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Date

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Dear RIIO Team,

Consultation on accelerating onshore electricity transmission investment

SP Energy Networks (SPEN) represents the transmission licensee SP Transmission plc (SPT) and the distribution licensees of SP Distribution plc (SPD) and SP Manweb plc (SPM). We own and maintain the electricity transmission network in Central and South Scotland (SPT). We also own and operate the electricity distribution networks in the Central Belt and South of Scotland (SPD), and Merseyside and North Wales (SPM). As an owner of both transmission and distribution network assets, we are subject to the RIIO price control framework and must ensure that we develop an economic, efficient and coordinated onshore electricity system. This response is submitted on behalf of SPT.

Thank you for the opportunity to respond to this consultation on accelerating onshore electricity transmission investment. Our response is summarised in this covering letter, with detailed responses to the consultation questions set out in Appendix 1 below.

We support the acceleration of delivering strategic transmission infrastructure projects, reflecting their critical national importance and role in facilitating 2030 energy targets and Net Zero ambitions. We agree with Ofgem that delivery of the scale of infrastructure required for 2030 needs to be a coordinated, collaborative approach across all key parties including TOs, the supply chain, Ofgem and Government bodies.

Delivery of a Programme of Works to 2030

SPT has developed a robust and interlinked programme of works for the delivery of the 12 projects in the Holistic Network Design (HND) as required for 2030. This programme includes a combination of the large LOTI projects as well as the smaller MSIP projects, many of which are critical to the delivery of the large transmission works in SPT's area.

We strongly agree with the need to accelerate delivery of the large strategic projects, 4 of which Ofgem has identified as eligible for the streamlined regulatory process and competition exemptions in SPT's Licence Area. It is noteworthy that 2 of these 4 projects have already been subject to regulatory review via the RIIO-T2 Business Plan process (DWNO) and via the RIIO-T2 LOTI process (E2DC).

However, the importance of Medium Sized Investment Project (MSIP) projects in facilitating energy targets and enabling the larger transmission works must not be underestimated. We consider the MSIP projects identified in the NOA Refresh as essential for meeting 2030 targets, as per the HND outcome, as equally strategic. This is aligned with Ofgem's definition of "*strategic onshore ET projects*" as "*projects*

that are identified by the ESO in its NOA Refresh as being needed by 2030 to connect the 50GW of offshore generation that are required to meet the Government's 2030 NZ ambitions". We therefore propose that a review of the regulatory treatment of MSIP projects is also undertaken at this time, with a view to also accelerating their delivery. We discuss this in more detail in our response to Question 7 below. As with this current review of the LOTI process, we would be happy to support Ofgem in exploring updates to the MSIP process.

A revised regulatory framework which supports accelerated delivery

We strongly support the removal of the LOTI requirement to submit both an Initial Needs Case (INC) and a Final Needs Case (FNC), given that the projects' need is confirmed by recommendations in the HND and the NOA Refresh. The HND Follow Up exercise, due by March 2023, will identify the connection points for the remaining circa. 17GW of ScotWind generation and is likely to require additional projects to be included in the streamlined regulatory framework. It is critical that the outputs of the first HND are taken as a baseline to be built upon, ensuring project certainty for the NOA projects that are required to facilitate the ScotWind connections that have already been considered by the HND.

SPT and the other TOs are the only parties capable of delivering these required works to meet 2030 targets in a timely and efficient way. We welcome and share the ambition that Ofgem is showing to accelerate projects, to ensure the required generation connections and boundary transfer capacity upgrades are possible. However, it must be acknowledged that delivery of this unprecedented programme of works to 2030 timelines carries significant risks for the TOs, including, but not limited to, current planning and consenting timelines, supply chain availability, regulatory approvals timelines and system access for construction, all of which are outside of the control of the TOs. Furthermore, Ofgem's proposed Accelerated Delivery ODI is entirely disproportionate, in its current form, adding additional risk to TOs in the delivery of this strategic infrastructure.

Importance of a fair and equitable ODI mechanism

In principle, we support the idea of an Accelerated Delivery ODI, and agree that a well-calibrated incentive mechanism could help achieve Ofgem's objectives regarding appropriate penalties and rewards for delivery timelines. However, the current proposals place excessive risk on TOs, in addition to the substantial risk associated with delivering the scale of works, recommended in the NOA Refresh to 2030 timelines, which represents an unprecedented scale of works to pressing timelines. The proposed incentive also incorrectly assumes that a project's Earliest In Service Date represents a 50% probability of timely delivery ('P50' date), resulting in an incentive design that is heavily weighted towards excessive penalty.

