

TRANSMISSION CAPITAL PARTNERS

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14 July 2022

Dear Cher-Rae,

Response to Minded-to Decision and further consultation on Pathway to 2030

Transmission Capital Partners (TCP) is a joint venture formed between Amber Infrastructure Limited and Transmission Investment with in-depth knowledge of financial, technical and regulatory issues associated with transmission in Europe and with a proven investment manager track record.

TCP owns one of the largest offshore electricity transmission portfolios, including the connections to nine offshore wind farms, and we will see further offshore wind connections transferred in 2022 – in total we currently have a portfolio of approximately 3GW and £2.5bn in capital employed. We are one of the largest offshore wind transmission businesses in GB, which is the largest offshore wind market in the world.

We welcome Ofgem's consultation setting out the minded-to decisions and the stability it brings to the regime. We strongly agree with Ofgem that "***the running of competitive tenders does not in and of itself lead to delays in the delivery of key infrastructure.***"

We agree with Ofgem's minded-to decision to retain the very late model for radial OFTOs and as an option for non-radial solutions, and also propose that this should be alongside Option 7.

Ofgem should continue to consider Option 7 for Pathway to 2030, while there is the potential for £0.5 billion of additional benefits. Ofgem's own analysis of Option 7 says the policy and tender process development could happen in parallel to detailed design and pre-construction works and so would not introduce delay, therefore the option should remain as part of the policy.

Retaining Option 7 could address many of the developers' concerns about coordination by using a combination of Option 6 and Option 7. Developers recognise the challenge of coordination to deliver the outcomes of the HND; where they are expected to work together despite an auction system that is encouraging competition. The lack of an incentive and complications in coordinating works with another developer means they are reluctant to take on the obligation for delivering shared transmission assets.

Such a hybrid approach would reduce the time developers are holding shared assets and reduce delivery dependencies between developers, by undertaking a single OFTO tender process, but with staged transfers of assets i.e. as they complete pre-construction, are procured or completed (according to developer preference).

We provide more detail in the attachment, where we address the consultation questions.

Yours faithfully,



Mark Fitch

TI Corporate Development and Regulation Manager for and on behalf of Transmission Capital Partners

TRANSMISSION CAPITAL PARTNERS

ATTACHMENT – RESPONSE TO CONSULTATION QUESTIONS

Chapter 3 - Minded-to decision on non-radial assets in scope of Pathway to 2030

Question 1: Do you agree with the findings of the draft impact assessment published alongside this document?

We do not agree with the assessment of Option 7 and the risk of delay. Ofgem's assessment is internally inconsistent. In paragraph 8.5 it states the Tender process development could be done in parallel with DND and pre-construction works, however, in paragraph 8.13, the risk of delay is noted as related to the Tender process development. We would support Ofgem's view that the tender process development could occur in parallel and allow a transfer of responsibility to the OFTO without creating delays. The responsibility could be transferred from developer to OFTO at different points in the project programme, e.g. pre- or post-procurement, depending on the specific project's schedule. In transferring this activity from the developer to the OFTO earlier there is the potential to accelerate wind farm development, as developer's resources can be redeployed onto the next project.

We do not agree with the assumption in paragraph 3.3 in the minded-to decision that not introducing competition would see no delay. This is based on an expectation that the incumbent TOs would operate at risk while the regulatory framework is defined. Committing to investments ahead of certainty of the regulatory regime appears inconsistent with how this occurs day-to-day (e.g. in the LOTI process) and with shareholder expectations when investing capital in these low-risk businesses. While it is likely that delays could be shorter than introducing a wholly new tender process, a no delay assumption appears optimistic.

We would question the inclusion of the Crown Estate Leasing Round four (LR4) options fees in the economic assessment of delay. These fees are large in the options analysis and make a material impact to the ranking of options, (if, as assumed in the Impact Assessment they do get passed to consumers through the CFD strike price). These fees, however, have features that suggest they are an economic transfer, e.g. passing purchasing power from one person to another and do not involve the consumption of resources. If they are an economic transfer, then HMT Green Book (Chapter 6) recommends that they are excluded from the economic analysis when considering the estimate of Net Present Social Value.

Question 2: Where you disagree with the draft impact assessment, does this raise any issues with our minded-to decisions?

Yes, Option 7 allows, by Ofgem's own assessment, for parallel development of the tender process and the DND/ pre-construction works. Therefore ruling Option 7 out, is a flawed conclusion and it should be retained as an option and developed as part of the Pathway to 2030 policy framework. Noting there is up to £0.5 billion of benefit to the consumer that could be realised. It also has the potential to mitigate a perceived risk that during the delivery phase a developer may give preference or advantage to its own interests over its competitor (who is dependent on it for its transmission connection) and release developer resources to focus earlier on development of their next wind farm project.

If the LR4 fees are in fact an economic transfer, then they should be excluded from the economic analysis when considering the estimate of Net Present Social Value.

TRANSMISSION CAPITAL PARTNERS

Chapter 4 – Pathway to 2030 – Gateway assessment process

Question 3: Do you agree with the proposed introduction of a new Tender Entry Condition in the Tender Regulations requiring the confirmation of the offshore transmission system as ‘economic, efficient and coordinated’?

Question 4: Do you agree with the introduction of the proposed gateway stage assessment process?

Question 5: Do you think the information sought as part of the gateway assessment process is appropriate and proportionate? Is anything missing?

Question 6: Do you have any views on the timing of the gateway assessment process?

Question 7: Is there any other information which you believe should be included in the confirmation to developers?

