Consultation

OFTO: further evolution of a mature asset class

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We are consulting on further changes to improve the efficiency of the tender process for Offshore Transmission Owners (**OFTOs**), alongside changes to reflect the technical advancement of wind farms. We would like views from people with an interest in offshore transmission, and would particularly welcome responses from developers, OFTOs, potential bidders and other bodies that have an interest in the regime, such as The Crown Estate. We would also welcome responses from other stakeholders and the public.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the decision on next steps on our website at ofgem.gov.uk/consultations.

Any enquiries related to the text of this publication should be sent to Ofgem at:

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1. Introduction

This section covers the background to the policy thinking and the consultations that we have undertaken so far and gives a brief summary of the subjects covered in this consultation.

Background

1.1. Since the first OFTO licences were granted in 2011, the OFTO regime has become an increasingly mature market. To date, we have licenced 28 OFTOs across 9 tender rounds with a highly competitive cost of capital.

1.2. There have been significant technical advancements in the size and distance from shore of wind farms since the first licence grant in 2011, which has added a degree of complexity to the tender process, as bigger projects have more aspects to manage during negotiations.

1.3. Ofgem has been focusing on the evolution of the OFTO regime over the past few months, including a consultation published in December 2024, which looked at further detail on the End of Tender Revenue Stream (**EoTRS**) policy, as well as potential ways to extend the Tender Revenue Stream (**TRS**) period beyond the current maximum of 25 years.

1.4. It also looked at how Ofgem might usefully evolve its tender process if the Department of Energy Security and Net Zero (**DESNZ**) chose to extend the duration of the Generator Commissioning Clause (**GCC**)[1].

1.5. We recently published a decision[2] confirming how the EoTRS will work in practice and that we will revisit the extension of the TRS period when there is more evidence.

What are we consulting on

1.6. We are now consulting on a number of issues relating to the technical development of OFTOs and windfarms since 2011, alongside further changes to the tender process.

1.7. Building on our December 2024 consultation and following the introduction of the Planning and Infrastructure Bill into Parliament, which confirmed that the GCC would be extended by nine months, we are now further consulting on details of what the tender process might look like in the extension.

[1] https://www.ofgem.gov.uk/sites/default/files/2024-12/OFTO_consultation_extension_evolution_mature_asset_class.pdf
[2] Decision: OFTO extension and evolution of a mature asset class | Ofgem

1.8. We are also consulting on what further incentives we might look to offer to participants to close transactions in a more timely manner. This could include a mechanism which gives a Preferred Bidder (**PB**) greater motivation to complete the transaction in a specific timeframe, helping to rebalance the dynamics between developers and bidders.

1.9. In addition, as wind farms and OFTOs have become larger and increasingly complex, we have noted a rise in operational and maintenance (**O&M**) offers from generators as part of the bidding process, alongside practical issues creating restrictions on access to assets, for example, due to the availability of appropriate transport. There are some synergies between the wind farm and the OFTO, particularly around O&M arrangements, but we need to ensure that there is a distinction between the two parties and that the OFTO continues to be the owner and the controller of the assets. We are consulting on bidders and developers experience of this.

1.10. Following feedback from stakeholders we are also consulting on OFTO asset availability for those projects which are now being designed with High Voltage Direct Current (**HVDC**) connections, as opposed to High Voltage Alternating Current (**HVAC**) connections, usually as they are situated further offshore.

1.11. The availability target for OFTOs of 98% was set when projects were smaller in scale and using HVAC connections and this target has been comfortably met by the vast majority of OFTOs. However, there have been questions raised by developers about whether this target is also appropriate for HVDC connections. Therefore, we are consulting on whether the availability target should remain the same or change for HVDC projects, particularly those located further offshore.

Next steps

1.12. Following responses to this consultation, we will issue our decisions on these issues later in 2025.

2. HVDC availability

This section discusses Ofgem's early thinking on appropriate availability targets for HVDC connections and welcomes further views from industry on these.

2.1. Under the OFTO regime, the revenue that OFTOs receive is directly linked to the availability of the transmission asset (as a percentage of total capacity available at every hour). The existing availability incentive is a combination of obligations and an incentive: the obligations require the OFTO to operate, repair and maintain the assets; and the incentive encourages behaviour to maintain asset availability to its maximum over the life of the licenced revenue period. Ofgem is keen to continue to encourage high availability, particularly when projects connect very high levels of generation, as a loss of transmission can have substantial impacts on consumers, the developer and the system as a whole.