Any regulatory framework aimed at encouraging and supporting the acceleration of large-scale strategic national infrastructure projects must instead offer an ODI which provides an appropriate balance of risk that realistically reflects the increased deliverability risks that TOs face for accelerating these projects to meet 2030 timelines. This will ensure that the proposed protections for consumers do not prevent the programme of works from being viable, financeable and equitable for the TOs as well as consumers. We must, therefore, move away from an ODI structured around the EISDs, as these do not represent the 'P50' dates that Ofgem has assumed in its consultation. See our response to Questions 11 and 12 below for our detailed feedback on the Accelerated Delivery ODI. This is an area where further engagement is required with Ofgem to discuss our concerns with the proposals. As currently designed, this would result in a penalty that is 187% of the maximum penalty for licence enforcement for the first two Eastern HVDC links alone. We also have concerns that uncontrollable and unpredictable constraint costs will be utilised to calibrate this incentive. We appreciate that Ofgem are open to further discussions in this area, which we hope will result in a proportionate and fair incentive which drives the right behaviours and utilises challenging but realistic delivery dates as targets.

Ofgem states in the consultation that the TOs should not be rewarded or penalised for outcomes that are: *“demonstrably outside the reasonable control of the TO”*. We support this approach, as the delivery of the NOA Refresh projects is subject to many risks and dependencies, as mentioned above, not all of which the TO can control or influence. To ensure fair application of this proposal, a clear, principles-based, ex-ante methodology will be required that clarifies how disapplication of penalties and rewards will be applied, and the type of evidence that will be required to demonstrate the impact of external factors.

Ensuring Financeability

As we embark on an unprecedented investment programme at a time where interest rates are on the rise for the foreseeable, it is vital that both policy and finance teams work together closely to ensure that companies are able to maintain investment grade credit ratings. We are carrying out our own financial analysis and linking this with the above proposed ODI where applicable. We would be happy to discuss this with Ofgem further.

Exemption from competition delivery models

We agree with Ofgem that competition delivery models are not appropriate for the timely delivery of the infrastructure recommended in the NOA7 Refresh. Competition adds significant delays to the development and delivery of projects due to the complex and lengthy tender processes, which would cause unacceptable delays in the delivery of these strategic works, required to meet 2030 targets. The competition exemptions that Ofgem has proposed in this consultation are therefore appropriate and should be applied to all of the 26 projects, that are in scope of the proposals set out in the consultation.

The TOs have repeatedly stressed, that in order to secure supply chain availability and to progress projects at pace, earlier certainty is required in the regulatory approvals process. The proposed early signals from Ofgem to (i) recognise network ‘need’ as per the outputs of the HND and NOA7 Refresh documents; (ii) provide upfront funding for early construction work; (iii) provide competition exemptions; and (iv) streamline regulatory decision making, collectively all go some way to remove current barriers to timely project delivery. We therefore welcome the proposals to streamline the regulatory process and stand ready to continue to engage with, and support, Ofgem as it progresses the detailed design of the regulatory approvals process.

Should you have any questions in relation to the issues raised in this response, please do not hesitate to contact me.

Yours sincerely,



Stephanie Anderson
Head of Regulation and Policy
SP Energy Networks

Appendix 1: SPT's response to Ofgem's consultation questions on Ofgem's Minded-to Decisions on the initial findings of the Electricity Transmission Network Planning Review

Q1: Do you agree with our criteria for identifying projects in scope for the application of the proposed accelerated delivery framework?

We agree that, at this time, a focus on projects required for 2030 is an appropriate scope for the application of an accelerated delivery framework. Given the volume of strategic infrastructure projects required for delivery to tight timelines, these are exactly the projects that require immediate measures to streamline regulatory and planning processes to support timely delivery.

Recent experience highlights that due to the rapidly changing energy landscape, projects recommended to 'hold' or 'do not start' in one NOA may already be 'late' when assessed against the requirements of the next iteration of the ESO's Future Energy Scenarios (FES). With work already commencing on the HND Follow Up exercise, to ensure an additional circa. 17GW of ScotWind generation can be accommodated on the network, we believe there is also likely to be significant value in applying the accelerated framework to at least one specific project in SPT's area with a 'hold' signal and one specific project with a 'do not start' signal, as we expect these signals will change to 'proceed', informed by FES 2023 and following the HND Follow Up exercise. We therefore support Ofgem's proposal for eligible projects to be added to a 'live' list of projects which will also benefit from the proposed accelerated framework.

Finally, projects are considered in-scope only if their estimated total capex spend is greater than £100m, aligned to the existing LOTI process for which this high-value criteria applies. The streamlining of the LOTI process is welcomed for these projects, and the >£100m criteria is appropriate for the proposals that specifically target delivery of large projects. However, across SPT's network, projects under £100m are equally critical to deliver in a timely way, particularly those which interact with other works and the larger projects. For example, our Kincardine North Reinforcement MSIP project (LWUP) will deliver a 400kV substation that is required for the delivery of associated projects, including the East Coast Reinforcement project (TKUP), which has been identified as critical strategic work in this consultation. To deliver the ambitious programme of works for 2030, projects <£100m also need enhanced regulatory processes, requiring updates to the MSIP process. Our proposed changes to the MSIP reopener mechanism are set out in our response to Question 7 below.

Q2: Are the 26 projects identified the correct ones to initially focus on?

As per our answer to Question 1, we agree the 26 projects identified are appropriate for the LOTI-specific streamlining proposals, given that the LOTI process governs the current regulatory treatment of these projects. However, lower value projects also need to be recognised as strategic, and their regulatory process reviewed accordingly. There is significant risk that the current MSIP process will not be able to support timely delivery of the sheer volume of lower cost HND and NOA7 Refresh projects. We propose further regulatory changes as set out in our response to Question 7 below, to address this.

