

FAO: Jon Sharvill, Head of Onshore Competition

By email: OnshoreCompetitionsPolicy@ofgem.gov.uk

27 January 2025

Dear Jon,

Modification to the special licence conditions in the electricity transmission licences – Early Competition in Onshore Electricity Transmission: Statutory Consultation

Transmission Investment (TI) is a leading independent electricity transmission business in the UK, with over ten years of experience developing, acquiring and managing large complex infrastructure projects. TI manages one of the largest offshore electricity transmission portfolios in Great Britain (GB), in total we currently manage approximately 4GW of transmission and £3billion in capital employed. TI is also leading the development of two electricity interconnector projects in support of the UK's Net Zero ambition. This includes a proposed 700MW link between Northern Ireland and Scotland known as "LirIC", as well as the "FAB" interconnector between GB and France. We are a strong advocate of introducing competition to deliver electricity transmission faster and cheaper, and we continue to support the development of the required arrangements for these competitive processes.

We welcome Ofgem's Statutory Consultation on modifications to the special licence conditions in the electricity transmission licences for Early Competition ("the Consultation"). These proposed changes seek to establish appropriate information sharing and conflict mitigation arrangements for early competition tenders. This is important to maximise the number of bidders by giving confidence that the competitive process is fair, transparent and allows for results which are to the long-term benefits of the consumer.

Our response outlines areas where the proposed licence changes, as drafted, could be improved to better address potential incumbent TO conflicts of interest. Our views are supported with more detailed response provided as an Annex, covering the following five key points:

- i. We would encourage the use of other regulatory tools alongside the use of licence obligations, such as incentive mechanisms. This recognises that the trigger threshold for enforcement action under the licence is often high and would provide a route to ensure good practice compliance with the protocols on a day-to-day basis.
- ii. An incumbent TO Bidding Unit should be both physically and electronically separated from the incumbent TO team undertaking the Tender Support Activities. This separation should take place from the commencement of the pre-tender phase until the CATO licence is entered into, and there should be strictly no transfer of personnel during that time.
- iii. The restrictions should extend to relevant shared services, in particular legal, and should ensure separation of information up to board level. This could be dependent on the level of information shared, but the board should only have access to one side of the information, i.e. the bid information or the 'Tender Support Activities', otherwise there is a potential conflict of interest, and the board should be split.
- iv. NESO, in its role as the Delivery Body, should publish the protocols in force and have the right, and intention, to complete independent audits of the TO's conflict management protocol as and when required throughout the tender phase. This ensures there is a strong incentive on the TO

to be closely following the protocols at all times, as well as the opportunity to identify any issues to be promptly addressed.

- v. Finally, regardless of the conflicts of interest management protocols in place, there is a real risk that the incumbent TO Bidding Unit uses the regulated business to give them an unfair advantage in pricing their bid, e.g. through how mechanisms such as APM are accounted for. This exists by virtue of them being a consumer-backed regulated monopoly provider and needs very careful consideration to ensure that the tender process remains appealing for independent parties to take part, to enable the benefits of competitive pressures to be delivered into the future.

We hope the contents of this letter are helpful, and we would be pleased to discuss any points raised.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Mark', with a long, sweeping horizontal line extending to the right.

Mark Fitch
Corporate Development Director