We agree with the principle to assess and provide certainty to potential OFTO bidders that the developers coordinated design meets the test of economic, efficient and coordinated before being tendered.

The assessment should provide confidence to the OFTO that the design of the system and how it can be operated is not in conflict with the licence obligations, i.e. there is no risk that a user in the future could claim discrimination in how it can access the system, due to how it was designed.

Chapter 5 – Very Late Competition Model Tender policy

Question 8: Do you think changes are required to the current process to facilitate a very late competition model for non-radial assets?

Changes to the tender process will depend on how projects are envisaged to be transferred. It is unclear if this is expected to be a single transfer once all developers OFTO assets are commissioned, or if transfers would be staged, i.e. transferred on completion of each developer’s OFTO works.

Single tender and transfer

If the tender process is expected to occur once for the entire non-radial system, then there may need to be flexibility in the current 18-month limit for the Generator Commissioning Clause. This would be necessary where the OFTO system for the later developer may not be completed until some time after the first developer has commissioned its generators.

This approach would appear to require minimal change to the current OFTO Tender process, primarily to allow sufficient time for bidders to fully understand and complete due diligence on multiple developers works and the agreements between all the parties.

It is unclear what a suitable extension to the duration of any GCC clause would be, as it would depend on the system design, how many phases and may be impacted by delays in the later developer’s programme.

Single tender with multi-stage transfer

An alternative approach (a hybrid of Option 6 and Option 7) could be to run the OFTO tender when the first developer has completed the build, i.e. sufficient to commission its generator.

Subsequent phases would be set with an Indicative Transfer Value within the cost assessment process. As far as possible other terms, e.g. pass-through cost, would be fixed at this initial bid stage, subject to review if there are material changes in what is delivered by the developer.

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This approach would minimise the time the first developer holds any shared assets by transferring them on completion to an OFTO as soon as they are complete. Later phases of infrastructure build would be handed to the OFTO to oversee (this could be pre- or post-procurement or post-construction) for later connecting developers. This could allow flexibility in how these assets are procured, whether that is as a single joint procurement or in packages etc.

Taking this approach also avoids the need to forecast what the right extension to the GCC time-limit would be. In this approach the OFTO takes over post-construction for the first developer and subsequent stages are pre-defined transfers. Therefore, for each stage, there is no need for the GCC to be extended (as it is aligned to the current developer build process), and there is no ambiguity regarding the obligation to connect later developers (compared to if the infrastructure is generator owned) as the OFTO manages the connection onto the offshore transmission system.

This multi-stage approach may require amendments to the tender process (depending on the time between stages) e.g. to facilitate financing competitions to align committed finance to the timing of staged asset transfers. It may also require additional time for due diligence were the transfer to occur where there are partially completed assets. This may translate into adjustments to the TRS as transfer stages are completed.

Chapter 6 - Policy considerations for implementing non-radial offshore transmission

Question 9: Do you think changes are required to the current package of OFTO obligations and incentives due to the introduction of non-radial offshore transmission assets?

There are two key incentives for OFTOs, the Availability incentive and the Incremental Capacity incentive

Availability incentive

We think for non-radial assets that the overall exposure to such an incentive should remain as it is today, with a maximum 10% of revenue at risk, maintaining bankability for OFTO projects. We also suggest there are areas of detail in the Availability Incentive that may need to be considered:

- **Seasonal and capacity weightings.** With different technology dispersed over greater distances, generators may have different performance characteristics. This could emerge as different seasonal or capacity weightings for parts of the OFTO system. This would lead to differences in the availability cost to the OFTO for one user over another, which could influence the OFTO's operational decisions on shared parts of the system.
- **System design.** The way the system is designed may make it preferable for the OFTO (simpler or faster) to more frequently disrupt one user to complete planned maintenance, rather than taking more complex outages to achieve the same outcome.

Incremental Capacity

While it is envisaged by Ofgem that this would see later developers 'plug-and-play' into the OFTO, it remains the case that incremental investment may be required to be undertaken by the OFTO to facilitate the final connection of developers. Therefore, this mechanism is likely to be used more frequently and needs to be fit-for-purpose.

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We think the current policy of a 20% default threshold, below which a new tender would not be launched should remain.

This should be sufficient to cater for investments to enable 'plug-and-play' as later developers connect. Noting that the OFTO should be able to claim for Availability lost as a direct result of carrying out the works. This would be consistent with the End of TRS consultation (paragraphs 2.10 and 2.11) in treatment of availability impacts from the asset health reviews and for life extension.

As it is envisaged coordination becomes more routine, we would suggest Ofgem considers other criteria, in addition to the 20% threshold below which investment defaults to the OFTO. For example, a competition test, similar to that envisaged within the End of TRS consultation, to assess if it is in the consumer interest to run a tender, rather than allowing a request from the incumbent OFTO to invest (above 20%) to facilitate the connection.

Question 10: Do you think changes are required to other aspects of the OFTO regime, eg asset life or duration of the revenue stream?

We see a benefit in the TRS for all assets forming the non-radial system to come to an end at the same point in time. Where the assets are transferred to the OFTO on different dates, this may require the TRS periods to be different to create a common End of TRS date. This would allow for a continuation of a single owner/operator for the system, avoid multiple tender processes and minimise the number of ownership boundaries.

Where there is a material period of time between commissioning of the first developer and the last of the assets to be transferred to the OFTO, the regime should be adjusted accordingly, e.g. an allowance for maintaining availability in later years etc.