

Consultation on the proposed regulatory funding and approval framework for onshore transitional Centralised Strategic Network Plan 2 projects

I note that Ofgem is seeking views from “*other stakeholders and the public*” to this consultation. I am responding as a layperson, consumer and as a member of the public. The majority of my comments come under ‘general feedback’ as requested on page 11 of the consultation document.

While asking for views from “*other stakeholders and the public*”, this consultation appears to be more openly seeking the views of the Electricity System Operator (ESO) and Transmission Owners (TOs). This is disappointing given that Ofgem’s role “*is to protect consumers by working to deliver a greener, fairer energy system*”. As Ofgem works for consumers, we should be at the centre of its considerations regarding the way forward, rather than for those with purely a commercial interest in the future development of electricity infrastructure and distribution. Ofgem’s emphasis should also be on promoting the least invasive and disruptive networks with offshore options and undergrounding utilised wherever possible.

At the moment, it looks like Ofgem is repeating the mistakes of its 2023 consultation regarding the Advanced Strategic Transmission Investment (ASTI) funding framework. Ofgem applied the ASTI framework to 26 projects for infrastructure designed by TOs, but no consideration was given to the benefits of different technologies or for environmental, landscape, community, health impacts and local economies. Public spending must conform to requirements of HM Treasury’s Green Book rules which is clear in stating that public money should be spent carefully, legally, openly, with evidence that risk has been reduced as much as possible, and that the spending should provide benefit to the UK population. ASTI does not conform to many of these requirements.

There is a need to fundamentally review your consultation model. To allow a month for a consultation of this magnitude and complexity with such a lack of promotion or visibility, is disingenuous at the very least.

The Gunning Principles of public consultation (ref.: [The Gunning Principles – Implications — The Consultation Institute](#)) are the founding legal principles applicable to public consultations in the UK. It is clear that Ofgem’s current approach to this consultation is in breach of at least two of those principles; a) that there should be sufficient information to give “intelligent consideration” (available, accessible, and easily interpretable for consultees to provide an informed response); and b) that there is adequate time for consideration and response.

In addition, the UK government’s [guidance for government departments](#) is a helpful two page guide. It sets out the principles of good practice regarding public consultations for government departments. It is my opinion that Ofgem’s current approach to this consultation does not take into account at least five of the principles; namely A, B, C, E and G.

The Public Sector Equality Duty (PSED) is a duty imposed on all UK public bodies by section 149 of the Equality Act 2010, to take equalities considerations into account when exercising any of their functions and taking decisions. The [public sector](#)

[equality duty](#) under the 2010 Equality Act requires public bodies, when exercising their functions, to have “due regard” to the need to eliminate discrimination, advance equality and foster good relations.

In terms of sufficient information to give intelligent consideration, you might think it important that the public can assess Ofgem’s proposals in the knowledge of how governments, both UK and Scotland, intend to reform the planning and consenting process for these projects. For example, potential changes being suggested such as removing the right of the public in Scotland to achieve Local Public Inquiries, would leave the Ofgem process you propose as the de facto approvals process. This would clearly give rise to a prima face contravention of consumer and public rights under the Aarhus Convention ([Content of the Convention | UNECE](#)) linking environmental rights and human rights.

Such is the level of public concern in the north east of Scotland regarding the current quality of consultation processes by energy infrastructure projects, a petition is now under consideration at the Scottish Parliament. The petition, PE2095 (10 April 2024), is calling on the Scottish Parliament to urge the Scottish Government to review and seek to update section 3.2 of the document *Energy Consents Unit: Good Practice Guidance for Applications under Section 36 and 37 of the Electricity Act 1989 - February 2022*.

Petition (PE2095) reference: [Improve the public consultation processes for energy infrastructure projects - Petitions \(parliament.scot\)](#)

Document reference: [Energy Consents Unit: Good Practice Guidance for Applications under Section 36 and 37 of the Electricity Act 1989 - February 2022 \(www.gov.scot\)](#)

In paragraph 3.29 (page 26) of the consultation document, Ofgem points to the risks of locking in “*designs that have not been thoroughly tested and may not be the optimal option. In the worst case, this could lead to excessive costs, poor routing choices, and poor design choices for the network.*” It is my view that such risks are already playing out across Scotland, as over-simplistic models of cost, insufficient options appraisal, and inadequate consultation are starting to appear in consent applications for projects that do not align with the needs of communities. This situation arises, in part, because of the exclusionary, opaque and cursory nature of consultations conducted around the Holistic Network Design (HND), the Network Options Assessment (NOA) refresh and other parts of these strategic processes in recent years.

Given the life-changing impact that infrastructure proposals will have on individuals, consumers and communities, it is more important than ever that that local communities have a voice at the earliest stages of discussions about how decisions are made, how public/consumer’s money is spent, and in helping to shape options that achieve a more consensual way forward as we strive to achieve a transition to net zero.

