

# Energy UK response to Integrated Transmission Planning and Regulation (ITPR) Project: Draft Conclusions

24 November 2014

## 1. Introduction

- 1.1. Energy UK is the trade association for the energy industry. Energy UK has over 80 companies as members<sup>1</sup> that together cover the broad range of energy providers and suppliers and include companies of all sizes working in all forms of gas and electricity supply and energy networks. Energy UK members generate more than 90% of UK electricity, provide light and heat to some 26 million homes.
- 1.2. Energy UK supports the aims of the ITPR project to proactively consider whether GB electricity transmission system planning and delivery arrangements are fit for purpose in the longer term. We welcome the opportunity to provide feedback on Ofgem's draft conclusions with regard to what changes to existing arrangements may be required to ensure the network is economic, efficient and coordinated.

## 2. Executive summary

- Energy UK broadly agrees with the principles underpinning ITPR work. However, we recognize that the actual implementation will be a test for many of them. In addition, further assessment of costs involved in implementing ITPR will be necessary before moving to final proposals and implementation.
- Energy UK maintains that an enhanced SO role appears to be the most attractive of the options explored by Ofgem, provided that the project development timescales are not impacted as a result of this substantial additional role taken by the SO. Some additional clarity and consideration need to be provided regarding the SO/TO arrangements and the need for increasing levels of system operation on the distribution network.
- While Energy UK recognises the potential benefits in extending competitive tendering to some onshore assets, we would also like to see some more analysis clearly demonstrating the efficiency gains. We also have doubts about the practical application of the proposed criteria for offshore assets subject to competitive tendering.
- Energy UK also considers that GB approach to interconnection should be based on the economic considerations and put in a broader perspective of ongoing efforts to create a single market for electricity at the European level.
- Energy UK appreciates the efforts made by Ofgem in addressing the treatment of real or perceived conflicts of interest. It would, however, be useful for the management of conflicts of interest arising from the ITPR to benefit from similar legal guarantees to those foreseen under the EMR.

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<sup>1</sup> National Grid is a member of Energy UK but did not have input into this consultation response.

### **3. Energy UK views on Ofgem's draft conclusions**

- 3.1. Energy UK appreciates the progress being made on the ITPR project, and the aim of providing a more integrated approach to system planning and delivery. Such an integrated approach will be important in ensuring the GB transmission system will be developed in the most cost efficient way and will be fit for purpose to cope with increasing penetration of intermittent and remotely located generation; as well as new interconnectors.
- 3.2. Energy UK welcomes the overall direction of travel of the ITPR project and broadly supports the underlying principles put forward in the draft conclusions document. However, we recognise that the implementation of any modified approach to system planning and delivery will be a test for many of those principles. We also consider that further assessment of costs involved in implementing ITPR will be necessary before moving to final proposals and implementation.
- 3.3. Despite the progress made in ITPR as a whole, Energy UK would still like to see further detailed analysis in relation to some of the areas of the project. It would be interesting to understand how the costs of introducing any new measures would compare with the benefits to be achieved. We would appreciate more detail on the criteria to be applied in determining whether a competitive tender for onshore transmission assets should be launched, along with an analysis of how the proposed changes would result in differences in relation to current arrangements.
- 3.4. Energy UK maintains that the treatment of real or perceived conflicts of interest remains an area of concern. We do, however, appreciate the efforts made by Ofgem in addressing this important issue, both in terms of identifying the examples of conflicts that could arise and some possible mitigation options. Ofgem needs to ensure that there is adequate/ sufficient ring-fencing in place to minimise these conflicts of interest. Given a process has recently been undertaken to develop the necessary business separation arrangements for National Grid in its role as EMR delivery body; we would suggest that those new business separation rules be considered in the ITPR context. While they haven't been tested yet, they could provide a useful benchmark for any requirements under ITPR. The fact that the EMR arrangements will have a legislative basis could also be significant in terms of enforcing such requirements.
- 3.5. Finally, the energy policy landscape is constantly shifting, with a number of initiatives and parallel projects that present strong interactions with ITPR in the long-term. The ITPR project must therefore be flexible enough to factor in developments such as EMR, DECC's Strategy and Policy Statement and the implementation of the European Network Codes, as well as the offshore transmission coordination project. The Network Codes will be of particular importance to the GB transmission system. Once in force, they will impose a significant number of obligations on all TSOs (and not only the SO).