2.2. The current availability target for OFTOs is 98%, and if OFTOs exceed this they can receive up to a 5% increase to their TRS. Equally, if OFTOs fail to meet this target, penalties of up to a maximum 50% of one year's revenue can be accrued, depending on the amount of availability lost. The vast majority of OFTOs achieve and exceed this target[3]. It is also worth noting that if lost availability is due to an event or circumstance that Ofgem deems as exceptional (i.e. not foreseen and not in the OFTO's control, as per our exceptional events policy), Ofgem can allow all or part of this availability to be reclaimed.

2.3. However, all projects up to Tender Round 10 have used HVAC technology, which has been shown to be more reliable and cost effective for shorter distances. As larger wind farms are built further offshore, generators are increasingly opting for HVDC technology which allows for transmission at higher capacity with less power loss over greater distances.

2.4. HVAC technology often uses multiple circuits/cables connections when generation increases. If a circuit fails it is still possible to transmit some generation via the other operational circuits, thus the OFTOs retain some capacity to transmit. However, the HVDC technology Ofgem has seen to date tends to connect significantly greater amounts of generation through each circuit. This means that if a HVDC system disconnects, there is the potential for relatively large amounts of generation to be lost. It also means that spares are often more likely to be

[3] National Electricity Transmission System Performance Report 2023-4

included by developers when constructing these assets in order to support availability and asset recovery.

2.5. We are also aware that HVDC projects tend to be a greater distance from shore, which can mean a greater possibility of failure and increased time to repair, due to the additional cable length. However, there is still a lack of evidence on the rates of availability that can be achieved in the UK OFTO context. We are keen to gather evidence on this as more HVDC projects come online and start to operate including on the use of spares, alongside continuing to monitor the impact of distance to shore, regardless of connectivity type.

2.6. Retaining the 98% availability target for HVDC projects will allow us to gather evidence on performance, whilst keeping the regime simple and consistent for bidders, and incentivises OFTOs to perform well.

2.7. We have considered some options around alternate availability targets for HVDC, including the model used for cap and floor interconnectors, or a more balanced scorecard approach, similar to that which is used for onshore transmission assets.

Interconnectors

2.8. The cap and floor regime is the regulated route for interconnector development in GB. Under this regime, bespoke availability targets are reviewed and set for each interconnector. They vary due to a range of factors, with one of the biggest factors being the subsea HVDC cable route length. The model also considers the probability of faults that could occur with Voltage Source Convertor transformers, HVAC cables and HVDC cables. The model then assigns a Mean Time to Restore value to each of these items. The model also considers project configuration, ie if the interconnector uses a monopole or bipole design. After considering all these aspects the model then produces an individualised availability target based on design and distance covered.

2.9. It is important to note that the financial models and drivers are different for interconnectors as compared to OFTOs – most important of which is that they are not connecting a generating asset but instead trading energy across different systems. This means that this model may not be directly applicable to OFTOs, and a result Ofgem are not of the view that this model is appropriate for the regime.

Question One: Should we retain the 98% availability target for all assets, including HVDC, to provide more time for HVDC assets to come online and to build technical evidence on performance? Is there anything further we should do to support HVDC assets to reach 98%?

Question Two: Do you agree with Ofgem's view that, on balance, the interconnector approach is not appropriate for OFTO projects?

Onshore Balanced Scorecard

2.10. The onshore regime looks at a broad range of measures, including overall environmental impact reductions, C02 reductions, stakeholder and customer satisfaction levels and health and safety statistic improvements, alongside specific performance metrics like timely completion of maintenance or completion of a set number of inspections or surveys.

2.11. We have previously consulted in 2022 on introducing a model similar to that used for the onshore regime for assets in their extension periods, with a number of performance targets linked with financial incentives, instead of solely having an incentive package related to asset performance or availability, specifically relating to projects looking for extensions as part of the End of Tender Revenue Stream (**EoTRS**) policy[4]. Some respondents agreed that we should retain the 98% target for projects in extension periods.

2.12. However, many stakeholders felt that the proposals did not take into consideration the differences between the onshore and offshore assets, that a scorecard would complicate reporting for OFTO assets and potentially discourage investors. Some respondents were, however, supportive of the scorecard proposals by stating that reporting of maintenance could improve industry practice. Ofgem are not of the view that this model is appropriate for the regime, given the complexity of reporting required.

