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Offshore Coordination  
Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

26 January 2023

Dear Cher-Rae and Viljami,

**Revised minded-to decision and further consultation on delivery models in Pathway to 2030**

We welcome the opportunity to respond to your revised minded-to decision and further consultation on delivery models in Pathway to 2030. ScottishPower is a major UK energy company with renewable generation, retail supply and network interests; we are a leading developer of wind power in the UK, and part of the Iberdrola Group, the world's leading renewables developer. Iberdrola is a global leader in tackling climate change, with a commitment to reaching carbon neutrality by 2050. This response reflects the perspective of our renewable generation business.

We remain fully supportive of the overall BEIS and Ofgem Offshore Transmission Network Review (OTNR). As noted in our previous consultation responses, OTNR is critical to ensuring that the infrastructure needed to facilitate the Government's 2030 and Net Zero offshore wind targets is delivered at the most efficient cost for consumers. Our responses to the consultation questions are in Annex 1, but we would highlight the following points:

1. We welcome the clarity provided on the extension of the application of the approach to anticipatory investment (AI) to include all projects within the scope of the HND and HND Follow Up Exercise, including the Celtic Sea projects.
2. We welcome the changes in the revised minded-to decision to include greater flexibility in the project delivery build models. We believe the introduction of an OFTO build route for coordinated projects, alongside the 'very late option – generator build' will allow developers to consider the balance of risks between each build model and take a view on the commercial viability and deliverability. Nevertheless, we believe the current OFTO regulatory framework will require reforms to ensure it is capable of providing sufficient incentives and accommodation of risk to deliver non-radial offshore transmission solutions.

3. Whilst the clarity provided by the extension of the Anticipatory Investment (AI) regime to Pathway to 2030 projects is welcome, we do not believe it eliminates the challenge of asking developers to coordinate, whether under a generator or OFTO build approach. In the absence of a governing framework, this will potentially be a commercially lengthy and technically complex process.

It is therefore essential that the AI regime is finalised and all concerns from industry addressed, particularly around key elements upstream of any AI gateway assessment process, such as: agreed connection dates; information sharing in the context of competition law; and how costs are shared between consumers and generators where more than two developers are involved.

There is effectively a gap in regulatory and commercial frameworks between coordinated (non-radial) offshore transmission solutions being identified through the ESO's holistic network design (HND) and Ofgem's proposed gateway assessment of associated AI. We believe the most effective remedy is to emulate the arrangements for onshore transmission and therefore have the ESO/FSO oversee this process. Failure to close this "gap" will likely result in very few if any coordinated offshore transmission solutions being constructed, posing a significant risk to the Government's 2030 offshore wind targets.

If you have any questions regarding this response, please don't hesitate to contact me or my colleagues Haren Thillainathan ([hthillainathan@scottishpower.com](mailto:hthillainathan@scottishpower.com)) and Deborah MacPherson ([Deborah.MacPherson@Scottishpower.com](mailto:Deborah.MacPherson@Scottishpower.com)).

Yours sincerely,



**Richard Sweet**  
Director of Regulatory Policy

**OFGEM REVISED MINDED-TO-DECISION AND FURTHER CONSULTATION ON  
DELIVERY MODELS PATHWAY TO 2030 - SCOTTISHPOWER RESPONSE**

**Q1 Do you support the introduction of a late competition OFTO build model for non-radial offshore transmission assets?**

We support the introduction of a late competition OFTO build model for non-radial offshore transmission assets. We believe the introduction of this additional option will increase the likelihood of more offshore transmission assets being delivered.

That said, it should be noted that our own experience is solely in relation to successful delivery of offshore developer-build projects including the transmission connections. We are therefore in a more informed and experienced position to favour utilising a generator build approach for the design and construction of offshore transmission assets. It is important to note that to date there has been no OFTO-led design and build of offshore transmission assets in the UK. Without change to the current OFTO regulatory framework, we don't think OFTOs will be properly incentivised to undertake this activity. OFTOs are unlikely to accept any construction risk and would instead seek to commercially offset this through the agreed transaction documents. We believe a wholesale change of how OFTOs are structured would be required before OFTOs can begin to consider taking on an OFTO build project which includes the construction and commissioning of offshore transmission assets. We would welcome clarity from Ofgem on how it proposes to modify the existing OFTO regulatory framework to ensure it is capable of supporting the delivery of non-radial offshore transmission solutions. Key aspects include how costs of shared transmission assets are recovered and the level of residual risk borne by developers, in particular in respect of delays to connection.

