

# TRANSMISSION CAPITAL PARTNERS

Katie McFadden  
New Transmission Investment  
9 Millbank  
London  
SW1P 3GE

25<sup>th</sup> January 2017

Dear Katie,

## **Consultation on licence changes to support electricity transmission competition during RIIO-T1**

Transmission Capital Partners manages one of the largest offshore electricity transmission portfolios in terms of the capacity of offshore wind connected. Our managed portfolio of Offshore Transmission Owner (OFTO) assets includes the connections to the Robin Rigg, Gunfleet Sands, Barrow, Ormonde, Lincs and Westernmost Rough offshore wind farms - a portfolio of over 1000MW (circa £800m in capital employed).

We remain strong advocates of introducing competition into the delivery of onshore transmission and we continue to support the development of the required arrangements *inter alia* through industry groups, responding to consultations such as these and, when called upon, providing evidence to parliament.

We understand that this consultation relates only to the implementation of onshore electricity transmission competition policy in the RIIO-T1 price control period and therefore only to Strategic Wider Works projects during that period. Our response to the consultation therefore does not cover issues that would pertain after the end of the RIIO-T1 period.

We note that government and Ofgem have recently published their thinking on the role of the System Operator (SO) and are proposing legal but not ownership separation of the SO from the rest of National Grid. We will respond to that consultation in due course but note that our views on the SO's wider role under ECIT depend on real independence between the SO and the rest of National Grid being achieved (and being seen to be achieved).

Our response to your specific questions is attached as Annex 1.

Yours sincerely,



**Chris Veal**

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## Annex 1 – Responses to specific questions

CHAPTER: One	
<b>Question 1:</b> What are your views on our proposed approach to licence modifications, as outlined in this document, and whether they effectively implement the policy outcomes in our Decision Document?	We generally agree to the proposed licence modifications for NOA/project identification but please see our detailed comments in our responses to the consultation questions below.
<b>Question 2:</b> Do you think that anything is missing from our proposed approach to licence modifications to implement our policies?	We have not identified any omissions.
<b>Question 3:</b> What role do you consider the SO could play to support a tender during the RIIO-T1 price control period in gathering and providing information?	<p>We consider that the SO during RIIO-T1 could support the TOs in the Tender Support Activities, activities that it would ultimately be undertaking in the RIIO-T2 period.</p> <p>It could for example take the lead in devising the reference document we refer to in our response to question 12 below, and in ensuring that all TOs provide the quality of works required for the Tender Support Activities, and as further set out in this reference document.</p> <p>The SO should also have a direct role in reviewing and confirming as appropriate the functional specification for the works required in Schedule 1.</p>
Do you think this activity should be implemented through modifying the SO's licence or by making provisions in tender documentation?	We do not have a preference with respect to implementing this activity through modifying the SO's licence or by making provisions in tender documentation.
CHAPTER: Two	
<b>Question 4:</b> What are your views of our proposed amendment regarding generator connection offers and demand connections? Do you consider SLC 27 is the correct condition to implement this policy, or are there other conditions/reports where this assessment should be placed?	We agree with the proposed amendment regarding generation connection offers and demand connections and that C27 is the correct place for this. It could be clarified as to whether the options to enable connections include only those necessary to enable at least one connection offer that has been accepted or whether it also includes those required to enable connection offers that have not yet been accepted but are still valid. It may be that for confidentiality reasons it is only once an offer has

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	<p>been accepted (and therefore becomes a connection agreement) that these schemes would be included.</p> <p>See our response to question 6 below regarding ensuring that all projects which may meet the criteria are considered for tendering and a single list of these published.</p>
<p><b>Question 5:</b> Do you agree with our assessment that our proposed amendments to SLC will not require any subsequent amendments to either SLC B12 or NGET's SpC 20? If not, please specify what amendments you consider would be required to these licence conditions?</p>	<p>We consider that SLC B12 para 3(c) which sets out the objectives of the STC should be amended as follows:</p> <p>“(c) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the <u>transmission and distribution of electricity</u>,”</p> <p>We do not have any specific proposals in respect of NGET's SpC20 (Business Separation requirements and compliance obligations). We note that the government/Ofgem proposal on the greater independence of the SO is for the SO to be a separate legal entity, separately licensed, within the National Grid group. As such a new SO licence will be required with consequential changes to NGET's licence – we would expect to review these at the relevant time to assess the proposed conflict mitigation/business separation arrangements they contain. Also please see our response to question 7 below in respect of clarification of NGET's roles under the STC between SO and TO.</p>
<p><b>Question 6:</b> What are your views on our proposed definition of SO-led Options as relating to options not identified by transmission licensees? Do you consider that this is wide enough, or do you think that this narrows the scope of what the SO should be considering?</p>	<p>We consider that the definition of SO-led options is adequate in itself, but we note that it only relates to “<b>Major National Electricity Transmission System Reinforcements</b>” which are defined in the NOA Methodology as follows:</p> <p><i>“Major National Electricity Transmission System Reinforcements are defined by the SO to consist of a project or projects in development to deliver additional boundary capacity or alternative system benefits as identified in the Electricity Ten Year Statement or equivalent document.</i></p> <p><i>The intention of this definition is to maximise transparency in the investment decisions affecting the National Electricity Transmission System while omitting</i></p>