We welcome Ofgem's proposal to maintain a live list of projects eligible for the streamlined regulatory process. With an additional c.17GW of ScotWind capacity to support on the network over and above that considered in the HND published July 2022, we are strongly of the view that additional projects may also require accelerated delivery, following the HND Follow Up exercise which the ESO intends to have completed by March 2023. It is likely that these projects may also require access to accelerated regulatory mechanisms to ensure timely delivery, albeit this may be post-2030 in some cases. However, given that this work is intended to provide certainty for the relevant projects, it is important that the current list of

projects should be seen as a fixed baseline and projects should not therefore be subsequently removed from this updated regulatory pathway.

Q3: Do you agree that it is in the consumer interest to consider exempting projects from competition?

We agree that it is strongly in consumers' interest to exempt projects from competition, where delivery timelines or project specifications require early confirmation of the delivery body for the projects.

From the ESO's analysis in their Early Competition Plan, use of an early competition delivery model is expected to add approximately 2.5-3 years, to the timelines for delivery of major transmission projects, given the need to undertake complex tendering processes.¹ This timeline also assumes the necessary legislation and tender regulations are in place, however the draft Energy Security Bill is still progressing through the parliamentary scrutiny stages. Given that it is already highly challenging to meet the EISDs/RISDs for all projects with NOA7 Refresh 'proceed' and 'hold' recommendations, it would not realistically be feasible to tender these projects to the market.

By providing certainty through competition exemptions, Ofgem removes a barrier to timely and cost-efficient delivery, providing the TO and the supply chain with the certainty required to progress early delivery works. Given that competition is not feasible for most of the 26 projects due to their timelines or specifications, the exemptions represent no cost to the consumer, yet provide significant benefit in the form of timely project delivery through delivery certainty and earlier supply chain and stakeholder engagement. Early construction and delivery work is critical to timely delivery across the portfolio of NOA Refresh projects, and we agree that competition exemptions are required to enable that work to progress at pace.

Q4: Which of our options for exempting projects from competition do you favour?

As discussed above, competition exemptions provide two key benefits to consumers and TOs. Firstly, they support faster delivery of projects by allowing the TOs to simultaneously undertake design, preparatory studies, consenting work and stakeholder engagement in tandem, all of which would not be taken forward until the delivery body was identified. Secondly, they enable early construction, supply chain engagement, and alignment with other deliverables. This gives the supply chain confidence in the TOs as the delivery parties, which reduce delivery risks, and therefore costs, to consumers.

Given the strategic importance of the NOA Refresh projects, facilitating offshore wind connections and the delivery of 2030 targets, we consider that none of the 26 projects required for 2030 should be subject to any competition delivery model.

Q5: Do you agree that without upfront certainty that they will be delivering enough of the investment needed for 2030, TOs will face significant difficulties mobilising the supply chain to deliver the works on time?

A lack of certainty in the appointed delivery body responsible for the delivery of major transmission projects makes it impossible to mobilise the supply chain, secure contracts in a competitive global environment, and deliver supply chain efficiencies that reduce costs for consumers. We therefore agree that TOs would face significant difficulties in mobilising the supply chain without this up-front certainty.

¹ ESO Early Competition Plan, Phase 3 Consultation: Chapter 5, End to end process, p.5

The supply chain will play a vital role in the delivery of these projects through the provision of equipment, services to construct the projects as well as services to support their design. Over the last 12 months we have seen the supply chain placed under significant pressure as economies re-open following the pandemic lockdowns and the investment for Net Zero increases. The supply chain that supports the transmission network is a global market with equipment being sourced primarily from across Europe and Asia, but other markets are also being considered including North and South America.

A lack of certainty of the delivery body hinders early engagement with supply chains and stakeholders. Early engagement is more fundamental than ever, given the current constraints and pressures we are seeing across global supply chains. We are seeing rapidly increasing global demand for network infrastructure, including transformers, HVDC cable and switchgear. For example, we have seen the lead time for power transformers increasing by 36% over the space of the last two years from 53 weeks to 72 weeks on average.

Equipment manufacturers are also indicating that a number of customers are reserving factory capacity in advance of placing full orders, which places further pressure on the supply chain. From our discussions with manufacturers, equipment is being offered from factories which were previously designated to be providing products to the Asian market for use in Europe. This is being assessed, however, does require changes due to differing standards that are required in different markets. From our discussions with manufacturers, we are also aware that some facilities which were located in Russia are no longer in use, which has an added pressure.

Supply chain availability is one of the largest risks to timely delivery of projects due to increasing lead times and limited global manufacturing capacity. Therefore, increasing demand on our supply chains means that early supply chain engagement is essential to ensure the required components and contractors are available when construction is scheduled. In our view, there can be no doubt that upfront certainty will be critical to the TOs in securing supply chain availability.

Q6: Do you agree that it is in consumer interest to consider streamlining our regulatory processes?

