

SSE comments on Ofgem's Open Letter setting out the proposed scope for the Integrated Transmission Planning and Regulation (ITPR) project

25th May 2012

SSE welcome and support Ofgem's proposed review of the current arrangements for the development of the GB transmission system. The proposed scope of the review is extensive and far-reaching, and has the potential to bring significant change to the existing transmission development regime at a time where stability and certainty is crucial. However, as we describe below, with careful and transparent management of the review, uncertainty can be minimised and an effective outcome achieved.

The Open Letter helpfully describes an outline timetable for the review. Given the likely scope of the investigation and the cross-industry impact of transmission system investment decisions, we believe that the timetable should be reviewed. In particular, we do not believe that the condensed project timetable proposed in the Open Letter is commensurate with the scale of the review and we urge Ofgem to follow their Best Practice Principles for the development of this project. In particular, given that the current Open Letter is the very first part of the process, the next steps should be –

- A clear description of the issues or problems which are to be addressed;
- A comprehensive call for evidence;
- Maximum stakeholder engagement;
- Full assessment of all proposed options; and,
- Impact assessment and cost-benefit analysis of the proposed solution (relative to alternative options) prior to implementation.

Hence, we believe that the scope of the project can only be finalised once the Call for Evidence has been completed. However, without prejudging the outcome of a Call for Evidence, we believe that there may be merit in applying the option assessment model used during another of Ofgem's significant reviews, Project TransmiT, where three possible options were investigated in detail. A similar approach, relevant to the ITPR project, may be the assessment of the following three options –

- Status quo;
- Enhanced coordination; and,
- Radical overhaul.

Once the preferred option has been identified, a thorough and transparent Impact Assessment must be completed to ensure that no unintended or perverse consequences are introduced as a result of any change.

1. The scale, timing and process of the project

In the Open Letter, Ofgem set out a number of objectives and considerations for the ITPR project –

- Consider what is needed with respect to system planning to deliver the future integrated transmission system onshore, offshore and cross-border;
- Review how the relevant institutions and the incentives around them should evolve to support this new activity;
- Consider how the onshore, offshore and interconnector regulatory regimes interact to deliver multiple-purpose transmission projects that could be a feature of the future energy system; and,
- Ensure that the regimes continue to provide effective and stable frameworks for the significant investment in transmission infrastructure that is required in the future.

These initial considerations set out in the Open Letter appear to be both significant and far-reaching and, whilst SSE welcome this review of the current arrangements for the development of the transmission system, we believe that a review of this scope is more extensive than a simple Open Letter consultation followed by a consultation on a range of options.

It is important when undertaking this review to provide transparency and rigour in the process, so as not to introduce uncertainty that might undermine transmission, or wider energy, investment. In establishing best practice for a review of this scope, we believe that there is merit in considering the process established by Ofgem in March 2010, following extensive consultation, for a Significant Code Review (SCR).

Significant Code Review Process

In their Code Governance Review – Final Proposals document, published in March 2010, Ofgem set out criteria where they would initiate the SCR process. These criteria apply where a modification proposal is likely to –

1. have significant impacts on gas and electricity consumers or competition; and/or
2. have significant impacts on the environment, sustainable development or security of supply; and/or

3. create significant cross-code or code-licence issues.

As this ITPR project proposes a full review of the fundamentals of the transmission development regime, it seems clear that there is likely to be, at the very least, significant cross-code or code-licence issues. Furthermore, this project has the potential to result in licence changes and even a recommendation for legislative change. Hence, this workstream is arguably more important than issues which might automatically lead to an SCR.

The SCR process to be initiated when a significant issue is identified that “bears on one or more industry codes”, commits Ofgem to “give as much notice as possible of our intention to conduct an SCR.” The final proposals confirm that Ofgem will allow at least six weeks for interested parties to submit responses to an SCR scoping letter, after which the SCR process may start in earnest.

Ofgem anticipate that the subsequent process of intensive consultation, documents and workshops, followed by the conclusions, will take around 12 months with a further 6 months allowed for the code modification process.

However, the proposed timeline for progression of the ITPR project sets out a very condensed process, starting with this Open Letter, followed by a consultation on a range of options in late Summer 2012, with recommendations published early in 2013 – a proposed timeline of around 10 months. When compared with the SCR process, the proposed timeline appears to have omitted the point at which Ofgem set out the reasons for conducting the review as opposed to taking alternative courses of action (including maintaining the status quo).

Furthermore, the SCR process requires a final Impact Assessment on any proposed solution, which the current ITPR project timeline also omits.

Best Practice Principles

Ofgem are required by the Energy Act 2004 to have regard to the principles of best regulatory practice and have expressed their interest to work to the principles set out in the “Guidance on Ofgem’s approach to consultation document”, published in December 2011.

This guidance document states that Ofgem will consult for a period of twelve weeks on issues “that are expected to be of wide significance and interest.” We would expect that the proposed scope of the ITPR project, which will directly affect all TOs, OFTOs, onshore developers, offshore developers and interconnector operators, and is likely to

indirectly affect all DNOs and consumers, would warrant a twelve week consultation period in the first instance. However, the consultation period for this open letter has only been nine weeks.

We certainly believe that the scope of the ITPR project is more significant than Ofgem's criteria for an eight week consultation, where a consultation would take place on "issues that are less likely to have a very wide impact or be the subject of substantial interest."

