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Dear Pete,

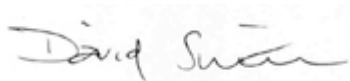
Energy Networks Association OFTO Forum –
Response to consultation on Non Developer-Led Wider Network Benefit
Investment

Energy Networks Association (ENA) is the industry body for UK electricity and gas distribution and transmission companies.

This response to Ofgem's consultation on Non Developer-Led Wider Network Benefit Investment is submitted by ENA and is in addition to and in support of the individual responses of the members of the ENA's OFTO Forum. Our responses to the specific questions raised in the consultation are attached to this letter as Appendix 1.

If you have any follow up queries please get in touch with Richard Le Gros, Secretary to the OFTO Forum at ENA, on 0207 706 5132 or richard.legros@energynetworks.org.

Regards,



David Smith • Chief Executive, Energy Networks Association

Appendix 1 – ENA OFTO Forum response to consultation on Non Developer-Led Wider Network Benefit Investment

Question 2.1: Do you consider there would be market interest in tenders under these non developer-led WNBI models? Please state why or why not, including whether you would be an interested party.

Answer 2.1: We believe that there will be some, albeit variable, levels of interest expressed across all the non developer-led WNBI models presented by Ofgem, however generally the 'Early OFTO Build' and 'TO Initiated Late OFTO Build' will be the most favoured, due largely to similarities with the 'Generator Initiated Late OFTO Build' model that Ofgem has already consulted heavily upon.

'Split OFTO Build' Model

We note significant concerns in relation to the 'preliminary works' stage of the 'Split OFTO Build' as there is uncertainty about the risk/complexity of obtaining consents and the appropriate allocation of remuneration based upon this and other risks. If these uncertainties could be suitably addressed it would encourage confidence in the 'Split OFTO Build' model. In addition, the lack of incentive for the 3rd Party conducting the preliminary works to perform these to a suitable level of quality (as they are unlikely to have an interest in the project after the preliminary works stage) would need to be suitably mitigated.

'Early OFTO Build' Model

Two of the ENA OFTO Forum members have indicated that they are definitely interested in the Early OFTO Build Model, and a third member may be interested.

'TO Initiated Late OFTO Build' Model

We believe that there would be significant interest in participating in 'TO Initiated Late OFTO Build' model tenders, as (noted above) this most closely aligns with the Generator Initiated Late OFTO Build model about which the OFTO industry already understands a great deal.

We note that where a TO has subsidiary or affiliated businesses that may have an interest in engaging in a tender under this model then processes should be in place to ensure no conflict of interest or unfair advantage arises.

Question 2.2: What are your views on the role that onshore TOs and the NETSO would need to undertake to ensure success of non developer-led WNBI projects under the different models?

Answer 2.2: We broadly agree with Ofgem's view of the role of TOs and NETSO under the three models described. A 'coordination body' or enhanced NETSO could have a significant role to play to provide the operational case and the overall specification for new offshore infrastructure under all three models.

It is worth noting that for projects with no onshore connection (as shown in figure 1 in the consultation paper) an onshore TO is unlikely to have any role.

Question 2.3: What are your views on the appropriate risk allocation between consumers and parties undertaking preliminary or construction works, and why?

Answer 2.3: We support the philosophy that risk should lie with those best able to manage it. As per the existing OFTO-build risk allocation OFTOs should carry risks associated with the construction and operation of the asset but should be protected in some way against risk arising from a change in system requirements (stranding) and other risks they cannot directly influence or control.

Similarly the 3rd Party undertaking the preliminary works under the 'Split OFTO Build' Model should be protected against risks outside their control (e.g. complexity of consents, change to project scope, etc).

Question 2.4: What are your views on the incentives and obligations that would be needed to ensure that the preliminary works, including consents, are completed in the interests of consumers and the economic and efficient development of the future transmission system?

Answer 2.4: OFTO tender prices should reflect the level of risk associated with meeting any conditions previously agreed by a 3rd Party (e.g. consents granted to a 3rd Party or TO/SO conducting preliminary works). Similarly incentives need to be placed upon the 3rd Party or TO/SO conducting preliminary works to ensure that as far as possible the risks/obligations passed to the successful OFTO bidder are mitigated or managed as best as possible.

Question 2.5: To what extent do you think the alternative models would help deliver the objectives set out in paragraph 2.32 of Chapter 2?

Answer 2.5: See table 1 overleaf.

Table 1 - Answer to Question 2.5			
Objective	Split OFTO Build	Early OFTO Build	TO Initiated Late OFTO Build
Delivery / quality ("deliver fit for purpose electricity transmission infrastructure to facilitate ...")	Suitable third parties will come forward if commercial arrangements make the role sufficiently attractive.	Good incentives on OFTO, this model is likely to deliver for all stakeholders (including consumers).	It may be necessary to develop additional incentives to encourage TO/SO to undertake the preliminary works where they do not benefit commercially from the resultant constructed asset. TO's have extensive experience in undertaking preliminary works for onshore elements of projects and some experience of preliminary works for offshore projects.
Competition ("provide value to consumers by building on the existing offshore regulatory regime, retaining the benefits of competition ...")	Converse to the above, if there is a lack of suitable commercial arrangements this will inhibit the attractiveness of this work and effect competition	If there is a lack of suitable commercial arrangements this will inhibit the attractiveness of this work and effect competition.	No competition for development work
	Separate competitive regimes for developers and builder / owners	Competitive regime for developers / builder / owners	Competitive regime for builder / owners but not for developers
	Additional administrative costs due to running two tender processes to identify 'preliminary works' and 'OFTO build' parties.		
Co-ordination ("helping to capture the benefits of coordination")	No difference – with all three models NETSO undertakes co-ordinated design and planning.		
New Entrants ("attract new entrants ... to the sector")	Potentially - see comment about need for suitable commercial arrangements above.	New entrants undertake development work - see comment about need for suitable commercial arrangements above.	No new entrants for development work.

Table 1 - Answer to Question 2.5			
Objective	Split OFTO Build	Early OFTO Build	TO Initiated Late OFTO Build
New Sources of Finance ("attract new ... sources of finance to the sector")	No difference – build is financed by OFTOs in all cases		
Protect Consumers ("ensure that consumers are protected from undue stranding risk..")	No difference –all options involve design by NETSO and assessment by Ofgem before construction starts.		