Question Three: Do you agree with Ofgem's view that, on balance, a model similar to the onshore balanced scorecard for HVDC availability is not appropriate?

2.13. Ofgem are also aware of the need to balance consistency across the OFTO regime alongside the differing requirements of HVDC and HVAC technology. We are interested in any further views on changes to the availability regime to make sure assets are treated in parity. This is particularly as Ofgem currently has no plans to change the targets relating to HVAC availability, and we are also mindful that as technology develops, availability may increase.

[4] Offshore Transmission Owner (OFTO) End of Tender Revenue Stream- 2nd Policy Development Consultation

Question Four: Are there any other changes to the regime that we should consider to account for the differences in HVAC and HVDC technology and potential availability?

3. Control of OFTO assets

The primary objective of the OFTO regime is to deliver reliable and cost-efficient transmission of renewable electricity through a competitive process, which ensures that the OFTO assets are operated separately from that of the wind farm. As assets have grown larger and more complex, there has been an increasing trend of generators taking on more responsibility for delivering operation and maintenance services for the OFTOs through offers that bidders can opt to take. This section explores whether this supports the goals of the regime.

3.1. The OFTO regime operates as a competitive tender process which ensures that generators are partnered with transmission owners that are the most efficient and competitive players in the market. The objective of this is to lower costs and improve standards of service for offshore transmission assets, and ultimately the consumers benefitting from them.

3.2. The OFTO owns and operates the offshore transmission assets and will need to be certified as independent by the Authority under the ownership unbundling requirements pursuant to section 10F of the Electricity Act 1989. This ensures that the transmission asset owners are separate from the owners of generation assets. The ownership unbundling requirements are designed to promote more competition and prevent conflicts of interest and market discrimination. Any fundamental changes to the certification and unbundling framework are decisions for DESNZ as they deem appropriate. However, it is Ofgem's role to make sure the regime is operating effectively in line with the prevailing legislation and DESNZ's overarching policy direction.

Developer O&M Offers

3.3. There have been significant changes in the size and complexity of assets since the regime was first introduced. We have noted that, as a result, it is becoming more common for generators (as the developer of the asset) to perform day-to-day operations and maintenance of the OFTO assets under contract to the OFTOs.

3.4. This is particularly apparent through developers increasingly offering solutions that bidders can opt into at the ITT stage – for example offers to provide O&M services, which some generators will offer to bidders at £1 (significantly below normal market rates). This can be because the technology used in the asset is sufficiently complex that the generator feels that it is easier if they carry out the activities at the same time as the O&M for the windfarm or use the same

contractors or expertise which can bring economic advantages, as well as due to the interaction with warranties for technology which can sit with the developer.

3.5. This has some benefits to both the OFTO and to the generator - the OFTO may avail of an O&M offer at a below market rate and is confident that the asset is being sufficiently maintained, and the generator has confidence that essential maintenance is undertaken to support consistent transmission. Where this is offered at a lower than market rate, it also benefits consumers as the cost of the O&M services are lower, therefore feeding through to a more competitive TRS.

3.6. However, due to the nature of the OFTO bidding process (where the lowest priced bid is awarded the tender), the OFTO may feel they have no realistic choice but to go with the O&M offer given by the generator. This is especially if it is significantly below market rate and can mean they can reduce their TRS bid to a level that is more competitive unless the offer is rejected by all bidders.

3.7. It is also worth noting that with HVDC projects there are further complexities relating to O&M, particularly requirements from manufacturers that carry out the O&M and provide spares, due to Intellectual Property and technology and warranty requirements. This may mean that OFTOs will further consider the potential need to go with a developer O&M offer if they are unable to negotiate directly with the manufacturer or do not have their own O&M provider that they can instruct.

3.8. Where the developer's O&M is offered at a lower than market rate, this means that whilst the OFTO is benefitting from O&M at below market rate, should anything go wrong with the contract (e.g. lack of performance or a dispute between parties), the OFTO will not realistically be able to find a replacement provider within their TRS, as there is no money allocated to O&M, unless there is a contractual obligation for the OFTO to be compensated to cover costs in the future, where circumstances require the O&M services to be terminated.