The LOTI (and previously Strategic Wider Works (SWW)) process has overall been an effective route for the delivery of large transmission projects, with a three-stage process that establishes project need and design options via the Initial Needs Case (INC); finalises project design at the Final Needs Case (FNC) stage; and reviews the project through Project Assessment.

Following the HND and NOA Refresh, the strategic needs case for all of the recommended projects is clear, and a project-by-project justification is no longer required. At the same time, increasing global demand on supply chains means that earlier confidence must be provided to build capacity and secure contracts, ensuring availability of resources when required. In the context of these industry changes, as well as government-mandated 2030 and 2035 targets, it is appropriate that Ofgem looks to streamline elements of its regulatory approvals process for all of the projects required for 2030 and beyond, which must include revisions to both the existing LOTI and MSIP reopener processes.

As set out in the consultation, delays to delivery dates for strategic transmission projects can cause significant consumer detriment in the form of constraint payments made to manage excess levels of generation, beyond system capabilities. By streamlining the regulatory process and enabling project works to progress earlier, Ofgem will reduce the risk on consumers that projects are delivered late, therefore reducing the likelihood they will be exposed to increased constraint costs. A more streamlined and flexible regulatory process also de-risks delivery from a supply chain perspective by enabling earlier

placement of contracts, reducing risks of component unavailability or excessive cost at the time of construction.

We therefore agree it is strongly in consumers' interest to streamline regulatory processes for projects required for 2030, thereby accelerating regulatory decision making. This can only be achieved through reforms to both the LOTI and MSIP reopener mechanisms.

Q7: Which of our options for streamlining our regulatory processes do you favour?

We broadly agree with Ofgem's conclusions regarding the most appropriate options for streamlining regulatory processes. As set out in Approach 1, it is critical that projects receive early acceptance of strategic need on a programmatic basis, justified by the conclusions of the HND and NOA Refresh, enabling pre-construction and early construction works to progress at pace. We are also supportive of a stage-based approach (Approach 2) to approving project allowances, recognising the need for early approvals whilst providing for a more detailed cost assessment, when costs are more certain at the point of finalising contracts with the supply chain. There may also be exceptional occasions where a TO would look for Ofgem to undertake the detailed cost assessment, ahead of consents being granted, in order to not delay a project's tight delivery timescales. We stand ready to engage with Ofgem to ensure Ofgem understands the cost profile of the strategic projects and to provide details of the proportion of total project costs that will be required at the early construction phase and then at the point of final Project Assessment.

There are projects where commitment to pre-construction costs prior to April 2023 is required, to enable immediate project development to commence. We believe SPC 3.15.8 in SPT's Transmission Licence is a helpful mechanism to use for accessing pre-construction funding in the interim. This mechanism allows TOs to secure pre-construction funding for those 2030 projects, without the need for an INC, given the projects' needs are already established. For SPT, use of this mechanism will be relevant to progressing development of our TKUP and TGDC projects in the coming months, prior to the establishment of the accelerated framework. Project-specific detail will be set out in our Delivery Plan, and we would welcome further engagement with Ofgem on this issue.

Providing early construction funding will be critical to the success of any revised regulatory framework, in order to deliver the NOA Refresh outputs on time. This differs from the pre-construction funding that TOs currently have access to, via the LOTI process, and extends to early supply chain commitments, earlier required land purchases, placing contracts for assets with long lead times or low availability. Recognising the need for much earlier supply chain engagement and commitment, as well as earlier land purchases the proposed regulatory process must provide the TOs with certainty that efficiently incurred early construction spend will be recoverable, therefore enabling earlier investment to drive delivery efficiencies and enable faster project progression.

The current LOTI Project Assessment stage reviews a project's development, procurement and costs, providing cost allowances once certainty increases. However, our supply chain partners are currently telling us that they cannot hold costs for the 6–9-month timeline that LOTI Project Assessments take, due to the volatility in commodity prices and global demands on factory capacity. The lengthy LOTI Project Assessment process also risks building in unnecessary delay.

Instead, we propose a more flexible cost assessment model, which requires closer engagement between the TO and Ofgem throughout the tender process, enabling Ofgem to reach an informed Project Assessment decision quickly, once costs are known and tender exercises completed. In some cases, it may be appropriate to approve costs in multiple stages depending on the programme of works and system access needs. To achieve this, we would suggest that a project management-style approach is adopted

by Ofgem (as outlined at our response to Q11 below), with each TO allocated a specific contact in Ofgem to monitor progress on their strategic projects, supplementing the ongoing monitoring and reporting proposals that Ofgem outline in the consultation. This will increase the transparency between the TOs and Ofgem, whilst ensuring delivery risks can more effectively be flagged to the regulator early and managed appropriately in the interest of consumers.

We therefore agree with Ofgem's proposal to combine Approach 1 and Approach 2 to provide the required certainty to progress projects, whilst maintaining close engagement on project costs, risks and progress leading up to Project Assessment.

