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Extending competition in electricity transmission: criteria, pre-tender and conflict mitigation arrangements

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

We welcome the opportunity to comment on Ofgem's latest consultation on extending competition in electricity transmission. As a major developer of generation projects, including a significant new nuclear build programme, we have a strong interest in the development of the arrangements to introduce onshore tenders for transmission assets.

Development of transmission infrastructure is a critical part in facilitating the Government's objectives to move to a low carbon and secure energy system. It is therefore vital that the arrangements to introduce competition into electricity transmission balance the incentives to drive down costs of new transmission infrastructure with the need to ensure its timely delivery. We are supportive in principle of Ofgem's intention to bring greater benefits to consumers through the introduction of onshore tenders for electricity transmission but these benefits must be weighed against Government's broader objectives. In particular we highlight that there are still a number of issues that have not been addressed appropriately:

Delay risk for route to market

We believe that there are delay risks relative to the status quo delivery of transmission infrastructure by Transmission Operators (TO). In particular the introduction of a new, additional tender process into the delivery of transmission infrastructure which brings interface and delay risk, but also the introduction of new, potentially unknown, companies into this sector. Consequently generators could incur increased financing costs where the risk profile of the project is perceived to increase.

Transmission projects that have already significantly advanced through the planning process, such as the new Hinkley-Seabank line, should not be subject to these new arrangements. We believe that attempts to introduce the new onshore arrangements at this late stage would lead to delays to planned connections.

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We do not believe it is appropriate for projects that include enabling works (directly affecting a specific generator's route to market) be subject to the new arrangements. Any delays to transmission infrastructure will cost developers significantly. For instance for Hinkley Point C any delays to the connection would cost many £ms per day. This loss will very rapidly eliminate any commercial gains achieved through competing the transmission connection. Ofgem's criteria for project selection should reserve competition to non-enabling works except with explicit generator agreement and/or tender only constructed projects (like the existing OFTO regime).

Furthermore competition in generation has a temporal dimension to it as projects that are commissioned first will have an impact on the future project pipeline. Ofgem therefore need to consider the impact of their arrangements both for the enduring and transition into the competitive tendering environment. It may be that the tendering process itself has unintended consequences to the generation pipeline if it causes delays to the projects.

Treatment of nuclear installations

There are existing provisions with the relevant transmission companies (the Nuclear Site Licence Provisions Agreement) which are designed to support the safe operation of the nuclear sites and are a part of the nuclear safety case for those sites. With the introduction of new transmission companies, and indeed new nuclear sites, it is vital that there is a single consistent framework for governance and application of these nuclear safety arrangements. These arrangements need to be developed and understood by all TOs including by those bidding to be CATOs.

It is important that CATOs are able to adhere to such provisions. The NSLPA requires confidential information sharing, regular dialogue and may impact the day to day operation of the TO / CATO.

Effective SO

It is important that the integrity and operability of the overall system is maintained. If National Grid as SO has to deal with multiple TOs, driven by their own incentives (for example when scheduling maintenance) this could affect the SO's ability to manage the overall system. From our experience in Scotland, SO-TO interfaces across companies are not straightforward and therefore it is important that Ofgem places the right incentives on network companies to ensure that generators connect to a highly reliable network.

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Mark Cox on 01452 658415, or me.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Angela Hepworth".

Angela Hepworth
Corporate Policy and Regulation Director

Attachment

Extending competition in electricity transmission: criteria, pre-tender and conflict mitigation arrangements

EDF Energy's response to your questions

CHAPTER: Two

Q1. What are your views on our proposed arrangements for asset ownership and responsibilities? In particular can you provide examples of specific scenarios where it may be necessary for ownership transfer of existing physical assets to occur between network operators?

Ofgem's proposed arrangements for asset ownership and responsibilities appears to be appropriate; we understand that suitable CUSC arrangements are in place and these are appropriate to use for 'principles of ownership'.

Q2. Do you agree with our proposed principles for packaging projects?

We believe further clarity is required on how Ofgem intends to evaluate the impact to consumers and industry. We have already highlighted concerns over risk of delivery delay on a generator's route to market.

Q3. Do you consider the processes we have set out for determining which projects to tender are appropriate?

In principle, we support Ofgem's proposals; however, as noted above we consider any project assessment should be shaped by directly affected generators/parties. For instance transmission infrastructure that impacts a generator's route to market directly should not be included without the generator's agreement. Also, in line with Ofgem's intended approach, any materially advanced transmission projects should not be subject to tender.

