



# **Consultation on the onshore electricity transmission Early Competition commercial framework**

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Dear Jon

### **Consultation on the onshore electricity transmission Early Competition commercial framework**

Please find enclosed a response to OFGEM's consultation on all elements of the onshore electricity transmission Early Competition commercial framework. SSEN Transmission<sup>1</sup> ("SSENT"), part of the SSE Group, is responsible for the electricity transmission network in the north of Scotland.

SSEN-T are committed to delivering a network for net zero and supporting the clear regulatory and policy shift towards more anticipatory strategic network planning initially, through the Governments proposed Clean Power 2030 Action Plan and then the first Strategic Spatial Energy Plan that will help shape the mix of clean energy sources connecting to the electricity network.

Overall, we continue to have significant concerns that the introduction of the Early Competition framework, as currently designed, could have the effect of delaying the effective design and delivery of that strategically planned network.

We cover some key issues below and respond to the consultation questions in the attached annex.

**Ofgem and NESO must consider carefully the revenue recovery model proposed and the interactions with project identification and shortlisting. This should influence the type of projects selected in a nascent model.** For the initial tender project/s, until the process is fully tested to completion, shortlisted projects must be of

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<sup>1</sup> Scottish and Southern Electricity Networks is a trading name of: Scottish and Southern Energy Power Distribution Limited Registered in Scotland No. SC213459; Scottish Hydro Electric Transmission plc Registered in Scotland No. SC213461; Scottish Hydro Electric Power Distribution plc Registered in Scotland No. SC213460; (all having their Registered Offices at Inveralmond House 200 Dunkeld Road Perth PH1 3AQ); and Southern Electric Power Distribution plc Registered in England & Wales No. 04094290 having their Registered Office at No.1 Forbury Place, 43 Forbury Road, Reading, RG1 3JH which are members of the SSE Group [www.ssen.co.uk](http://www.ssen.co.uk)

manageable complexity for successful bidders, with a straightforward design, minimal consenting and environmental complexities and an EISD that provides ample time to navigate delays in the process.

**We accept there is a requirement for protections, and that these need to be reasonable and proportionate with enough commercial appeal.** We support capping post preliminary works cost assessment adjustments at 40% of the forecast construction costs, dependent on clear articulation and distinction between what is reasonably foreseeable/unforeseeable. As above, we recommend this should be a key factor considered when selecting the types of projects to be tendered, until the framework is established.

Preliminary works payments and post preliminary works cost adjustments should not be set at a level that encourages artificially low bids that will result in disbenefit to consumers or increase the risk of failure/walking away that would trigger the CATO Of Last Resort (OLR) mechanism.

**Performance incentives during the operational stage must reflect the obligations on TOs with transparency in availability and performance metrics to allow incumbents to demonstrate value and help manage financial planning based on defined standards.** This includes reporting on asset maintenance, health and resilience, environmental standards including biodiversity net gain and the obligations on network companies relating to connections that will be decided as part of the Connections End-to End review.

**Developing a robust definition for the availability incentive will be essential to ensure clarity and fairness in evaluating performance across a diverse network.** Acknowledging this is a policy area currently under review for ASTI projects, targets for availability equivalent to TOs should be in place for CATOs rather than aligning with the OFTO model. A clear methodology must be provided for defining or measuring availability.

**Clear definitions of additional works included in CATO obligations are necessary to manage financial exposure and reduce potential disputes regarding scope and costs.** Additional works obligations for CATOs should be aligned with incumbent TOs. Alignment with incumbent practices could streamline implementation and leverage existing expertise, supporting financially sustainable project completion. Flexibility in obligations should balance adaptability with accountability, ensuring CATOs can meet project requirements efficiently without excess cost burdens.

**We are supportive of a well-defined revenue period for the CATO project and agree with the duration of 35 years covering the project lifecycle. There must be a clear end-of-revenue process to transition financial obligations which will support financial planning, especially regarding project maintenance and final obligations.** Exit strategies should ensure revenue stability without discouraging long-term asset care which impacts financial sustainability and regulatory compliance.

Revenue timelines should balance project cost recovery with consumer value, supporting a fair financial model that reflects lifecycle needs.