3.9. Whilst these O&M arrangements can be considered like any other commercial contract with a sub-contract, this can also have the indirect effect of meaning that the OFTO has limited control over the operation of the asset as they have no choice over the O&M provider. They therefore may have little ability to choose which O&M campaigns to prioritise, with the potential for conflicts of interest between the generator and OFTO. This does not necessarily have any negative consequences for the health of the asset, but it could mean that there is little scope for the OFTO to have control over the terms of the contract, which is not in

line with normal market practice. This could also mean that the generator will have higher than usual amounts of influence over the operation of the asset.

3.10. We are mindful that this is not necessarily in the spirit of the regime - for the OFTO to be operated independently, its owner should have the right to make decisions about the asset, within the confines set out by the licence to operate it, and whilst generators and OFTOs have similar interests they are not necessarily always fully aligned.

3.11. In addition, where O&M arrangements are provided with protected or guaranteed levels of availability, this can undermine the effectiveness of the availability incentive, which is a core part of the regime.

Question Five: Are there any risks arising from generators offering O&M contracts as part of the tender process?

Question Six: Should there be a requirement for a termination payment, or some other form of commercial agreement, to be made to allow OFTOs to source O&M elsewhere where generator offers are made?

Access to OFTO assets

3.12. As assets are being designed to be larger, more technically complex and further out to sea, and with O&M being provided by generators, some OFTOs have suggested that access to their own assets for maintenance or inspection purposes is becoming more challenging.

3.13. This could be due to practicality concerns or the use of alternative vessels in the area for other uses (e.g. the windfarm), which can lead to OFTO asset owners having to negotiate with the generator for access to their own assets, due to the availability of vessels.

3.14. There have been some concerns that the terms and conditions in the Sale and Purchase Agreement (**SPA**) and Interface Agreements (**IA**) are increasingly more restrictive for OFTOs - including for example requiring OFTOs to notify access requests well in advance to ensure access to their own assets.

3.15. However, there is a strong argument to be made that in order for an OFTO to be deemed to be 'in control' of their asset they should be able to reasonably access it within a timely manner regardless of the of the sub-contractor and this would typically be considered and open for discussion when a bidder is considering its O&M delivery during the tender process.

3.16. Ofgem expects generators and OFTOs to work together closely in order to ensure the assets work effectively and efficiently, and so we would expect in the normal

course of events for arrangements to be able to be made for access in a co-ordinated way that works for all parties, including through the design and operational processes put in place.

Question Seven: Are there current or potential issues with OFTO owners having access to their assets, and how might this impact bidding dynamics?

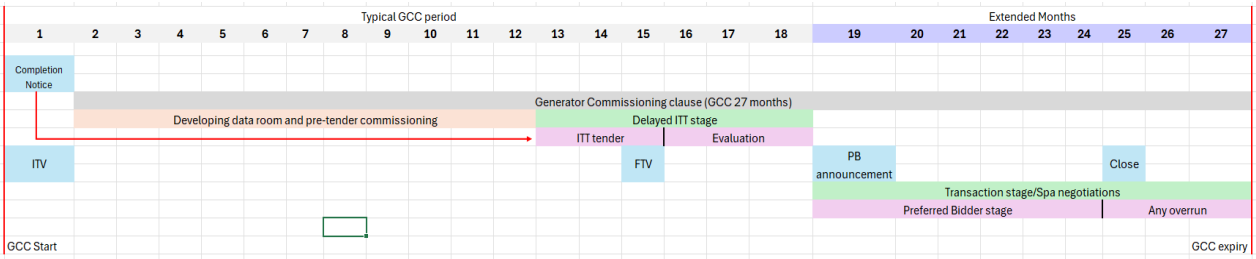
Question Eight: If so, what considerations could Ofgem, OFTOs or developers implement to improve co-ordination and access?

4. Extension of the Generator Commissioning Clause

DESNZ are currently in the process of extending the Generator Commissioning Clause by nine months through the Planning and Infrastructure Bill, and Ofgem is further consulting on how best to use this extra time to support the tender process.

4.1. As set out in the Planning and Infrastructure Bill, published on 11 March 2025[5], DESNZ have now decided to extend the Generator Commissioning Clause (**GCC**) period by nine months. This change will come into effect 2 months following Royal Assent of the Bill and will apply to all projects in flight at this time or subsequently entering the tender process. We consulted in December 2024 on a plausible extension period, however, there is now clarity from DESNZ on the extension being confirmed. We are therefore consulting further on the details of our process in the extension, as well as further detail on Vendor Due Diligence (**VDD**) as a way to improve the process and attract new bidders to the OFTO regime.