This guidance document also notes that Ofgem is required, by statute, to produce and consult on an impact assessment where it is making "important" proposals. Although there is no mention of an impact assessment in the Open Letter, we would expect that the ITPR project would warrant an Impact Assessment at this stage.

Conclusions on process

Given the proposed scope and potential impact of this project, we urge Ofgem to follow their Best Practice Principles. As the proposed scope of this project appears similar in nature to previous Ofgem projects, such as Project TransmiT and the Transmission Access Review, both of which were commenced prior to the SCR process being finalised, we expect Ofgem to treat this project in a similar fashion.

As the current Open Letter is the very first part of the process, the next steps should be

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- A clear description of the issues or problems which are to be addressed;
- A comprehensive call for evidence;
- Maximum stakeholder engagement;
- Full assessment of all proposed options; and,
- Impact Assessment and cost-benefit analysis of the proposed solution (relative to alternative options) prior to implementation.

Whether this project is treated as akin to SCR or a consultation with wide significance, we recommend that Ofgem consider enhancing the proposed timetable to ensure the issues are extensively and sufficiently consulted upon. Development of a credible timetable will provide better certainty to potentially affected parties.

2. Scope of the project

As stated above, we believe that the proposed scope of the project is sufficiently wide ranging enough to require a specific Call for Evidence.

That said, and without prejudging the outcome of a Call for Evidence, our initial view is that a review is warranted and that such a review could be structured around the examination of different options, in much the same way as Project TransmiT developed.

The assessment of possible solutions

During Project TransmiT, three possible solutions were assessed in detail and, taking into account cost, benefit and delivery, the options were compared and a balanced decision reached.

We believe that a similar assessment might be made in this case. Depending on the outcome of the Call for Evidence, the three possible solutions for detailed assessment may be –

- **Status quo**

Existing arrangements for coordination of the development of the transmission system through the STC Joint Planning Committee informally supported by the ENSG. Assessment of the treatment of multiple purpose projects on a case-by-case basis. No requirement for code, licence or legislative change.

- **Enhanced coordination**

To include: Scope of the STC Joint Planning Committee enhanced and widened to include developers and relevant third parties. Role of the ENSG formalised. Clarification of the treatment of multiple purpose projects over a wide range of scenarios, giving certainty to both TOs and developers. Possible requirement for changes to the CUSC and STC, supported by regulatory guidance.

- **Radical overhaul**

For example: New arrangements created for the coordination of transmission development. Full review of user commitment and charging arrangements to ensure a level playing field across all developers. Legislative clarity on the treatment of all multiple purpose projects. Significant code, licence and legislative change.

This approach has been demonstrated to be effective and give confidence to stakeholders that all views are duly considered. For example, in Project TransmiT, there was widespread support for the middle option, which provided an enhancement to existing arrangements that could be delivered in a timely fashion and created minimum uncertainty.

Lessons from Project TransmiT, the SCR and other major regulatory reviews should be considered in the ITPR project to ensure that developers and TOs have as much certainty as possible throughout the process. There is always the risk that a destabilisation of the existing arrangements through a review period lead to investor doubt and uncertainty and, given the scale of investment required to meet the 2020 targets, this should be avoided at all costs. It is particularly important, in this regard, that the problems which Ofgem seek to fix through the ITPR project are correctly identified and communicated early in the project so that all parties have sight of a potentially beneficial outcome.

Initial views of additional questions to be considered within the scope

As noted above, we expect that Ofgem will issue a comprehensive Call for Evidence to ensure that they can correctly identify and communicate the problems that the ITPR project is to solve. During this Call for Evidence, we expect that, although the initial scope of this project is fairly broad, there are other areas and questions which Ofgem may find are relevant to a review of the current transmission development regime, including –

- Does the current artificial distinction between onshore, offshore and interconnector transmission types, which is a feature of the 1989 Electricity Act, present a barrier to integrated system development?
- What steps need to be taken to ensure that developers have appropriate certainty over cost and timing of connection?
- The close interactions between the scope of this project and the user commitment arrangements and charging framework and models must be considered, in particular –
 - Should user commitment be reviewed to ensure a level-playing field for all developers?

- Do the current charging arrangements, which differ between onshore and offshore generators, place the risk with the party most able to mitigate it?

Whilst some of these questions may be under review in other Ofgem consultations, it is critical that, given the extensive scope of the ITPR project, their consideration sufficiently informs this project. Although these questions are potentially more difficult to address than a simple tweak to the existing arrangements, they cannot be set aside when considering the development of the GB-wide transmission system. This project appears to be the ideal opportunity for Ofgem to consider these issues in the round.

Conclusions on scope

In order to ensure that the final scope is appropriate and that the proposed review is as effective and as transparent as possible, we believe that the following steps should be taken –

- § A specific and comprehensive Call for Evidence is required to correctly identify the issues which are to be resolved;
- § Taking into account the outcome of a Call for Evidence, the assessment of options should follow the model used for Project TransmiT, focussing on –
 - Status quo
 - Enhanced coordination
 - Radical overhaul
- § Once a preferred solution has been identified, an extensive Impact Assessment must be completed to ensure that there are no unintended or perverse consequences of the proposed change.

We look forward to responding to the Call for Evidence and further engaging in the process as the project develops.