For lower value projects, the MSIP re-opener is used to provide allowances for projects not included in RIIO-T2 baseline allowances. Ofgem note that they consider the MSIP process is capable of supporting timely delivery of these lower-value projects. However, we see significant consumer benefit in reviewing and updating the MSIP process. Specifically, we believe that the single annual re-opener window, in late January of each year, is not flexible enough for timely delivery across the NOA Refresh portfolio of projects. We propose that Ofgem removes the requirement for TOs to submit MSIP re-opener applications in a pre-defined window. Such an approach would support timeline efficiencies by submitting regulatory applications at the optimal time for the project, whilst also spreading the significant workload that these applications require from Ofgem and the TOs, across the calendar year. Given that we are looking to deliver a programme of works via the streamlined regulatory process and via the MSIP re-opener, there will be interlinkages with procurement and delivery strategies. Therefore, funding for early construction, beyond the existing Net Zero Reopener Development Fund (SpC 3.5 of SPT's Transmission Licence) will also be required for MSIP projects and this needs to be considered as part of our proposed review of the MSIP mechanism.

Q8: Do you agree with the costs and benefits methodology we have established?

We recognise that the CBA completed for this consultation is relatively high level at this stage, given the time requirements to calculate network capability impacts on a project-by-project basis. As set out in the consultation, this will allow the ESO to model the future dispatch of generation and energy flows across the network. Whilst we stand ready to work with Ofgem and the ESO to supply this information, we do believe that the scale of forecast constraint costs means that this CBA will remain in favour of applying proposals to streamline the regulatory process and provide exemptions from competition, which we expect to be confirmed by this planned analysis.

Consumer detriment associated with exempting projects from competition

The methodology for estimating the benefits of competition is not currently robust or well-evidenced.

We have a number of concerns about the underlying assumptions Ofgem have made in this section of the consultation. For example, the reliance on the assumption that competed projects can be delivered at 10-15% lower cost, relative to TO-led delivery, based on Ofgem's 'internal assessments and analysis' as informed by Ofgem's recent early competition work and its Impact Assessment (IA) for the Pathways to 2030 workstream, does not appear to reflect a robust approach. We would welcome further explanation from Ofgem regarding these figures, given their significance.

We have highlighted on a number of occasions our concerns to Ofgem about the methodology and assumptions they have used in previous Impact Assessments to show that competition is in consumer's

interests. For example, in their Early Competition Consultation Impact Assessment², Ofgem rely on a small sample of projects from the USA, which were subject to different regulatory and legislative regimes, and therefore will realise different levels of market interest, costs and benefits.

We note that again, in this consultation, Ofgem state purely theoretical and untested views as to how competition will deliver consumer benefit. For example, reference to the ICP and IDNO market as evidence for market appetite is inappropriate. The assets which these parties own and operate in comparison with the scale of the strategic transmission projects that this consultation tackles are incomparable in terms of risk, cost and complexity.

Furthermore, Ofgem quote competition as being able to introduce more innovative solutions than TOs are able to provide. It is noteworthy however that the TO's have already delivered world leading series compensation and subsea HVDC solutions to increase power system transfer capability, alongside their delivery of extensive 'non-network' operational inter-tripping solutions. TOs are strongly incentivised to implement the lowest cost solution, whilst ensuring the solution provided retains reliability and security of supply. We therefore do not find this theoretical assumption, without substantive evidence, appropriate.

Given the above, it is not clear why the methodology in this consultation considers that a figure as high as 10-15% cost saving is appropriate to use. Updated and reasonable analysis, alongside a full robust IA, is required urgently regarding the potential benefits of competition models in order to inform both this consultation and wider transmission policy.

We believe it is inappropriate for Ofgem, without robust evidence, to assume that exempting projects from competition will lead to consumer detriment. We believe that there are more compelling arguments that the introduction of competition to these projects would cause consumer detriment, for example through project delays to delivery, due to the lengthy and complex tendering processes required. Therefore, given that there is no robust economic assessment underpinning it, we believe this analysis should be removed from the methodology or updated to ensure that CBA best practice is upheld.

Q9: Do you agree with the conclusions of our cost and benefits analysis?

We agree with the overall conclusion of the cost-benefit analysis, which identifies significant benefit in applying Ofgem's proposals to streamline regulatory processes and provide competition exemptions.

As set out in our response to Question 8, due to the assumptions and cost benefits figure used by Ofgem of applying competition delivery models to strategic transmission infrastructure projects not being well-justified or evidenced, a more realistic figure would likely result in lower assumed competition benefits. This would result in a better evidenced CBA outcome and stronger evidence in support of the regulatory streamlining and competition exemption proposals set out by Ofgem in this consultation.

Q10: What are your views on introducing a package of regulatory measures which Ofgem may apply to protect consumers?

Whilst it is critical that project delivery is progressed quickly, we recognise that this conveys additional risks to the TOs and to consumers, which must be appropriately addressed by the regulatory framework. We therefore agree that Ofgem must strike the appropriate balance between risks on both the consumer and the TOs, recognising that the work to accelerate the delivery of strategic transmission infrastructure

² [Consultation on our views on early competition in onshore electricity transmission networks | Ofgem](#)

is the right thing to do for consumers, reducing constraint costs and delivering the network requirements to facilitate 2030 and 2035 energy targets.

