do you agree with our conclusions on the cost benefit assessment and the appropriateness of taking forward the E2DC and E4D3 options?

We welcome Ofgem's position that the CBA supports the investment need, and that the EDC2 and E4D3 are the most efficient options overall, based on the range of credible options taken forward for consideration.

Question 5: Do you agree that considering the proposed investment reinforcements in the context of wider network reinforcements (reinforcement pathways) is an appropriate approach?

We agree that it is important to judge new investments in context of the network, as well as other planned or required works, given the interrelationships between investments. We recognise that the HND will bring some additional data which could help with future assessments. We do not however think that the HND would change the proposed route of the cables and therefore the FNC decision should not be tied to the conclusion date of the HND, in the case where the HND is delayed, and subsequently delays the EHVDC project timelines.

Question 6: Are there any additional factors that we should consider as part of our Final Needs Case assessment?

The following statement implies that Ofgem's current view is that the construction activities that would need to begin before final planning permissions are received should not take place, with the consequent delay to the programme: *"it would not be appropriate for Ofgem to ... Commit material consumer funding to the construction of the Eastern HVDC projects before it has secured planning consent, in case the planning consent process raises any material issues with the need for, or design of, the Eastern HVDC projects"* (para. 6.4).

In our Final Needs Case submissions and during Ofgem's assessment, we made Ofgem aware that it is likely that in order to maintain programmes several construction spend commitments, that are not funded by the Pre-Construction Funding (PCF) allowance, will need to be made in advance of final planning decisions and the Project Assessment stage. We understand Ofgem recognises these concerns and is in the process of determining what, if any, changes are required to the LOTI process to give comfort on this spend. We would appreciate clarity on Ofgem's views on this issue given its importance to maximising the chances of meeting the EISDs for the projects. We will work with Ofgem to identify the activities, when commitments need to be made, the value of the commitments and the delay avoided in beginning these activities. However, in the absence of funding comfort from Ofgem, we will not be able to make these commitments at risk.

We also do not agree with Ofgem's view that determining the Final Needs Case in advance of planning decision would "pre-judge (or be seen to pre-judge) the outcome of the planning consent process, which is conducted by different parties under a different legislative framework and is entirely separate to the regulatory approval process". As this statement identifies, land use planning is a separate regulatory process, and there is no reason why a decision in one regulatory process should influence the other. Ofgem's decision concerns the consumer case for investment, rather than the detail of the environmental, socio-economic and other matters considered in the planning process. Given the pace at which LOTI projects need to progress in the context of decarbonisation targets, this approach means that regulatory certainty will arrive far too late in the process. It is possible that in some cases it will be optimal even to award contracts in advance of the planning decision, which would not be possible under Ofgem's current approach. This approach is also inconsistent with the purpose of the HND process, which is intended to give early certainty on the investments that should be progressed in the interests of consumers.

Question 7: Do you agree with our minded-to decision to retain the two Eastern HVDC projects within the LOTI arrangements under RIIO?

We support Ofgem's minded-to decision to retain the two EHVDC projects within the LOTI arrangements under the RIIO framework. We agree with and welcome Ofgem's view that it is not practical to implement either the Competitively Appointed Transmission Owner (CATO) model or Special Purpose Vehicle (SPV) model for the EHVDC projects without causing significant delay, with consequent significant consumer harm. We also agree with Ofgem's position on CPM. Our view is that the Competition Proxy model (CPM) will not deliver a benefit to consumers relative to the counterfactual LOTI arrangements under RIIO. Providing confidence that the TOs are to deliver the EHVDC projects is critical in ensuring successful engagement with our suppliers to construct the projects.

Question 8: Do you agree with our approach to LPD?

Question 9: Do you agree that reprofiling (rather than a milestone-based approach) is an appropriate mechanism for the Eastern HVDC project?

We agree with Ofgem's stated aim of ensuring network companies do not benefit financially from a delay to the delivery of LOTI projects. We therefore agree that, if a project is delivered late, reprofiling may be used to reflect actual expenditure. We also agree that a milestone-based approach is not appropriate for the EHVDC projects, given that the key consumer benefit is dependent on completion of the projects and not any intermediate milestones.

However, we do not agree with Ofgem's view at para. 5.4 "that there is a clear need to set PDCs for the respective EHVDC projects to protect the interests of existing and future consumers". The consultation document does not provide evidence to bear out this view. Whilst we agree that there should be clear incentives on TOs to encourage timely delivery of LOTI projects, it is not clear that the Project Delay Charge (PDC), in the form alluded to by Ofgem in the LOTI Guidance and this consultation, would achieve this. Such a charge would inevitably lead to greater costs to consumers as the TOs and/or our contractors would be required to bear a significant additional risk. As proposed a one-dimensional PDC does not reflect the complex commercial agreements the TOs need to enter and would unduly restrict their commercial flexibility, possibly resulting in less optimal outcomes for end consumers.

We recognise Ofgem has not yet formed a precise view of the nature and scope of any delay clauses, and welcome confirmation that engagement with the three TOs is ongoing. As we are now in an active procurement phase, with tendering to begin later this month for the first link (E2DC) and in June 2022 for the second link (E4D3), this is now critical.