4.2. In the previous consultation in December 2024, we proposed the following scenario for how the tender process could work were the GCC period extended by a further 9 months, resulting in a total window of 27 months (see diagram below).



4.3. This table shows the GCC period, and the possible tender process activities within, when extended by 9 months. The timeline shows that the GCC starts with the Completion Notice being issued at month 1. We proposed that the 9 month extension be utilised to extend the time available for populating the data room and pre-tender commissioning to 12 months so that the assets are at a more completed state to facilitate firmer bids.

4.4. Thereafter, we enter the ITT stage at month 13 during which OFTOs prepare their bids to be submitted in month 15 and Ofgem evaluates those bids from month 16 - 18, after which a PB is announced at month 19. The Indicative Transfer Value is issued at month 1 and the Final Transfer Value (**FTV**) is issued at month 15 or

[5] Planning and Infrastructure Bill - Parliamentary Bills - UK Parliament

before the transaction stage begins. When the PB is announced, we enter the transaction stage in month 19, that we anticipate will take no more than 9 months (6 months with an additional 3-month contingency for any delays in the overall process), benefitting from the extra time invested at the beginning of the process to fully assess the asset. With more complete information along with further data to evidence the state of the assets, bidders will be expected to provide firm bids removing the need for possible lengthy discussions between the developer and the PB during the transaction stage. This will better support arrangements with lenders who have a desire for the process to be quicker and provide stability for OFTOs and certainty for developers.

4.5. In our consultation in December 2024, we proposed Ofgem delaying the start of the ITT stage until later in the GCC window when asset commissioning is substantially complete, reducing commercial and technical risks as more operational data from the developer is available.

4.6. The consultation responses highlighted a mix of support and concerns regarding the extension of the GCC and delaying the start of the ITT stage. OFTOs, lenders and some generators are supportive of a delayed ITT stage and believe it would result in improved data quality, smoother transactions and better-considered bids.

4.7. Generators, in their responses to the December 2024 consultation, cautioned that delaying the ITT stage alone is not a strong enough mechanism to support more timely transactions and needs to be supplemented by incentives for the PB to complete in time as the current risk of GCC breach is asymmetric. Generators also note that significant project issues can still arise during commissioning, potentially derailing transaction timings, and suggest extending the PB stage instead. Some lenders also highlighted that delaying the transaction stage may add costs to the process, depending on when lending arrangements are made, which is already seen to be lengthy.

4.8. Having considered responses, our view remains that delaying the ITT stage in order to allow developers to focus on construction and data room preparation will provide bidders with more mature asset data, benefitting the efficiency of the transaction.

4.9. Therefore, we intend to extend the ITT stage to ensure there is more time for better data population, and firm bid development, while supplementing it with other incentives to ensure timely delivery (as discussed in Chapter 5) and to better facilitate negotiations during the PB stage.

4.10. Secondly, we proposed providing the FTV prior to the transaction stage as Ofgem and the developer would have more scope and time to conclude this process with an extended ITT stage and with more complete and mature information available.

4.11. The responses generally supported bringing the FTV forward in the tender process emphasizing that it would improve the efficiency and effectiveness of the tender process, reduce delays, and ensure the timely completion of transactions.

4.12. Responses also noted that it would help avoid delays in the PB stage, which can be affected by the timings of the completion of the FTV. This would also help bidders and lenders take the FTV into account in their bids and facilitate a smoother transaction process. Finally, it would enable developers to engage more effectively in negotiations and due diligence. This would reduce the pressure and risks associated with the GCC deadline and ensure that all parties have the necessary information to make informed decisions.

4.13. It is worth clarifying that the cost assessment process will run to the same timeline as currently, but due to delaying the ITT stage, the FTV would become available earlier in the transaction. Therefore, we are proposing to make the FTV a prerequisite to start the transaction stage, with it being provided before the ITT submission deadline or at PB announcement.

4.14. Lastly, generators and some OFTOs also suggested extending the PB stage instead. The key issue raised supporting this suggestion is the delay that can occur due to extended negotiations between the developer and PB, particularly around risk allocation, warranties, and technical clarifications. The delays could also be a result of significant project issues that can arise well into the commissioning phase. An extended PB stage would reflect the realistic period for this stage as seen in recent tender rounds.