**Proposals on asset health and maintenance need to be strengthened to reflect that the primary purpose of the CATO is to manage the whole lifecycle of the asset.**

Bidders should submit a whole life asset management strategy and plan, detailing how they would ensure the condition and performance of the asset over the period of the licence agreement, rather than just a maintenance plan. The strategy and asset management plan should include the whole life costing of the asset, from acquisition to disposal, making sure parts and consumables, as well as staff training and time spent working on the asset, are included.

Our overall responses to the individual questions can be found in Appendix 1, we would welcome the opportunity to meet with Ofgem to further discuss any of the issues raised in this response.

Yours Sincerely

Rebecca Middlemiss  
Regulation Manager  
SSEN Transmission

**Q1. Do you agree with NESO's proposed approach to a CATO's post-award security obligation?**

We are broadly supportive of the idea that a CATO would require the posting of securities to proceed from the ITT stage. It is crucial for the securities process to be flexible and transparent but also that it performs the correct due diligence on potential bidders.

Flexibility in the form of the security is essential to attracting a wide variety of bidders, we welcome the points made on this in the consultation but would caution that the bond market (for both performance and advance payment) is a challenging market currently with several corporate failures putting pressure on the market, which could limit the availability of bonds, in which case you would likely see bidder move to other forms of security.

In cases where the 'security' is non-monetary in nature, Ofgem and the NESO must consider the timeframe after which the security will be encashed or, in case it requires revalidation, the process by which this would occur and what insurance measures would be in place to bind the bidder to revalidate the same. Furthermore, to ensure non-monetary guarantees actually offer the right level of protection they must be subject to appropriate due diligence to determine whether they are acceptable. Performing this early in the process will reduce the risk of delays or competition re-runs due to insufficient security from the preferred bidder. We would ask that Ofgem or NESO publish guidance on how they will assess the credit worthiness of a non-monetary guarantee.

We also welcome the mechanism by which the security will gradually taper off as the CATO invests more capital into the project. However, this process remains light on details regarding which milestones, either financial or project related, that would unlock each stage of the tapering process and see the security returned to the bidder. If the security is required to be maintained till financial close of the project, its not clear how this interact with the tapering off mechanism.

**Q2. Do you agree with NESO's proposed approach to preliminary works payments?**

We agree broadly with the specific proposals on preliminary works. The 50% cap for preliminary works payments may limit financial viability for high-cost or complex projects; an adjustable cap could better accommodate diverse project scopes.

While preliminary works payments may widen the pool of potential new bidders likely to participate, there are concerns about CATOs' financial viability without these payments. As we have highlighted in previous responses it is not clear that the PQ stage will be a sufficient mitigation to prevent future financial distress of a CATO. The competitive bidding process, unlike RIIO, may increase financial distress due to complex, innovative solutions. If CATOs are shielded from risk, it could shift that burden to other parties,



potentially impacting consumers and TO's by increasing the likelihood of relying on the CATO OLR process.

#### Milestone based PW payments

Introducing milestones in the project delivery plan at the ITT submission stage would be beneficial, but flexibility is essential. Since the ITT stage occurs early and before any work begins, unforeseen costs and issues may arise. Therefore, milestones should have a cap but be adaptable to accommodate changes in project development and cost assessments.

Milestone payments improve cash flow management but may need flexibility to support innovative project approaches without financial penalties. Standardising milestone evaluation criteria would help ensure fair and consistent assessments across bidders.

#### **Q3. Do you agree with NESO's proposed approach to the PPWCA process?**

We agree with the requirement for appropriate protections including, in limited circumstances, preliminary works payments with a cap of 50% and for all bidders a post preliminary works payment adjustment cap of 40%. These should not be set at a level that encourages artificially low bids that will result in disbenefit to consumers or increase the risk of resorting to the CATO OLR mechanism

For the initial tender project/s, until the process is fully tested, shortlisted projects must be of manageable complexity, with a straightforward design, minimal consenting and environmental complexities and an EISD that provides ample time to navigate delays in the process.

#### **Q4. Do you agree with Ofgem's proposed adjustments to NESO's approach?**

##### Detailed guidance for how 'foreseeable test' is assessed within a joint NESO & Ofgem decision-making framework

We agree with the proposal for guidance and a joint decision making framework. The "reasonably foreseeable" test proposed to guide bidders on impacts to consider in their upfront bids appears to be both fair and well-aligned with industry expectations. NESO's proposed cost drivers are consistent with activities we support, offering a framework for managing costs and risks. However, it is important to acknowledge that unforeseen factors may occasionally emerge later in the process, potentially overlapping with categories within the reasonably foreseeable test. In such cases, Ofgem/NESO must provide CATO the opportunity to present justification and supporting evidence for this.