Q11: What are your views on the design of each of regulatory measure? (Please clearly reference which measure(s) your comments relate to e.g. Accelerated delivery Output Delivery Incentive, Ex post efficiency review, etc)

We set out our views on the design of each regulatory measure below, addressing the six proposed measures in turn:

Accelerated Delivery ODI

We agree that a well-calibrated incentive mechanism could help achieve Ofgem's objectives of putting in place an appropriate and well-balanced penalty and reward mechanism for delivery timelines. We strongly agree with the consultation position that the project-specific financial parameters of the incentive should be fixed in advance and known to the TOs at the earliest stage of the project timetable, enabling these parameters to be considered when engaging with suppliers. We also welcome Ofgem's recognition that the incentive should not penalise or reward TOs for delays caused by factors that are beyond their reasonable control. This is particularly relevant given the host of exogenous dependencies that large transmission projects face.

However, we are strongly of the view that any ODI introduced must not be based on the extent of constraint costs incurred, due to delays to the project. The consultation appears to highlight a concern from Ofgem with current electricity market arrangements, in that TOs are not exposed to the consequences of delays to projects (i.e. constraint costs). However, it must be acknowledged that TOs are not responsible for the constraint costs on the system, which have come about through a combination of the 'Connect and Manage' framework for generation connections, ITPR, SEF, ETYS and NOA processes and the resulting Ofgem and ESO's strategic direction on the timing of network investment. It is therefore not appropriate for a project to face significantly different penalties based on where on the network it is situated and the forecast constraint costs that it mitigates, as this is not a strategic decision that the TO has control over. Whilst we are actively engaged in the planning process, it is the NOA process that recommends which projects will progress and which will be deferred until constraint costs become high enough to trigger reinforcement.

We therefore propose an alternative basis for the penalties and rewards associated with the Accelerated Delivery ODI based on liquidated damages.

As the TO, we are best placed to deliver the required network for 2030 on the fastest possible timeline. We welcome Ofgem's intention to accelerate the delivery of these projects, and we share the ambition to ensure our networks are ready to meet the unprecedented requirements they will face, in support of 2030 ambitions. However, there are significant risks on the TOs associated with the proposed programme of works, only some of which are within our reasonable control as a TO. It will therefore be important that a clear methodology is developed to ensure penalties are not applied for delays which are beyond the TOs' reasonable control. Key risks include, but are not limited to the following:

- **Planning and consenting:** The planning and consenting regime in Scotland does not have fixed timescales for determining outcomes for Section 37 consent applications. We therefore face significant uncertainty on project timelines, with some projects such as the Beaulieu-Denny reinforcement having spent five years in the process between submission of S37 application and consent being granted. We are engaging proactively with Scottish Government, at the most senior levels, to enable acceleration of the planning process. Our proposals highlight the need

for strategic infrastructure projects to be fully consented within one year. However, planning timelines are ultimately out with our control.

- **Land rights and purchases:** Where projects require land purchases or land rights to be secured, we face risks that landowners will oppose works and statutory processes will be required, which may result in extended timelines for project delivery. These statutory processes do not have defined timescales. As above, we are engaging with the Scottish Government to expedite these processes. We conduct extensive stakeholder engagement to mitigate this risk but cannot control whether or not a Compulsory Purchase Order or necessary wayleaves will be required, and how long a decision may take.
- **Regulatory timelines and allowance approval:** We strongly welcome Ofgem's proposals to accelerate regulatory approvals, however regulatory processes still represent a risk to delivery timelines where regulatory delays can delay project milestones. The proposals in this consultation mitigate that risk to some extent, but timely and decisive regulatory decision-making will be critical to accelerating delivery, particularly any timescales associated with securing regulatory approval for the funding for early construction works and the final package of allowances.
- **System Outages:** The programme of works to be completed by 2030 and beyond is unprecedented, resulting in very significant outage requirements on SPT's network which already faces considerable system access constraints. Whilst delivery timelines are planned to align with outage requirement for other works, noting that the these NOA related works must be integrated into a co-ordinated system access plan which also addresses asset risk and modernisation related interventions as well as new connections related activities, a lack of generation availability elsewhere on the system, or unexpected weather conditions may mean that the ESO decides that planned outages cannot occur, delaying work on projects. As will be outlined in our forthcoming Delivery Plan, we carry out extensive outage plan assessments to mitigate this risk and provide alternative options, but the risk of limited system access availability in delaying projects is significant, given the scale of the required works across the MITS.
- **Supply chain risks:** As discussed in our response to Question 5, our supply chain is experiencing increases in global demand that result in challenges securing the assets and services we require, and quoted costs being held fixed, for far less time than previously. We are engaging extensively with supply chain partners and with Ofgem to manage supply chain risks. However, we cannot control global shortages or competitive international market pressures for key network components that may lead to delays or increased costs for the delivery of our projects.
- **Resourcing and skills:** We are facing challenges recruiting for the skills required to deliver our portfolio of network projects, given the industry-wide shortage of skilled engineers, and competition with other growing sectors including offshore wind. Skills in particular which are difficult to secure include engineering design, project management and construction staff. We are addressing this through the investment in an extensive training programme for apprentices and graduates across the various disciplines we require to fill. Over the last three years we have started a new site manager trainee programme as well as dedicated project management graduate positions. We complement this with external recruitment from both UK and non-UK candidates.