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	<p><i>schemes that do not provide wider system benefits. Such system benefits might be a user connection or improved system reliability.”</i></p> <p>This therefore captures schemes which provide wider system benefits (i.e. increase system boundary capability) but not other schemes to meet transmission system needs which may meet the criteria for tendering. Whilst the customer connections clause (SLC C27 8(f)) will capture those related to customer connections there may also be other schemes which could be tendered (such as large asset replacement schemes) which will not be captured by these two criteria.</p> <p>From para 2.22 of the condoc (and para 2.21 of the decision doc) we understand that Ofgem “<i>will consider how non-load projects and other works that may be suitable for competition [will be identified] as part of [Ofgem’s] assessment of RIIO-T2 business plans.</i>” Whilst this won’t capture any projects in RIIO-T1 we consider, given the remaining timescales in RIIO-T1, that this should be sufficient. However, it would be useful if all projects which may meet the criteria for tendering, including those identified by Ofgem as part of the RIIO-T2 process, were to be published in a single place.</p> <p>In SLC C27 para 18(a) “<i>an</i>” should be deleted.</p>
<p><b>Question 7:</b> Do you consider that an update to industry codes would be required as a result of our proposed amendments to SLC C27? If so, please identify what amendments you consider would be required?</p>	<p>Currently the STC does not differentiate between NGET acting as the SO or a TO and simply refers to “NGET”. We consider that the STC needs to clarify the role of NGET as to whether it is acting as the SO or a TO. This will be required in any event as a consequence of the government/Ofgem proposal for greater independence of the SO, which as noted above is for the SO to be a separate legal entity, separately licensed.</p> <p>This is important both to ensure that the obligations under the STC on NGET as a TO are the same as on other TOs and to ensure proper business separation between SO and TO.</p> <p>We have been involved in the industry working group set up to review code modifications as a result of ECIT but we have not yet seen significant progress in this</p>

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	<p>area. We would suggest that the SO is tasked with proposing the necessary amendments to the STC to implement the separation of NGET's role between SO and TO and any other changes necessary as a result of the proposed amendments to SLC C27 and our suggested amendment to SLC B12.</p>
<b>CHAPTER: Three</b>	
<p><b>Question 8:</b> Do you agree the proposed obligations on conduct effectively implement our policy on ensuring the quality of works?</p>	<p>We assume that this question is referring to the obligations set out in SpC 6M.4 and 6M.5 in which the licensee is required:</p> <ul style="list-style-type: none"> <li>i) To provide responses in a timely manner</li> <li>ii) To provide information which is accurate, complete and not misleading</li> </ul> <p>We also note though that SpC 2P.3 requires that <i>"the licensee must act in a manner which is transparent and intended to secure that neither the Bidding Unit nor any other participant in a Competitive Tender obtains an unfair commercial advantage (including any advantage from a preferential or discriminatory arrangement) in connection with a Competitive Tender, as a result of the licensee performing its Tender Support Activities."</i></p> <p>We agree that together these obligations, if complied with, should be sufficient.</p>
<p><b>Question 9:</b> Is the TO providing an update every 2 months sufficiently frequent, or overly frequent, given the likelihood of information availability over that time?</p>	<p>This relates to SpC 6M.3(b) in the period from the initial tender decision until the Final Tender Checkpoint (FTC). We would consider that every two months is probably overly frequent and that quarterly would be sufficient considering that the time between the initial tender decision and FTC could be two years or more.</p>
<p><b>Question 10:</b> Do you have any additions or subtractions from Schedules 1 and 2 of the proposed new licence condition 6M/6J? Where suggested, please also provide an appropriate reasoning.</p>	<p><u>Schedule 1 Tender Specification Document</u></p> <ul style="list-style-type: none"> <li>• This should include detail of requirements to be met at the interface with other TOs/DNOs/connected parties, in particular those detailed technical specifications that are contained in the TISS or CSS in respect of an OFTO. These would not normally be specified in interface agreements.</li> <li>• We assume that items 4 (Initial drawings/designs and specifications for major components) and 5 (Initial plans and specifications for construction</li> </ul>