4.15. We believe that delaying the ITT and ensuring that the assets are in a more complete state, with greater data available that would often not be available until the PB stage, should facilitate a more efficient and smoother PB stage. This also improves the due diligence done at bidder stage and means that bids should be firmer (with fewer caveats).

4.16. There would be no increased benefit in providing further data at the PB stage, as that will continue to feed into extended negotiations. Subsequently, in the absence of that data, and therefore less firm bids, an extended PB stage would continue to add risk to both developer and OFTOs, with no benefit to any party. In addition, we are also proposing a series of incentives (as set out in the following chapter) to support the swifter conclusion of the PB stage.

4.17. Some generators have shared concerns that some bidders may not perform enough due diligence to minimise costs incurred during the bidding process. This is considered to have the potential to delay the evaluation stage and increase resource demands from both Ofgem and the developer at the PB stage. We believe our proposal of VDD will contribute towards mitigating this issue and encourage new entrants who find the barrier to entry quite high when there are well established incumbents.

4.18. It is also worth noting that Ofgem's guidance states that there should not be conditionality in bids. As a result, the above is expected to provide bidders with a better understanding of the assets and removing uncertainty over the condition of the assets at the time of transfer. Bidders will therefore be expected to provide firm bids with the expectation that PB stage is to confirm the status of the assets as per their bid. This may be further encouraged with the introduction of a PB incentive (Section 5) mechanism to conclude the transaction quickly. Further consideration will also be given to utilise a reserve bidder when a PB's transaction is not concluded by a particular point in the process.

4.19. We agree and understand the issues raised regarding factors that contribute to the length of the PB stage and protracted negotiations. However, extending the PB stage would not mitigate these issues, but rather allow more time for issues to arise during negotiations. Therefore, we consider changing when the ITT stage starts better targets the cause of protracted negotiations, which is asymmetric information, and the incentives discussed later will supplement it further.

4.20. The consultation responses provide various other suggestions to improve the efficiency of the tender process based on the three scenarios. Key recommendations include better preparation of materials, simplifying the process methods to ensure maximum data quality and publishing guidance on risk allocation between developers and OFTOs. We will continue to consider these responses for further development.

4.21. Generators and OFTOs also suggested a wide range of other changes to the GCC in their responses. Ofgem is focused on the key milestones within our purview, including but not limited to the start and completion of the ITT process, when the FTV is made available, the target for completion of the transaction (Preferred Bidder announcement), and what data/information can be reasonably expected in the data room given the time at which the project is put to tender.

Question Nine: With DESNZ confirmation on the 9-month extension of the GCC, are there any outstanding concerns with our proposal to alter the tender process?

Question Ten: Do you have any suggestions to manage the transition to the new timelines for projects already in flight?

Vendor Due Diligence

4.22. We are keen to encourage new entrants to the OFTO regime. This supports the most effective functioning of a competitive process. We are considering mechanisms that incentivise bidders and ways to level the playing field where there are perceived barriers. One such mechanism to mutually benefit all parties including new entrants was the concept of Vendor Due Diligence (VDD). Other mechanisms are elaborated on in the next section.

4.23. Nearly all responders noted that the VDD report could not replace the due diligence required by lenders. We would like to clarify that the intention of VDD is not to replace existing due diligence carried out by bidders, but rather to supplement that.

4.24. The VDD is aimed to be an independent report on the technical status of the OFTO assets. This would be baselining data provided to all bidders and lenders. It would also possibly identify gaps that the developer may need to consider to improve the bidding process. This may also provide clarity for ongoing issues by pointing out deficiencies for the developer to improve prior to or early in the tender process, potentially allowing them to address any concerns in the SPA in more detail. Overall, the VDD would provide a supplementary source of robust data on the project to inform firmer bids, project improvements, and further interactions, therefore mitigating lengthy discussions and protracted negotiations between PB and developer.

4.25. Some responders also noted that VDD provision would help lower the barrier to entry. For new entrants, it could reduce the due diligence required and therefore reduce both cost and resource burden, creating a more level playing field by encouraging better data preparation before the start of the ITT stage.

4.26. This could be delivered via the developer, but through independent advisers and a few months before the ITT stage.

Question Eleven: Is the provision of VDD likely to support and enable new entrants?