### **4. Consultation questions**

#### **Question 1: What are your views on the proposed enhancements to the SO role in system planning, including the specific roles we have proposed the SO would undertake for onshore, offshore and interconnection planning?**

- 4.1 Energy UK maintains its stance, expressed in our response to Ofgem's Emerging Thinking consultation<sup>2</sup>, that an enhanced SO role appears to be the most attractive of the options explored by Ofgem. The SO seems to be well placed to identify strategic system needs and to coordinate planning transmission and interconnector investment, with input from the relevant TO in relation to a particular geographic area. While National Grid as SO is already taking steps towards playing a more active role in system planning, such as through the Electricity Ten Year Statement (ETYS), Future Energy Scenarios (FES) and System Operability Framework (SOF), we would stress the need to ensure they are sufficiently resourced to take on such a substantial additional role. Project

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<sup>2</sup> Submitted on 6 August 2013 and available at the following link: <https://www.ofgem.gov.uk/ofgem-publications/83374/energyukresponsejune13itprconsultation.pdf>

development timescales must not be impacted as a result of any enhanced powers given to the SO.

4.2 We welcome the proposal that the SO should play a more proactive role in providing appropriate information to all the interested parties (TOs, developers, Ofgem) to support investment decisions, as well as in developing additional analysis on possible future interconnection development. We also appreciate the idea of giving the SO some new responsibilities in option development, which will vary according to the nature of the potential investment (investment in major transmission capacity across the GB network, investment in new cross-border interconnection and other types of transmission investment). We would however stress the need for the SO to engage fully with all interested parties in the development of these options.

4.3 We would welcome clarification from Ofgem on if and how proposals from the SO would be reviewed, particularly in the event of a dispute between TO and SO about a particular proposal. And if so, what impact on project development timescales such peer review would have?

**Question 2: Are there other roles that you think an enhanced SO could or should undertake in order to better support the development of an efficient transmission and interconnector network?**

4.4 Ofgem has set out a comprehensive and well-explained menu of roles for an enhanced SO to undertake and there do not appear to be any options that have not been considered.

4.5 There may be an additional role for the SO in relation to consistency of approach to connection applications and assessment, as the current approach for interconnectors is not the same as that for onshore connections.

**Question 3: What are your views on the specific obligations for TOs that might be needed to support the proposed enhanced SO role?**

4.6 Energy UK considers that the proposed enhanced SO role would require some specific obligations for TOs. However, Ofgem's draft conclusions document lacks clarity about the current TO/ SO arrangements and fails to provide a regulator's view on where the TO/ SO interface is intended to end up in the future.

4.7 Energy UK is of the view that, as a minimum, the specific TO obligations should cover the provision of information between TOs and the SO in order to support an efficient project assessment. Guarantees around protection of confidential information would, of course, be essential in this context. There might also be a case for TOs to play an even more active role in a comparative assessment of different options, or combinations of options, as part of the new NOA process applicable to investments in major new transmission capacity across the GB network. TOs are arguably the parties with the most specialised knowledge in relation to their own local networks so such knowledge should be capitalised on.

4.8 We also strongly believe that in the context of TO/SO arrangements and the potential introduction of new processes, issues around liability and construction risk should be clarified. The same holds true regarding the details of the decision making and consultation process whenever the views of the SO and TO are sought to establish a shared view of the preferred approach.

4.9 Finally, we would also like to emphasise that some consideration should be given to the need for increasing levels of system operation on the distribution network.

**Question 4: What are your views on the proposal that, as part of its enhanced role, the SO should lead gateway assessment for offshore projects that include investment to provide wider network benefit?**

4.10 Energy UK is broadly supportive of the proposed SO-lead assessment gateway process for offshore projects that include investment to provide wider network benefit, as well as of the main

features of that process, as described in the draft consultation document<sup>3</sup>. However, we would like to point out that the suggested procedure lacks clarity as to how the preferred solution for the gateway assessment process will be chosen in the first place. We would also stress the need to ensure that any gateway process does not result in costly delays to project timescales.

**Question 5: What are your views on the proposals to extend competitive tendering to new, high value, separable onshore assets?**

- 4.11 Energy UK is of the opinion that there might be benefits in extending competitive tendering to some onshore assets. Further analysis is needed though, in order to demonstrate the potential benefits in terms of cost saving and innovation, which must outweigh the potential costs (e.g. administrative & interface costs, risk of hedging by potential investors etc.).
- 4.12 In a similar manner, the criteria for onshore assets subject to competitive tendering need to be clearly and unambiguously defined. Energy UK has strong doubts on the practical application of the 'separable' onshore asset criterion. Also, the lack of consultation on the projects that should be subject to the tendering process is a concern. Finally, the £50-100m 'high value' range seems to be quite wide, a possibly too low.