##### Focus identification of the 1<sup>st</sup> tender on projects that are not too complex from technical & consenting perspective

We agree with Ofgem's approach. For the initial tender project/s, until the process is fully tested, we agree shortlisted projects must be of manageable complexity, with a

straightforward design, minimal consenting and environmental complexities and an EISD that provides ample time to navigate delays in the process.

Maintaining flexibility is key, especially in milestone and payment cap structures, to support financial feasibility for projects of varying complexity. Adjustments should prioritise both cost control and financial stability to ensure consumer protection without undermining efficient project execution. Implementing clear guidelines on Ofgem's adjustments would improve transparency and manageability for all CATOs.

#### **Q5. Do you agree with NESO's proposals regarding the payment mechanism and performance incentives to apply to a CATO?**

We are supportive of a revenue period covering the project lifecycle, with a clear end-of-revenue process to transition financial obligations. A well-defined revenue period and end-of-revenue process would support financial planning, especially regarding project maintenance and final obligations. Exit strategies should ensure revenue stability without discouraging long-term asset care, which impacts financial sustainability and regulatory compliance. Revenue timelines should balance project cost recovery with consumer value, supporting a fair financial model that reflects lifecycle needs.

##### Performance incentives

Performance incentives during the operational stage must reflect the obligations on TOs with transparency in availability and performance metrics to allow incumbents to demonstrate value and help manage financial planning based on defined standards. This includes maintaining and reporting on asset health and resilience, environmental standards including biodiversity net gain and the obligations relating to connections that will be decided as part of the Connections End-to End review.

##### Availability Incentive

Developing a robust definition for the availability incentive will be essential to ensure clarity and fairness in evaluating performance across a diverse network. We agree that targets for availability should be an incentive for CATOs', however, no clear methodology has been provided for defining or measuring availability.

As part of the ASTI framework, TOs will be given project minimum availability standards which are set on a project-by-project basis at the Project Assessment stage. TOs are only given the opportunity to be penalised for underperformance in this metric, with no reward available for outperforming the availability target. This is in direct contrast to the Early Competition framework where CATOs can achieve a TRS uplift of up to 5% if their asset has a 100% availability score. We believe this difference in framework design to be in direct opposition to the spirit of a level playing field.

##### Environmental Incentive

We welcome the NESO's proposal to include reputational incentives for environmental reporting in the form of the Environmental Action Plan (EAP) and the Annual Environmental Report (AEP). As this process seeks to mirror the obligations placed on TOs under the RIIO-ET2 framework, these incentives should be continually updated to match the changes brought about by the transition to RIIO-ET3.

In relation to the obligation on CATOs to minimise the leakage of SF6 and other harmful pollutants, we welcome CATOs being subject to the same obligations regarding the leakage of pollutants as TOs. Given that for the RIIO model IIG targets are set using TO historical data which would be unavailable for a new CATO, it is crucial that the target setting framework is open, fair and transparent. This framework should consider what is set out in the T3 Final Determinations and be open to consultation from TOs and the wider industry.

#### Timely New Connections Incentive

Connections Reform is one of the most significant changes to the industry over the last decade. Ofgem has been clear throughout the RIIO-T3 process that this will require changes to the connections incentive design for TOs for T3. We recommend that Ofgem updates the connections incentive regime for CATOs in line with that of TOs under the RIIO-T3 framework.

#### **Q6. Do you agree with NESO's proposals regarding the additional works obligations?**

It is crucial that CATOs are held to the same obligations as incumbent TOs, including compliance with standards such as those outlined in the STC. This ensures a level playing field, and consistency between all parties. By maintaining these the industry can better support the coordinated development of the wider network.

#### Phased approach to project design & additional works with different obligations on a CATO during different stages of process.

We acknowledge that design changes and additional works are highly likely to arise, whether before or after commissioning. The proposed design framework seems well-equipped to handle these adjustments effectively, allowing for the flexibility needed to adapt to evolving project requirements.

As noted above, the financial standing of any bidder and their ability to absorb any additional payments needs to be viable regardless of preliminary works payments. Clear definitions of additional works are necessary to manage financial exposure and reduce potential disputes regarding scope and costs.