5. Bidder Incentive Mechanisms

We are aware that there are perceived asymmetric incentives during the bidding process, particularly between the developer and the bidder in relation to the impact of the Generator Commissioning Clause. This section explores which alternatives Ofgem may consider in order to rebalance this.

Background

5.1. In our recent December 2024 consultation on the extension to the GCC, developers raised concerns that they consider that there' are asymmetric incentives to conclude the bidding process promptly. Developers face significant legal consequences if they breach the GCC and obtaining an extension is a lengthy process, including obtaining parliamentary consent. This means that developers are strongly incentivised to conclude within the timeframe set out in the GCC, but OFTO bidders do not face similar constraints.

5.2. We are also aware that the extended duration of the PB stage can negatively impact most of the interested parties in the transaction - for developers it delays the payback of the capital used to construct the assets, as well as the legal and reputational impact of breaching the GCC. For OFTOs it can increase the challenges they face in raising and retaining finance, including deterring new entrants. It also increases transaction costs for both parties.

5.3. Whilst we expect that the recent legislative changes extending the GCC by 9 months (and the process changes that Ofgem is considering putting in place to reflect this extension as discussed in Chapter 4) will reduce the need for extensions and support transactions to conclude more promptly, we agree that it is worth exploring incentive mechanisms for bidders as well as for developers in order to further support the smooth functioning of the tender process.

5.4. With the proposal of new tender timings explained above, we expect greater information to be available to bidders and more confidence and awareness of the condition of the assets. The aim is that this will provide bidders a better understanding of the assets and with that is the expectation that bids will be more robust, and will bid on the basis of the condition of the asset. This is more important with a PB stage that is three months shorter than the current process. An incentive mechanism could further encourage a timely close. We are also aware that investors tend to prefer shorter transactions, and we think greater measures to materially shorten the overall process will be positively received by existing and potential investors.

5.5. We are also keen that any incentive mechanisms mean that bidders bid on the basis of the information provided and take account of the risks, rather than negotiating at PB stage.

Bidder Bonds

5.6. One of the options suggested for aligning the incentives between the bidder and the developer was introducing bidder bonds. A bidder bond would be an on-demand financial instrument provided by bidders and callable by Ofgem for failure to meet a defined set of criteria or timetable. These are used internationally for similar projects, including in Canada and Spain, and more rarely in Ireland.

5.7. However, when carrying out further work on how this could be delivered, we noted that this would be complex for both bidders and for Ofgem to carry out (most notably through a lack of ability for Ofgem as a regulator to hold the bonds and any penalties that may be imposed), as well as limiting the ability of bidders to compete in several procurements at a time as they will need to provide security for each bid.

Other bidder penalties

5.8. Developers have also suggested a number of penalties for bidders who delay transactions, including preventing bidders from bidding again on new projects and financial penalties, if they do not complete on time.

5.9. Ofgem have considered these responses and are of the view that this would be detrimental to our objective to attract a wider, more diverse pool of potential bidders for assets. This is because it will artificially restrict bidders, particularly if delays are as a result of unavoidable technical issues or other factors that are not (or not entirely) within the bidders' control.

5.10. Furthermore, a penalty will not put the newly appointed asset owner on an optimal financial footing from the start of the TRS period. This could influence the way an OFTO manages operation going forwards and have negative consequences for both the OFTO and the generator.

Financial Incentive Mechanisms

5.11. Ofgem are also exploring financial benefits that can be awarded to the PB if they complete the transaction within the target date – this is in order to motivate the transaction team and to eradicate any possible incentives for bidders to delay until the end of the GCC.

5.12. This could take the form of a one-off payment to the PB, through a temporary reduction in the availability target in the first year of the TRS (e.g. from 98% to

95%) which would mean that OFTOs receive a higher bonus in the first year of operation than they would normally do so. This is opposed to going through an incentive which would deliver value over the entire TRS period, either through an increase to the TRS, or the FTV of the asset (which would have a similar effect).

5.13. Any such incentive mechanism would need to be proportionate and deliver value for consumers, as well as being targeted so that it genuinely reduces the length of a transaction. It would need to be of sufficient size to drive more proactive project management required to close the transaction on time and to encourage pragmatism in negotiations. However, it should not be so high to act as an incentive for the OFTO to take on material risk that it would not be expected to price into its bid, as that would not represent value for the consumer.