We would note that with respect to OFTO-build solutions, the design, programme and contracting for the offshore transmission assets needs to be in place to enable the developer of the first connecting project to be able to take a final investment decision (FID). In this context, it is essential that the regulatory and commercial frameworks enable timely design and construction of non-radial solutions with appropriate allocation of risk and costs between OFTOs, developers and consumers. As a result, there could be a misalignment of incentives between projects intending to make use of the offshore transmission assets and the developer or OFTO with responsibility for delivery of the design of offshore transmission assets. In such circumstances, there could be an unmitigable risk to later connecting developers associated with their transmission access being significantly delayed or restricted.

Without certainty that the developer's generation assets will have a transmission asset 'ready to plug into' in line with the project timelines, developers will struggle to reach FID decisions. The start of CfD contracts and any PPAs require 'on-time' delivery of assets; if the delivery of the transmission assets is not strictly monitored with suitable penalties, developers cannot 'guarantee' their income and therefore will hesitate to invest. Materially late delivery of a project by an OFTO could pose a reputational risk impacting investor confidence longer term.

In light of our points above, we would ask that Ofgem provide information as soon as possible on its proposed regulatory regime for the development of the late competition OFTO build model, to ensure that developers fully understand their options and to prevent further delays.

Where more than one developer is working together to undertake the delivery of non-radial transmission assets, given the complexities with this approach, we would ask Ofgem to confirm the timescales for developers to make their decision with respect to which delivery model they are adopting. Furthermore, as outlined in our response to Question 2, there is

critical a gap in regulatory and commercial frameworks between the ESO's HND process and Ofgem's gateway assessment of AI. This gap applies to both generator- and OFTO-build options and concerns the coordination and agreement between parties required to facilitate the design and construction of the non-radial offshore transmission solutions. We would recommend that the most effective remedy is to emulate onshore transmission arrangements for connecting multiple parties to shared transmission assets and the process should therefore be overseen by the ESO/FSO.

Lack of clarity and framework over these areas will lead to delays in projects developing their projects and in turn delay FID, contract signing and finally construction. Any delay to offshore wind projects contributes to the risk of government not meeting its 2030 targets.

**Q2 Do you support the extension of the AI policy to the projects within the scope of the PT to 2030 workstream?**

We welcome Ofgem's minded-to decision to extend the AI policy to projects within scope of the Pathway to 2030 workstream. We believe that a proposal that guarantees that any costs incurred under AI can be recovered from the initial user Final Transaction Value (FTV) process (section 5.26) alongside TNUoS charging to reflect only the non AI element (section 5.35), is appropriate and consistent with charging methodology objectives.

We do however remain concerned by some aspects of the deliverability of the policy as it currently stands. We set out those concerns in our response to Ofgem's July 2022 consultation on its minded-to decision on Pathway to 2030. Whilst the minded-to delivery model may mitigate timing risks in the project development cycle, questions still remain surrounding the additional complexity of developing, constructing and tendering shared assets, consequential changes to the regulatory framework, and ensuring generators build network infrastructure for assets beyond those required for their specific projects whilst ensuring that generators are directed to not prioritise their own assets and take on additional risk.

To ensure strengths, risks and opportunities are fully understood, we are still of the view that further clarity is required around:

- available incentives for collaboration and reduction of risk taking between generators;
- the cost assessment review of AI;
- the timeline for the development and divestment process of offshore transmission networks; and
- the future regulatory framework and how the challenges for all parties (generators, ESO and OFTOs) of the increased complexity of co-ordinated offshore networks can be mitigated.

We have previously highlighted to Ofgem that the following points must be a key consideration for Ofgem for Pathway 2030 and beyond:

- a) The boundary between generator sole use and share assets must be clearly defined.
- b) Any shared infrastructure would need to be oversized to avoid interdependencies between generators (in terms of construction and economics) and this may factor into relevant CfD allocation rounds.
- c) Arrangements and contingencies, if one of the generators wins a CfD in the targeted allocation round and the other does not must be defined.

- d) More generally, careful consideration should be given to the planned or potential lag between one project and the other forming part of the same HND.

Despite the publication of the Phase 1 HND last July, the consenting requirements and responsibilities resultant from the HND solutions remain unclear, especially for shared assets.

It is not clear who will be responsible for building the OFTO assets in each case a generator build option is utilised. For example, is it divided between different generators if connections dates are the same, and if not, how is the leading party determined? Or is one generator selected to undertake the build regardless of differing programmes? That being the case, it is highly unlikely that any party would agree to such an approach which would oblige them to accept the full risk of disallowed costs unless AI is agreed and accepted by Ofgem and not considered as disallowable costs.

We do not believe Ofgem has fully considered the balance of risk between the ESO, OFTOs and generators under the generator-led delivery model and both this and the 2022 consultations imply all significant risks related to the shared transmission assets will be left for generators to manage between themselves. This is not an approach we can support without further clarity.