Given the above constraints and the scale of penalty proposed, we cannot commit to accelerated delivery of these strategic projects under the current proposed Accelerated Delivery ODI. However, we are committed to working alongside Ofgem and the other TOs to identify a reward and penalty regime that assigns a balance of risk, which equitably reflects the increased delivery risks that TOs face for these projects. This will ensure that the proposed protections for consumers do not prevent the programme of works from being viable, financeable and equitable.

Reduced incentive rates under the TIM

We welcome Ofgem's proposals to provide TOs with allowances to support early construction activities, with a view to accelerating project delivery. We propose that these funds should be available to the TOs in the form of an Early Construction Funding Pot to support the TOs programme of works. In SPT's case, we intend for this pot to support early construction activities for both the large-scale strategic projects as well as our MSIP projects, given the inter-linkages between them. It will then be for the TOs to draw upon, and manage, the allocation of this funding pot, in order to secure and fund the necessary early construction activities. This approach would be supported by an ex-post review by Ofgem to validate that all expenditure was efficiently incurred. We are committed to providing full and transparent detail to Ofgem of all costs that have been incurred. However, it must be acknowledged that these up-front cost allowances for early construction are likely to have lower certainty, than allowances approved at the stage of Project Assessment. Given the importance of these early construction costs in supporting the accelerated delivery of these projects, it seems unfair that the TOs should be penalised through the TIM for cost uncertainty, when the whole intention behind of this funding is to support costs at an earlier stage of the regulatory process, than is currently the case.

We propose that final cost allowances are set once tendered costs are known, following ongoing engagement with Ofgem throughout the development process on project costs, risks and progress. This stage would have a comparable level of certainty to the equivalent stage in the current LOTI Project Assessment process. Costs under the proposed process may even be more certain, as some contracts may have already been placed, via early construction funding. It is not clear, therefore, why a reduced TIM incentive rate would be appropriate.

Finally, we are also concerned that reducing incentive rates under the TIM will cause challenges in financial reporting and treatment of costs within the Price Control Financial Model (PCFM). Whilst not insurmountable, we must recognise the significant amount of work associated with the implementation of reduced TIM rates on a project-by-project basis, and the very limited consumer benefit in implementing reduced TIM rates.

Ongoing monitoring and reporting obligations

We agree that increased communication between the TOs and Ofgem will be necessary in order to oversee the accelerated delivery of these strategic projects. We are proposing that Ofgem introduce a project management-style approach whereby an appointed Ofgem official or representative, develops a direct and ongoing relationship with the TO, from now through to 2030, as each TO develops and delivers its programme of works. Having Ofgem embedded in the project will ensure they see direct and early notice of any risks or dependencies associated with the projects, as well as any potential changes to delivery plans and cost allowances required due to a change in circumstances or events. Such an approach is also likely to reduce the administrative burden on both Ofgem and the TOs.

The proposed annual report, setting out the delivery status and forward-looking outlook for all projects included within the framework is appropriate as a means of providing a further update to Ofgem on the development of the projects. However, as proposed above, we hope to be engaging with Ofgem on a more regular basis in parallel to this formal reporting process. Similarly, the proposed updates to the RIGs are appropriate, creating another reporting stream to ensure TO-Ofgem alignment as these strategic projects are delivered.

Re-openers to adjust allowances

We agree that a re-opener is required to allow outputs and allowances to be adjusted if required, aligned to the Cost and Output Adjustment Event (COAE) mechanism included in the LOTI process. We argued previously that the 20% materiality threshold that applies to LOTI projects was significantly too high so we welcome Ofgem's intention to reduce the materiality threshold for the application of a re-opener, recognising the scale of external risk associated with accelerated delivery of these projects. We also welcome the proposal that both Ofgem and the TOs would be able to trigger the mechanism. We stand ready to work with Ofgem on the design and scope of the re-opener mechanism.

Ex-post efficiency review

As per the LOTI process, we agree it is appropriate for Ofgem to conduct an ex-post review of each project, ensuring allowances were spent efficiently. It will be critical to set out a clear methodology for this ex-post review, in line with the development of this accelerated framework, to ensure all parties are aligned in their expectations. The methodology should clearly set out Ofgem's expectations for the TOs' procurement processes, ensuring that tendered costs are recognised as market costs. Continued Ofgem-TO engagement throughout project development and delivery phases will support the fair and full consideration of the TO's efficiency and appropriate use of funding when conducting an ex-post review.

Q12: Do our you think our proposals raise any financeability concerns or create excessive financial risk for the network companies? If so, how could they be addressed?

SPT has serious concerns regarding the financial risk that the consultation proposals will place on the TOs. Meeting the ESO's recommended delivery dates outlined in the HND is highly ambitious and, whilst potentially achievable, these dates are not an appropriate basis for significant penalty exposure for the TO.

