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Mr Anthony Mungall
Ofgem

By Email

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Re: Consultation on the issue of timely connection to the electricity transmission network

Dear Anthony

Thank you for the opportunity to provide our views on the connections process and issue of timely connection in the context of the new 'Connect and Manage' regime.

In general we broadly believe that the framework for delivering a connection to the transmission network is the correct one. We do not see the merit of why a TO should benefit financially from performing a task which it is already obliged to do under its transmission licence.

Factors which affect desired connection dates

The regime is designed to facilitate the provision of a connection based on when a generator is seeking to connect. This is subject to the initial design, consent, detailed design, procurement and construction of the associated assets required to provide that connection. Any connection date is clearly dependent on when these can be realistically achieved.

In this context a TO also has to manage the consequences of a developer revising its requirements, either in terms of capacity or connection date, against the risk of stranded investment. User commitment is obviously important in this regard and some of the volatility in these arrangements over the past few years has not been helpful to the development of projects.

The broad definition of Enabling Works under the CUSC, such that it is very much in the TO/NETSO's discretion as to what constitutes Enabling and Wider Works and the ability for these to change, can add risk to a project. The extent of the Enabling Works will clearly

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have a bearing on the delivery of a timely connection, the greater the scope of works the more likely it will be that the initial connection date will not be achieved.

Factors affecting the delivery of a desired connection

In our experience the provision of a connection could be managed more efficiently and that organisational structure has sometimes given rise to inefficiency. For example, if the point of connection to the transmission network is a Gas Insulated Substation (GIS), this requires both a licensed and unlicensed contract to be entered into as a result of the scope of the licensed GIS works. If the two contracts are not aligned or in place at the time when a TO investment decision is required then it can delay the decision, although CAP189 could potentially remove this particular issue. Resource allocation can also play a significant part, if a change in contractor or associated personnel is made by the TO, switching from one alliance partner to another for example, can contribute to the delay to a connection date.

The CUSC Construction Agreement is weighted in favour of the NETSO. Given the monopoly service developers have no choice on the terms on which to connect. This results in a non commercial, non-customer focussed contractual relationship. A company would not ordinarily accept these terms (and go elsewhere) in a normal commercial environment.

Aside from failing to perform its licence obligations there is little bargaining power for a developer to ensure that the TO is delivering in accordance with its obligations and the developers requirements. The largest influencing factor seems to be the risks associated with regulatory non-compliance and the associated reputational risk.

There is comparatively limited transparency of the TO's activity and decision making, which can be independent of the developer and yet have potentially significant consequences. For example, visibility of the process and agreement of essential outages on the network to achieve the contracted date, where if a date is agreed with NETSO that means that the contracted connection date cannot be met will result in a delay.

It is often the developer who has to seek information and ongoing dialogue from the NETSO/TO. As an example of this, and the behaviour outlined in the previous paragraphs, NETSO has an obligation to issue quarterly reports to the developer but these have not been issued in some time and where they have been they contain little information of value.

The timely commencement of the TO's consenting activity could be sharpened. Although the NETSO has a best endeavours obligation within the Construction Agreement to

consent its works, this is somewhat meaningless as it is not exposed to any consequences of failing to progress the scope of works within its control to enable decisions within a defined programme. Clearly it is right that the NETSO should not bear consent risk associated with a delay to a decision or a rejection, it should however work to a programme to enable a consent decision for its works such that the contracted connection could be achieved if a positive consent decision is granted.

Factors which affect incentive arrangements

There is the risk that any incentive results in perverse behaviour and unintended consequences. Given the low risk/low reward model of a TO/NETSO, this could encourage it to take an even more conservative approach to its connection offers and the connection programmes it offers, in order to ensure that it does not fall foul of any downside and increases the potential to earn any upside.

The value of any compensation clearly cannot offset a developer's losses and cannot remedy consequential losses. If the developer were to be the direct recipient of a form of liquidated damage arising from an incentive scheme this will be of limited benefit. In our view an incentive measured against individual development projects should be asymmetric and go to the NETSO/TO's bottom line, providing this does not increase the company's cost of capital. If all an incentive means is that other users are funding any penalty payments then we would question the value of such a regime, as this simply increases costs of all market participants and wider industry.

Complexity of any new incentive should be avoided if this diverts resource from the more crucial activity of actually delivering connections in the timeframe requested. The structure of the incentive options outlined appear to be difficult to measure. We would also question if there is such a thing as an 'average delivery date timescale', in our experience each project's connection requirements are unique.

We hope you find our response helpful. We would be happy to discuss any aspect of it with you further.

Yours sincerely

Guy Phillips
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