5.14. Ofgem would also need to decide at which point that the incentive should be awarded - either aligning to the Estimated Transfer Date (**ETD**), the earliest Lender Commitment Date (**LCD**), or the original GCC date.

5.15. If we were to align any incentive to the ETD, it might help the PB to focus on delivering to the ETD as per their bid submissions, wrapping up the transaction at the earliest opportunity, but given past transaction experiences, it may be unachievable in the vast majority of cases, given technical and other issues which can delay the ETD. However, due to the proposed changes to the GCC (as set out in the previous chapter), this should fall away as firmer bids should be received and the PB stage should be less protracted.

5.16. Alternatively, it could align to the LCD achieved by the bidder in its ITT bid (which is typically ETD + 3 months). Aligning any incentive mechanism to this date would be an appropriate point where financing is committed and give bidders and developers more flexibility than the ETD.

5.17. Alternatively, it could align with the GCC date, but Ofgem's view is that the GCC (particularly as it is being extended) should act as a backstop rather than a target, particularly given the significant consequences for the developer for missing this date.

Question Twelve: Should Ofgem introduce an incentive for bidders as set out above, and if not, what other options should we consider?

Question Thirteen: What should the quantum of any incentives be, and how should it be delivered as part of the tender process?

Question Fourteen: At which date should we aim to align a potential incentive mechanism?

6. Your response, data and confidentiality

Consultation stages

The consultation will be open until 8th September 2025. Responses will be reviewed and the consultation decision will be published later that year.

How to respond

We want to hear from anyone interested in this consultation. Please send your response to offshorelicensing@ofgem.gov.uk.

We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.

Your response, your data and confidentiality

You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.

If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

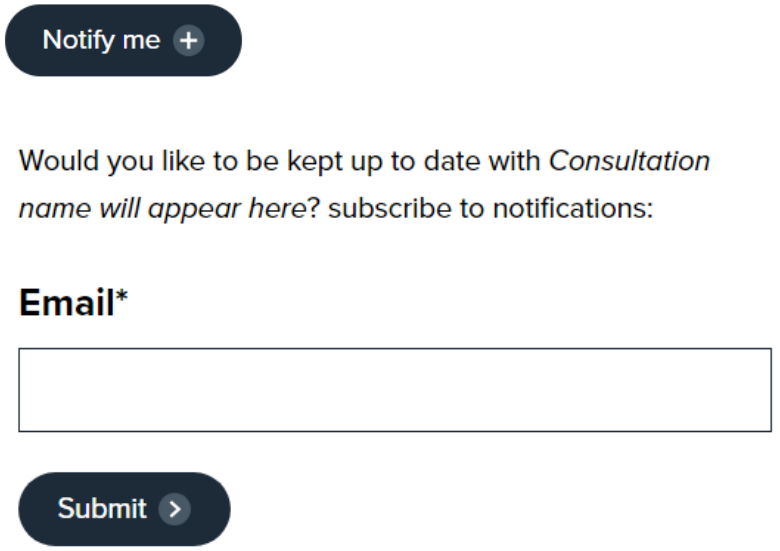
We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send any general feedback comments to stakeholders@ofgem.gov.uk

How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. Choose the notify me button and enter your email address into the pop-up window and submit. ofgem.gov.uk/consultations



Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:

Upcoming > **Open** > **Closed** (awaiting decision) > **Closed** (with decision)

Appendix 1 – Privacy notice on consultations

Delete this box when producing your document.

Instructions: Please edit the content of the generic privacy notice provided below to take account of the specifics of your consultation.

Contact the Data Protection Officer dpo@ofgem.gov.uk if you are unsure about any of the information to be provided to those responding to your consultation.

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data

(Include here all organisations outside Ofgem who will be given all or some of the data. There is no need to include organisations that will only receive anonymised data. If different organisations see different set of data then make this clear. Be a specific as possible.)

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for (be as clear as possible but allow room for changes to programmes or policy. It is acceptable to give a relative time e.g. 'six months after the project is closed')

6. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at https://ico.org.uk/, or telephone 0303 123 1113.

7. Your personal data will not be sent overseas

8. Your personal data will not be used for any automated decision making.

9. Your personal data will be stored in a secure government IT system. (If using a third party system such as Survey Monkey to gather the data, you will need to state clearly at which point the data will be moved from there to our internal systems.)

10. More information For more information on how Ofgem processes your data, click on the link to our "ofgem privacy promise".