Accelerating strategic transmission projects is the right thing to do for consumers, delivering significant benefit both in terms of consumer bills and Net Zero delivery. However, these proposals which place excessive risk of financial penalty on SPT put us, as a TO, in a position where we are subject to an unacceptable financial exposure on a portfolio of investment to be delivered to unprecedented timescales.

In the assessment of financeability offered in the consultation, Ofgem state that they expect the risk that projects are more likely to be delayed than delivered early is small. However, Ofgem incorrectly categorise the NOA EISDs as P50 dates, with 50% chance of timely delivery. The concept of a P50 date came about through risk analysis on the Eastern HVDC project at Final Needs Case stage, when costs, risks and dependencies were relatively well established. From that analysis, the intended 2027 delivery date was identified as a 'P40' date, with 40% chance of achieving the 2027 EISD. However, this is specific to the Eastern HVDC project, and it does not, and should not, be read across to the other NOA EISDs. By their nature, the *earliest* in-service dates are the very soonest a project can reasonably be expected to deliver based on TO experience to date, assuming the project faces no issues or delays both within and outwith the TOs' control, and that every element of the project takes the shortest time possible to deliver. The concept of a P50 date is not set out in the NOA methodology, and it is not how the EISDs in the NOA Refresh have been identified. For the probability of an EISD to be understood, the project must be further developed than from when it is initially set out in a NOA submission. Using the example of the Eastern Link, a meaningful probability was not able to be determined until FNC stage, where a level of market engagement has been undertaken, and even at this, a more accurate P50 will not be available until after

the tender exercise and a contractor appointed. As all of the identified projects are developed, the more accurate the expected delivery date can become.

It is also important to note that the NOA process considers EISD's on an individual project-by-project basis, and only to a very limited extent on a wider programme basis. For example, two projects may each have an EISD in the same year, however due to their completing system access requirements, it may not be possible to deliver both projects in that year. This complexity is not accounted for in either the HND or NOA7 Refresh, nor is the requirement for NOA works to be integrated with non-load and new connections related activities in a co-ordinated programme of works and system access plan. EISDs were never intended to be used as dates to set penalties for delivery delays over a programme of works, as these dates have not assessed the deliverability of the entire profile of works.

The Accelerated Delivery ODI therefore carries significant risk both for projects that are accelerated beyond their current post-2030 EISDs, and for projects with EISDs on or before 2030. For all of these projects, a supposed symmetrical reward and penalty regime would in fact result almost exclusively in penalty, where TOs inevitably face delays relative to the fastest reasonably possible delivery of these strategic projects.

At the same time, the financeability assessment is not sensitive to the magnitude of reward and penalties. Any acceleration relative to the EISD would be marginal, given that we have already squeezed project timelines to generate the EISDs, so the available incentive reward would in practice be very limited and would therefore fail to provide any meaningful incentive effect. On the other hand, project delays are not bound by such a constraint, and a delay to the delivery of a strategic project could very feasibly and very quickly reach the 15% project value cap under the proposed methodology. Whilst at face value the incentive is symmetrical, the proposal is more likely to penalise the TO than to reward them and the magnitude of those penalties is likely to be significantly higher than any reward achieved. As currently proposed, the Accelerated Delivery ODI imposes very significant risk on the TO, with almost no prospect of reward. We do not believe that this was Ofgem's intention when they designed this ODI proposal.

In the consultation, Ofgem state that if further analysis and evidence suggests that the proposals could lead to excessive downside RORE outcomes for TOs in plausible circumstances, mitigation measures may be required. The three mitigatory measures proposed are to set a limit on aggregate penalties and rewards in each regulatory year; to reduce exposure by reducing the sharing factor; and to lower the project-level cap on penalties and rewards.

In the context of Ofgem's misunderstanding of EISDs as 'P50' dates, a more wholesale redesign of the incentive is required, recognising the challenges associated with delivering projects by their earliest possible delivery date given the host of risks and dependencies, including external factors, that these projects face. The current proposed penalty cap of 15% per project is unacceptable, hugely disproportionate and poorly calibrated, given the scale of the delivery challenge and the way that EISDs have been reached through the NOA process. Equally critically, the penalties and rewards should not be calculated on the basis of constraint costs, as set out in our response to Question 11 above, given that these costs are not associated to the activities of the TOs.

We agree with the principle of an Accelerated Delivery ODI, however significant work is required between Ofgem and the TOs to identify an ODI methodology and structure that is both appropriate and equitable in expected outcomes to properly incentivise accelerated delivery, whilst recognising the challenges associated with even delivering a project to its EISD.

Q13: Is any further guidance, or additional specific information, needed as part of the TOs' project delivery plans?

We will submit our Delivery Plan to Ofgem in September, providing the requested detail on the eligible projects with the context required to review them fully. Following submission of the Delivery Plan, we stand ready to work with Ofgem to provide any additional information required, and we will continue active engagement ahead of the proposed submission of an updated Delivery Plan by the end of 2022. As these projects develop, further updates will be required to the Delivery Plan, and we will provide regular updates on projects through the relevant reporting and engagement processes as determined by Ofgem.