We do however remain concerned by some aspects of the deliverability of the policy as it currently stands. In particular, key issues to be resolved between coordinated solutions being identified through the ESO's HND and Ofgem's gateway assessment of AI include:

- Very late competition: We remain concerned regarding the timeline for getting regulatory frameworks and guidance which we believe to be too late to mitigate risks. If this comes after some of the key investment decisions from the generators have been taken, this approach will pose significant risks to generators.
- Our review of the draft impact assessment suggests that under Option 6 the developer would have similar control of timelines. We do not agree with this assumption as much will depend upon how generators co-ordinate their respective timelines, with some generators bearing more risks than others.
- There is still a lack of detail regarding what is involved in the commercial negotiations process between generators. Generators need to understand who has responsibility for agreeing this. For example, is this envisaged to be the responsibility of generators to agree between them? If so, what is the role of Ofgem? The extent of the commercial risks regarding competition between generators on the OFTO assets and their contractual strategies should not be underestimated, nor should the difficulty of sharing commercially sensitive information between parties.
- In our July 2022 consultation response (specifically Questions 4, 5, and 7), the detail for establishing the scope of AI through an early-stage assessment and the information sought is still not evident. We note further consultation is due in Q1 2023 on this early-stage assessment.

### **Q3 Do you agree with the proposed mechanics of charging (see Appendix 1) to take account of the coordinated infrastructure?**

We comment below on each of the five points relating to charging covered by Ofgem in its Appendix 1. We note that Ofgem says none of these points is to be considered a formal or finalised position of Ofgem. In Scotland, the generator transmission charges are currently a

considerable proportion of costs for windfarms and therefore it is important the treatment of shared transmission assets and AI does not unduly increase this further and risk the Government's 2030 offshore wind targets. Equally important for investor confidence is achieving predictability and stability in transmission charges which is facilitated in part by having a clear, transparent and consistently applied charging methodology.

*1. Anticipatory Investment - Cost apportionment between users*

The principle that the initial user is liable only for TNUoS on the non-AI element is to be welcomed. We would request further clarification from Ofgem regarding the treatment of costs incurred by the initial user which relate to a later user, which we think should be funded initially through the TNUoS demand residual (ie consumers) and then charged to the later user and deducted from the demand residual in years post connections. We would specifically welcome clarity on how Ofgem envisages that TNUoS would be charged to the later user. We agree with the general principle that users should receive charges that reflect their impact on the transmission system, ie utilisation and capacity of shared transmission assets.

*2. AI where one user is a network licensee*

Here the TNUoS costs will remain within the transmission demand residual, and this seems appropriate. When finalised it would be helpful to have illustrative aids such as flow charts clearly setting out the different permutations of TNUoS for different classes of users connecting to shared assets involving AI.

*3. Changes to infrastructure prior to a later user connecting*

Where the initial user's assets are changed, this raises questions on how the changes to infrastructure, prior to a later user connecting, will be funded and what recompense the already connected generator will have for the lost revenue during such work. It is also important to have transparency and clarity regarding the process for revising users' TNUoS charges to reflect the agreed changes to infrastructure, and the interactions between the initial and late connecting users required to achieve this.

*4. Extension of the Main Integrated Transmission System (MITS)*

We believe the key here is ensuring consistency of the treatment of onshore and offshore transmission assets and associated charging arrangements when they are determined to form part of the MITS. We would expect the charging methodology and resultant charges to be supported by detailed analysis of the impact across charging zones of the offshore assets being incorporated into the MITS.

*5. Interaction with the €2.50/MWh annual average limit in generator transmission charges*

Annual average transmission charges must fall within the range €0-2.50/MWh, excluding physical assets for connection. As the rule is currently applied by the ESO, generators are credited for transmission charges where required to remain in this range. We believe Ofgem should provide analysis on how often the range would be breached by incorporation of these proposed charging arrangements for shared offshore transmission assets. A clear process is needed around the reconciliation to prevent unforeseen windfall gains for users.

Fundamentally, we disagree with Ofgem's proposal that the classification of charges and whether they will be fall within the exclusions for charges for "physical assets required for connection" will be determined on a case-by-case basis. This approach is unsatisfactory

and would undermine the predictability of transmission charges and, as a result, investor confidence.

We think the ESO should be aiming to provide as definitive a list as possible of categories relating to shared offshore transmission assets that would be excluded. To this end we would welcome overarching principles or guidance with likely scenarios on exclusions, which would add value for prospective offshore generators considering connection to non-radial offshore transmission solutions. We would also welcome confirmation that disputes relating to the impact of shared offshore transmission assets on application of the range can be referred to Ofgem.

**ScottishPower**  
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