Flexibility in obligations should balance adaptability with accountability, ensuring CATOs can meet project requirements efficiently without excess cost burdens.

Alignment with incumbent practices could streamline implementation and leverage existing expertise, supporting financially sustainable project completion. For the first



tender project and the next few that follow, we recognise that the process may require a distinct approach, and we recommend selecting a project of manageable complexity. Ideally, this project should have a straightforward design and an EISD that provides ample time to navigate the process comprehensively. Allowing for an extended timeline will enable a thorough exploration of each step, ensuring a smooth rollout and setting a solid foundation for future tendered projects.

Requirement on CATO to determine on a case-by-case basis whether the solution can be modified to accommodate connection applications or other drivers of additional work

We agree there should be a requirement on CATOs' to determine this on a case-by-case basis, as set out in the consultation. If the CATO will be facilitating connections to their network, then they will need to modify their original solution to facilitate the connecting generation as well as support wider network development, as TOs do as existing STC parties. The implications on a CATO will be that, as a party to the STC, they would be expected to adhere to STC requirements such as the efficient connection of Generation on to their networks (unless some deviation in their licence exists).

For prospective applicants the NESO must be clear on what the process for connecting into a CATO is and what obligations the CATO has in producing a compliant offer.

Establishing of periodic windows for connection requests to enable CATO response and compliance

As the connections process is moving to a windowed approach through the Connections Reform proposals, it would be beneficial for a periodic CATO window to align with those proposals. This would ensure that any CATO requests are dealt with efficiently and are considered when assessing other applications' access the network.

There will be circumstances where the CATO will be an Affected TO (the customer isn't connecting directly into their network, but the overall connection impacts their network in some way) and vice versa where we may be the Affected TO from a direct connection on the CATOs network. Both scenarios can have a wider impact on the relevant CATO's network and a TOCO will need to be issued. We note Ofgem have flagged this in footnote 39 of the consultation and look forward to reviewing further detail.

**Q7. Do you agree with NESO's proposals regarding the revenue period and end of revenue process?**

The submission of maintenance a strategy during bid stage with inclusion of this strategy in the technical assessment of bids.

As the primary purpose of the CATO is to manage the whole lifecycle of the asset, it would be more appropriate for the prospective CATO to submit an asset management strategy and plan, detailing how they would ensure the condition and performance of the asset over the period of the licence agreement, rather than just a maintenance plan. The strategy and asset management plan should include the whole life costing of the asset, from acquisition to disposal, making sure parts and consumables, as well as staff training and time spent working on the asset, are part of it.

This would require the definition, by the NESO, of what the expected asset condition factors of the CATO asset should be at the end of the licence period.

e.g. is the expectation of the NESO that an asset reaching the 35 year asset life should have a condition score appropriate to an asset that will require full replacement by year 40, or is the expectation that the asset be inspected, condition assessed, maintained & refurbished (as necessary) to maintain a pre-defined asset condition score to maximise the life of the asset?

#### The requirement to carry out an asset condition survey at end of licence period

While carrying out an asset condition survey at end of licence period is, in principle, a sensible approach, Ofgem/NESO should make sure that the asset condition expectations, as well as the state of repairs of the asset, are clear to the CATO so they can adhere to them. If assets are deteriorated more than expected, the prospective CATO should be able to demonstrate that the appropriate maintenance and repairs have been carried out before handover.

We believe that an asset condition survey should be part of a whole-life asset management strategy and plan, submitted by the prospective CATO at the time of entering their bid.

#### The requirement on the CATO to commission an independent assessment of the condition of the asset 5 years before the end of the licence period which includes details of remaining life and remedial works

This is a reasonable approach, but it must consider the detailed minimum asset condition expectations at the end of the licence period, as defined during the tender stage. Without this, it would be impossible to determine the scope of any remedial work needed to restore the asset to the expected condition and its extended/residual remaining life. Tools should exist to ensure the independence of the assessment and a process to raise concerns if rules haven't been followed.

#### The requirement to submit an independent assessment report to Ofgem to consider the remaining asset health and condition, the CATO's maintenance strategy, and any penalties for poor asset health

The contents of the assessment report should be established at tender stage and agreed by all parties. Once these contents have been agreed, they should be part of the whole-life asset management strategy that should be submitted as part of the tender process. The strategy should then be re-evaluated at the end of the license period in line with the NESO/Ofgem asset condition expectations also defined during the tender stage.

