



**David Navidad Mencía**

**ACS Industrial Services**

Corporate Business Development  
Cardenal Marcelo Spínola, 10 – 28016 Madrid  
T: +34 91 342 90 22  
[dnavidad@acsindustria.com](mailto:dnavidad@acsindustria.com)  
[www.grupocobra.com](http://www.grupocobra.com) [www.grupoacs.com](http://www.grupoacs.com)

James Norman  
Transmission Competition Policy  
9 Millbank, London, SW1P 3GE  
[TransmissionCompetition@ofgem.gov.uk](mailto:TransmissionCompetition@ofgem.gov.uk)

Madrid, 10<sup>th</sup> January, 2016

**Subject: Extending competition in electricity transmission: arrangements to introduce onshore tenders.**

Dear Mr. Norman,

Regarding the consultation “Extending competition in electricity transmission: arrangements to introduce onshore tenders.”, we would like to welcome the initiative and support such interesting process in our role of world’s leading international EPC contractor and concessions developer, among others, in the field of electricity transmission.

Please find attached ACS Cobra response as contribution to the present consultation.

We remain fully available to provide any additional information or clarification during the process.

Thank you very much for your attention.

Kind regards,

David Navidad Mencía

ACS Industrial Services  
Corporate Business Development

## Extending competition in electricity transmission: arrangements to introduce onshore tenders

### CHAPTER: Two

**Question 1: What are your views on the proposed detailed interpretations of new, separable and high value (the 'criteria')?**

We think that the proposed detailed interpretations might be suitable.

**Question 2: Under what circumstances do you think asset transfer from an existing asset owner to a CATO would be required, recognising the principle that projects identified for tendering should be new?**

In principle we do not identify standard circumstances under which it would be required. However, this has to be analysed in a case per case basis.

The transfer should occur under fair market conditions and, if contested, should be reviewed by an independent panel.

**Question 3: What are your views on our proposal that electrical separability should not be required at each interface, but that the SO can propose it to us if it thinks there is a cost-benefit justification based on system operability?**

In our view, electrical separability should not be in principle required at each interface. Electrical separability needs should be considered for the effective protection and operation of the system according to the network codes in place.

If for some reasons the electrical separability is to be considered appropriate from a responsibility boundary perspective, the cost-benefit analysis must be transparent and challengeable.

**Question 4: What are your views on the suggested process and roles for identifying projects for tendering?**

**- We have proposed specific roles for the SO – do you think there are any additional roles the SO could take on to support competition?**

We think they are reasonable despite the SO conflicts of interest identified in Chapter 4.

If there's a project that doesn't initially meet the criteria for tendering, we support Ofgem's suggestion that the SO should assess whether there are aspects of it that could form a sensible package of works that does meet the criteria.

**- What's the most appropriate way to ensure that the network options assessment (NOA) considers the widest range of network options, including those that would be tendered?**

An appropriate way would be to have an independent body to assess it as part of the process (the SO could play a role if the TSO has no direct or indirect financial interest in assets).

Short-term stakeholders' consultation during the process before the NOA final report could also help to timely identify a wider range of network options in addition to the responses to the annual NOA report already considered.

**Question 5: What incentives and obligations should the SO and TOs have for undertaking preliminary works for tendered projects, and is there any value in considering a success fee incentive?**

A success fee incentive linked to the Financial Close of the project might be desirable to mitigate risks from environmental or technical issues that may arise and should have been identified and considered during the preliminary works.

**Question 6: Should CATOs pay for the preliminary works at the point of transfer?**

This is a common practice in some countries (i.e. Peru). If decided to do so, it has to be informed in the tender well in advance to the competing parties in order to be accordingly considered in their respective preparation of the bids.

### **CHAPTER: Three**

**Question 1: What are your views on our proposed late CATO build tender model? Including: the basis of bids; the use of cost sharing factors; and what risks, if any, it would not be efficient for a CATO to manage during construction.**

The described Late CATO Build tender model is reasonable.

The initial solution design, surveys, studies and consents must be 100% reliable as were considered the base for a firm bid.

To evaluate this, it is necessary to know first which info has been made available to the CATO and be provided by the SO/TO with all data on a transparent way.

**Question 2: What are your views on our proposed early CATO build tender model? Including: what tender specification would best facilitate innovative but deliverable bids; and how we can best manage cost uncertainty after the tender.**

When all needed information is not available, the approach of bidding a proposed design, with fixed costs for preliminary works and a 'best indicative cost' for construction and operations might work. Competition based on unit rates and sufficiently broken down Open Book estimates for the Capex and Opex would also be a fair approach for the Early Cato Build tender model that would cover technical project changes justified during development.

A stipend could be provided for pre-qualified but non-awarded tenderers in exchange of the Industrial Property (IP) included in their bids to allow for the use of the technical concept submitted to the preferred bidder.

If the tenderer must provide for firm bids then firmness should be guaranteed conditional to tenderer having access to all needed info ex-ante.

**Question 3: Do you have any views on the best way to tender projects using high voltage direct current (HVDC) technology?**

In our view, HVDC projects should be tendered under the same conditions as the other projects as a general rule.

**Question 4: Do you have any views on our proposal to prioritise late CATO build? Do you have any views on specific circumstances where early CATO build might lead to better outcomes than late CATO build?**

We support prioritising Late CATO Build.

Early CATO Build might also work well and has the potential to provide more optimised, innovative and imaginative solutions to the projects given the competition in the initial solution design. In some cases, it can accelerate permitting processes as a consequence of the use of international experiences in the field of transmission. However, in some countries like Brazil where the permitting was to be done by the tendered some delays have been eventually experienced. Early CATO Build including different progresses in the consent activities might also prove successful.

**Question 5: Do you have any views on how we could mitigate the risk of a CATO not being in place?**

Provide appropriate incentives to all interested parties to be in place.

**Question 6: What are your views on our proposed revenue package for CATOs? Including: - the proposed duration of the revenue term, including how it links to the asset cost recovery period and whether operations and maintenance costs can be fixed over this period; and - our proposed approach to indexation, refinancing and enabling new asset investment.**

The described approach seems reasonable.

**Question 7: What are your views on our proposed package of financial incentives for CATOs? Including: - how we could structure an availability-based incentive to ensure CATOs operate their assets with a 'whole network' view; - the proportion of a CATO's annual revenue that**

**should be at risk; and - whether there are circumstances under which 'payment on completion' would not be appropriate to incentivise timely asset delivery.**

All the incentives are ok but subject to fair access to all needed data ex-ante and during operation. The described approach seems reasonable.

**Question 8: Are there other types of incentives not covered in this chapter that you think should apply to CATOs?**

Not identified.

#### **CHAPTER: Four**

**Question 1: Are there any risks or conflicts of interest arising from the SO's role that we haven't identified?**

No, they have been mostly identified and all involve SO bidding businesses participating.

**Question 2: Are there any risks or conflicts of interest arising from the participation of incumbent onshore TOs that we haven't identified?**

No, they have been mostly identified.

**Question 3: Are there any additional conflicts of interest that we haven't identified?**

Not identified.

**Question 4: What measures do you think would be appropriate to mitigate the risks and conflicts of interest? What additional conflict mitigation measures would be needed if the SO takes on a broader role in supporting competition?**

In our view, the measures and examples described do not ensure a level playing field for all participants.

The probability and severity of the risk of having a conflict of interests at the level of the SO is high despite the measures described. The indirect participation of a subsidiary or an affiliated entity of the SO should be assessed and, if allowed, ring-fenced ex-ante.