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	<p>techniques) are for information only and there would be no requirement on the CATO to comply with these (unless pursuant to other requirements, e.g. construction techniques required as a condition of a planning consent).</p> <p><u>Schedule 2 Tender Specification Data</u></p> <ul style="list-style-type: none"> <li>• In addition to item 14 (which is in respect of DNO crossings) all other crossings of utility (energy/water/communications) or transport (road/rail) infrastructure should be provided.</li> <li>• Item 38 would be normally entitled a “Sea-bed Mobility Report”</li> <li>• In addition to item 45 we would expect copies of all land agreements to be made available in the data room.</li> <li>• Details of any CPO processes should be included in item 48.</li> <li>• Details of any nuclear related obligations should be included (e.g. under a Nuclear Site Licence Provisions Agreement)</li> </ul>
<b>Question 11:</b> Is the split of items across Schedules 1 and 2 correct?	<p>We are not sure of the criteria used to determine whether Tender Specification Output items should be in Schedule 1 or Schedule 2 (despite reviewing para 3.15 of the decision doc). We would consider that Schedule 1 should contain all those items that need to be complied with by the CATO – such as the functional spec, detailed technical interface requirements, any mandatory agreements (land, interface, crossings), planning consents – and that Schedule 2 should contain items made available for information but which are not binding on the CATO (studies, surveys etc.).</p>
<b>Question 12:</b> Do the items in Schedules 1 and 2 require further detail to be provided, or are the descriptions provided sufficient, in the context of application to specific projects?	<p>We do not consider that further detail should be provided in the licence but would consider that it could be useful for a separate reference document to the production and content of information provided would be useful. This reference document would set out further detail and perhaps examples, could initially be based on the work carried out for Ofgem by TNEI, and could evolve in light of experience. The relevant licensees should have an obligation to produce the information listed in Schedules 1 and 2 taking into account such reference document.</p>

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<b>Question 13:</b> Is Chapter 6 the appropriate place for the proposed new condition M/J? Should the letter vary by licensee, or should we seek to align the letters across licensees?	We would consider that the provision in 6M/J should be in a new chapter of the special licence conditions.
<b>CHAPTER: Four</b>	
<b>Question 14:</b> What are your views on our proposed modification to implement policy in connection with a TO's conduct prior to and during a tender?	<p>As noted in response to our question to question 8, we consider that the requirement in SpC 2P.3 that "<i>the licensee must act in a manner which is transparent and intended to secure that neither the Bidding Unit nor any other participant in a Competitive Tender obtains an unfair commercial advantage (including any advantage from a preferential or discriminatory arrangement) in connection with a Competitive Tender, as a result of the licensee performing its Tender Support Activities</i>" sets the correct high level obligation on conduct prior to and during a tender. In terms of the detailed implementation we agree except where specified below in our response to question 16 of the condoc.</p> <p>As noted in our covering letter we continue to believe that the SO needs to be seen to be truly independent.</p>
<b>Question 15:</b> What are your views on our proposed modification to put in place timing requirements for when the TO must confirm its intention to bid and put in place conflict arrangements?	We agree that a TO confirming its intention to bid within 8 weeks of the initial tender decision is proportionate. We also agree that at that point it should put in place all the conflict arrangements (including restrictions on the transfer of staff – see our response to question 16 below).
<b>Question 16:</b> What are your views on our proposed modification to restrict the transfer of TO employees between the Bidding Unit and the team undertaking the Tender Support Activities and pre-construction activity?	<p>We do not agree with allowing employees working for the team undertaking Tender Support Activities and pre-construction activity to transfer to a bidding unit up to six months before FTC. The timescale between initial tender decision and FTC could be extended with a significant amount of work taking place within this period. It would not therefore be appropriate that a TO employee involved in this work could then become part of a Bidding Unit. In our view the restriction should commence no later than the day that the TO decides it is going to bid.</p> <p>We do not agree with any claim that this might then unreasonably disadvantage a TO in relation to other bidders (cf para 4.26 of the decision doc). For example, no</p>

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	other bidder would have access to staff developing the relevant assets. The incumbent TO who is carrying out the development will have a portfolio of projects under development at any time and should be able to readily reassign staff that it wants to ultimately transfer to a bidding unit, away from a project as soon as it has decided that it would like to take part in the tender for the relevant assets.
<b>Question 17:</b> Our current drafting allows for the independent compliance officer and single appointed director to fulfil their duties across multiple compliance roles (as set out in several conditions). Do you consider this would present any conflicts of interest or wider issues?	No comment.
<b>Question 18:</b> Do you consider that our proposed location for the new SpC in both NGET's and Scottish licences is the best location? Specifically, is Chapter 2 an appropriate location; should we be seeking to fill unused SpCs instead of adding extra letters; should the letter vary by licensee, or should we seek to align the letters across licensees?	Again perhaps this would be best as a new chapter.

{End}