**Question 6: What are your views on the proposals to maintain a developer-led approach to interconnection and to extend the cap and floor regime?**

- 4.13 Energy UK does not have a strong view whether a developer-led approach is more likely to facilitate investment in interconnection in comparison to alternative regulatory options. What is important though, and this holds true for all types of projects (offshore, onshore and interconnections), is to create the right incentives for future investors. It is also not clear how an enhanced SO role will work alongside a developer-led approach.
- 4.14 Energy UK also considers that GB approach to interconnection should be based on the economic considerations and put in a broader perspective of ongoing efforts to create a single market for electricity at the European level. As the Ofgem proposals will keep GB interconnectors out of the fully regulated transmission regime, this compounds the differences in regulatory approach on either end of the interconnector.
- 4.15 It is also of utmost importance that there is no ambiguity as regards their status. Currently, most of GB interconnectors are certified as TSOs, in accordance with the EU legislation. However, there are examples where the interconnectors are treated as such (e.g. the considered participation of the interconnectors to the GB capacity mechanism).

**Question 7: What are your views on the proposal that non-GB generators pay for their connections, without consumer underwriting?**

- 4.16 Energy UK supports Ofgem's proposal for handling non-GB connections and the default position put forward in the draft conclusions that non-GB generators pay for their connection, without consumer underwriting.
- 4.17 We agree that this proposal would protect GB consumers from unacceptable risk of high transmission costs or stranding (where an asset is not used or under-used). Such a risk would persist for as long as there are neither clear arrangements governing the connection of non-GB generators nor the possibility of recovering appropriate transmission costs from those non-domestic generators.
- 4.18 Ofgem has proposed to maintain an option of consumer underwriting on a project by project basis; we would welcome further clarification as to how Ofgem would assess these projects.

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<sup>3</sup> In particular figure 1 on p. 23.

**Question 8: What are your views on the proposal to provide regulatory continuity when the purpose of a transmission asset changes?**

- 4.19 Energy UK strongly believes that providing continuity in regulatory approaches for existing assets would have positive effects on investment certainty. Such certainty is required as early as possible at the point of investment. Therefore, we support the proposal to provide regulatory continuity, wherever possible, when the purpose of a transmission assets changes.
- 4.20 However, Energy UK would encourage some further work on a comprehensive solution for multi-purpose projects as they come forward, in order to avoid that regulation becomes a barrier to their development. It should also be avoided that a decision to invest in a particular project is based solely on the attractiveness of its regulatory regime, without any consideration of the transmission system needs.

**Question 9: What are your views on the assessment of conflicts of interest?**

**Question 10: What are your views on the proposal for mitigating the conflicts of interest?  
(JOINED RESPONSE ON QUESTIONS 9 & 10)**

- 4.21 In our response to Ofgem's Emerging Thinking consultation, Energy UK highlighted its concerns about the treatment of real or perceived conflicts of interests. We advocated for Ofgem not to take the minimum approach of requiring a simple business declaration.
- 4.22 Energy UK appreciates the efforts made by Ofgem in addressing this important issue, both in terms of identifying the examples of conflicts that could arise and some possible mitigation options. We welcome the proposals for maximising transparency, enhancing Ofgem's scrutiny, a number of overarching principles and obligations on the SO's conduct, as well as ring-fencing and business separation measures for National Grid and its relevant associated competitive businesses.
- 4.23 Energy UK recognises that those proposals largely build on the solutions for conflicts of interest arising from National Grid's delivery role in the EMR. The ring-fencing and business separation of EMR functions within National Grid is reassuring. The strength of those measures lies in the fact that National Grid has a legal obligation to observe them but it is important to note that while they are a useful benchmark, they are yet to be tested. It would, however, be useful for the management of conflicts of interest arising from the ITPR to benefit from similar legal guarantees.

**Question 11: Do you think independent scrutiny of the SO's activities (e.g. through an independent panel or auditors) would provide value for money?**

- 4.24 Energy UK recognises that the SO's expanding role requires additional scrutiny and agrees that, in principle, independent scrutiny can be used to drive good performance and mitigate conflicts of interest.
- 4.25 The draft conclusions specify that an independent scrutiniser for system planning could review and report on NGET's assumptions, scenarios and methodologies. However, the document remains silent on how this independent scrutiny of the SOs activities would interact with Ofgem's role and responsibilities to fulfil this task in the first place. We would therefore be minded to agree with Ofgem's assertion that the additional costs of such scrutiny are unlikely to be proportionate to the benefits to be gained. Therefore, at this stage it may be more appropriate for Ofgem to produce and consult on a compliance report detailing how the SO has met all of its ring-fencing obligations.

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