Without a clear definition of what the expected asset condition is to be at the end of the licence period, there would be no way to determine whether the CATO had managed the asset to those expectations.

e.g. it would be normal to expect the asset condition to be poor and approaching end of life by year 35 if the defined objective of the CATO process was to build an asset with a 40-year life. The asset would be in poor condition, but that would be the expected condition of such an asset.

Without a clear definition of asset condition expectations at year 35, there would be no way to accurately determine that the asset was in poor condition due to actions taken by the CATO and whether penalties were appropriate or not.

The CATO should be able to provide supporting documentation detailing all the actions taken during the lifecycle of the asset and how the asset management strategy and plans have been followed. If any early replacements or asset re-living activities have taken place, they should also be included in the package before end of license.

### Practicality and viability of tendering an asset for 40 years

The practicality and viability of tendering an asset for 40 years poses several challenges including:

- **Funding Models:** as we've noted as with securities in response to question 1, the bond market within the sector is becoming increasingly challenging, with less favourable terms and difficulties in obtaining bonds for shorter durations.
- **OEM Defect/Warranty Limitations:** Warranty periods for key equipment like transformers, synchronous condensers, and circuit breakers cannot extend to 40 years. Equipment reliability is influenced by variables such as load, usage, site conditions, and environmental factors, potentially increasing risk for TOs compared to traditional asset lifecycles.
- **Asset Lifespan Variability:** Standardizing all assets to a 40-year lifespan is difficult. While it may be feasible for OHL assets, it is riskier for substation assets, suggesting that variable asset life periods might be more suitable.
- **Maintenance and Long-Term Service Agreements (LTSAs):** Achieving a 40-year lifespan may depend on LTSAs and maintenance regimes, which are not yet proven commercially for complex assets over such durations. These would likely involve higher costs, complex contractual arrangements, and a need for detailed load and usage data.
- **Renewal/Replacement Needs:** Maintaining a 40-year lifespan may require mid-term renewal or refurbishment of equipment. Substations, for example, might need replacement after 25 years due to cost or availability considerations. The ability to future-proof assets for extended periods is a key concern.
- **Legislation and Technology Changes:** Shifts in regulations, such as the phase-out of SF6 gas, and advancements in technology pose significant risks. Bidders must consider how to protect themselves from exposure to such changes during tendering processes.

Extending the revenue period after the initial term presents significant challenges:

- **Incumbent Advantage:** The original asset owner would have a major advantage over other bidders due to their accumulated knowledge and operational experience over 30 years, compared to the limited information available to competitors
- **Potential Scenarios:**
  - (1) The incumbent may opt not to bid on poorly performing assets, transferring issues and risks to new bidders.
  - (2) The incumbent could leverage their detailed asset knowledge to outcompete others, creating an uneven playing field and potentially discouraging competition.
  - (3) A lack of bids may occur entirely if no party is willing to assume the risks of managing the asset, leaving NESO/Ofgem to address the situation and potentially risking asset ownership stability
- **Mitigation Measures:** Effective mitigations must be introduced to address these risks, ensuring a fair process and reducing the likelihood of adverse outcomes such as lack of competition, unfair advantages, or asset abandonment.

Procurement challenges related to funding, asset management, and operations can be addressed with thorough planning and due diligence. Key considerations include:

- **Fair Tendering:** Ensuring a transparent and open tender process, both initially and during any extension period, to maintain fairness.
- **Asset Management:** Developing strategies for servicing and maintaining assets within the broader infrastructure, especially when assets are managed by different TOs.
- **Coordination:** Addressing complexities in interface management and routine maintenance between two TOs to avoid disruptions in operations and ensure seamless collaboration.

#### The repurchase of asset by winning bidder at RV less penalties stipulated in condition assessment report

As we have highlighted above, exit strategies should ensure revenue stability without discouraging long-term asset care which impacts financial sustainability and regulatory compliance. We support a competitive retendering process, however, in the event of a failed retendering the process of establishing a CATO of last resort raises concerns. For the TO/CATO appointed as the CATO OLR, there could be a number of issues such as funding available for taking on such projects that they haven't necessarily bid for and being unable to commit specialised resource where required.

The requirement to take over a CATOs assets as they have failed to be retendered could also prove problematic for a variety of reasons including the risk to the TO/CATO OLR reputation if such assets are faulty or not to the expected standard.