Q4. Beyond the NOA and the connections process, what other routes should we be utilising to identify suitable projects for competition, eg for non-load projects?

We believe that there should be stakeholder workshops to enable industry parties to challenge the assumptions and approach in the NOA consultations.

Q5. What do you consider should constitute 'early development works' for options ahead of their assessment in the NOA process, ie what works should be undertaken in order to ensure that the most appropriate tendered options are developed for submission at the initial tender checkpoint?

EDF Energy has not identified any further early development works beyond those already identified in the consultation.

CHAPTER: Three

Q6. What are your views on the suggested process for carrying out the pre-tender roles?

It is essential that the process for carrying out the pre-tender roles is transparent and carried out in a timely manner. The suggested process for carrying out the pre-tender roles appears to be appropriate; greater clarity on ensuring the timely delivery of pre-tender arrangements by incumbent TOs would be welcome.

Q7. Regarding preliminary works and the tender specification: (a) What are your views on the scope of the baseline tender specification?

We believe that the scope of the baseline tender specification and associated preliminary works is appropriate. However, we would also expect to see property wayleaves, easements and land rights included.

(b) How likely is it that additional preliminary works will be required, and if so, what types of works are likely to be required?

At this stage we have not identified any additional preliminary works that may be required.

(c) What are your views on: (i) The role of bidders in identifying the need for further information / additional preliminary works (eg additional independent surveys) to inform robust bid assumptions? (ii) The most efficient process for enabling this?

We do not have a view on what a CATO would/ should do if it requires further information.

Q8. What are your views on the proposed arrangements for the data room and bidder clarifications?

It is appropriate for the TO to respond to bidders who wish to raise questions or clarify items relating to information in the project data room. It is important that bidders have access to the latest data/ information to enable them to prepare their bids effectively. Therefore, where not commercially sensitive, it is important that all questions and answers are published in the data room so that all bidders are treated equitably during this process.

We note that Ofgem states that it expects to monitor the timeliness of the TOs' responses, and address any issues where appropriate. We believe that there should be appropriate incentives in place to ensure that TOs respond fully and on time.

It is critical to the successful delivery of these arrangements that Ofgem ensure that a wide range of participants are able to effectively tender in order to deliver lower costs than would otherwise have occurred without these arrangements.

Q9. What are your views on our proposals regarding the funding of preliminary works and tender support activities in RIIO-T1?

We support Ofgem's proposal that works and tender support activities in RIIO-T1 are funded to a value that it will determine ex-post. We agree that it is appropriate for Ofgem to scrutinise the costs proposed by the TO for these works during the tender process to determine the economic and efficient value of the works.

We believe that the proposal that the cost of these works is borne by the successful CATO through its revenue is appropriate. This would ensure that there is no perverse incentive for TOs to inflate costs.

Q10. Do you have any initial views on risk allocation across the preliminary works party and the CATO?

At this stage we do not have views on risk allocation across the preliminary works party and the CATO but look forward to Ofgem's consultation later in 2016 where its views will be detailed.

CHAPTER: Four

Q11. Do you agree with our proposed requirements for incumbent TOs to mitigate potential conflicts of interest, where they are both bidding for and developing a project in RIIO-T1?

In principle, we support Ofgem's proposed requirements for incumbent TOs to mitigate potential conflicts of interest, where they are both bidding for and developing a project in RIIO-T1.

In relation to the Ofgem's business separation measures, we agree that at a minimum, the incumbent TO must be subject to internal scrutiny by a person appointed by the TO to oversee its compliance with the conflict mitigation measures.

Q12. Is internal scrutiny of the arrangements the TO has in place to mitigate conflicts of interest sufficient, or would there be significant additional value in having an independent party scrutinise and audit the TO's arrangements?

At this stage, we believe that Ofgem is in a position to fulfil the role to ensure that the incumbent TO has in place appropriate measures to mitigate conflicts of interest. We do not believe that there is value in having additional scrutiny particularly when the arrangements are first implemented.

Q13. Do you agree with our proposal to manage conflicts for other bidders?

We agree with Ofgem's proposal to mirror the arrangements to manage conflicts of interest for other bidders to those it applies for OFTO tenders.

EDF Energy
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