

James Norman
Head of Transmission Competition Policy
Ofgem
9 Millbank
London
SW1P 3GE

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Dear James

Hinkley Seabank: proposals for competition

Scottish Hydro Electric Transmission plc (SHE Transmission) welcomes the opportunity to respond to Ofgem's consultation on proposals for Hinkley Seabank. We are not a party to the proposed Hinkley development, but we have views on the proposed models for giving effect to competition, which we understand Ofgem is considering applying more generally in the consideration of proposed Strategic Wider Works.

In relation to Ofgem's approach to Strategic Wider Works, we believe that this has delivered a strong and stable regulatory environment within which to make investments. We would welcome Ofgem's clear commitment to the continuing the Strategic Wider Works approach into RIIO – 2.

Whilst we have previously given cautious support to the concept of extending competition in transmission, we have expressed concern over the development of a competitive regime without underpinning legislation. Our concerns in these areas remain and are set out below. Responses to specific questions are provided in an attached appendix.

The extension of competition is best secured through primary legislation

We remain a strong supporter of Ofgem's ambition to secure primary legislation to underpin the extension of competition in transmission (ECIT). We would encourage Ofgem to continue to work with the Government to bring the necessary legislation through the Parliamentary process. The inherently piecemeal nature of a non-legislative approach creates considerable risk and uncertainty for the market as a whole, the consequences of which are ultimately felt by end customers.

Whilst competition can be an effective policy intervention it may not be appropriate (or even the best available intervention) for all circumstances. As such, competition is rarely, if ever, an unfettered policy intervention available to regulators. With a legislative underpinning, Ofgem, the industry and other stakeholders would be able to draw on the Parliamentary debates for evidence of the intent of Parliament in relation to the use of competition as a policy intervention. These debates are particularly important in energy markets, where the Government has a number of policy objectives, including sustainability and decarbonisation. Ofgem has responsibility for only a subset of those objectives and, particularly where there is the potential for objectives to conflict and/or to lead to unintended consequences for other policy areas, guidance from Parliament would be invaluable in supporting Ofgem in making decision on whether the use of competition is in the wider interests of citizens and consumers. Ofgem's indication that it would consider a range of factors, including the impact on delivery timescales, when determining if competition is appropriate is noted and welcome, but this pragmatism cannot be a long term solution in lieu of primary legislation.

The absence of primary legislation raises a number of uncertainties, mostly relating to the policy intent and how it sits alongside other policy objectives, as well as practical challenges around implementation. By incorporating the proposals for competition within the consultation for a specific project Ofgem understates the significance of competition for all stakeholders (not only those who might be aware of this particular consultation) and we would ask that the proposed extension of competition is approached in a more appropriate way, with a stand-alone engagement with all affected stakeholders, including consultation and a full Regulatory Impact Assessment. Such an assessment would involve taking into account the impact of those uncertainties and implementation challenges on both industry and end customers. We would ask that Ofgem re-assesses its approach to competition and, if still minded to proceed, undertakes a discrete consultation including a full Regulatory Impact Assessment.

As part of a revised approach we would ask Ofgem to set out clearly the end-to-end process it proposes to operate to ensure that it takes an evidence-based decision on whether or not competition is the most appropriate policy intervention in any specific case. This would allow the wider set of stakeholders who may be affected by a decision on whether or not to introduce competition in a particular case to make representations to Ofgem. The impact on end customers of the decision should be paramount in Ofgem's approach.

Ofgem has significantly underestimated the practical challenges to extending competition

Although competition is already commonplace in the procurement for major new projects, the extension of competition to the role traditionally played by the transmission operator represents a significant leap into the unknown. In the absence of underpinning legislation there is considerable uncertainty as to how the piecemeal approach being taken by Ofgem is

actually going to work in practice. These uncertainties and implementation challenges would ultimately mean that end customers face longer delivery times and higher costs, with the potential benefits of competition realised only following a lengthy period of pain. It is unclear from the consultation what analysis Ofgem has undertaken on the impact of this period of transition on end customers.

Ofgem heralds the example of SSE's current experiences in Shetland, using something similar to the special purpose vehicle (SPV) model described in the consultation. The shared experiences of Ofgem and our Distribution colleagues in the Shetland have highlighted a number of deficiencies in the model itself as well as in the implementation. Whilst our colleagues have learned considerably from the process and would hopefully be able to apply those learned lessons to future projects, it is quite a leap to suggest that that it provides a good example for the SPV approach to competition. We would be happy to arrange a more in depth discussion with the Distribution team working on the Shetland project.

Given the practical difficulties experienced by our Distribution colleagues with the SPV model in Shetland, the proposed competition proxy model may serve as a potentially lower risk approach, should Ofgem ultimately decide to move ahead with a non-legislative model. However, there are significant risks from this approach also and more work would need to be undertaken before this model could be taken forward. The model is underdeveloped in the consultation. Again, we would encourage Ofgem to undertake a stand-alone consultation on how it proposes to take forward measures to extend competition in transmission, including a full Regulatory Impact Assessment. We would be supportive of Ofgem arranging a stakeholder working group to examine potential options from an end-to-end perspective, the output from which could subsequently be reflected in a future Ofgem consultation.

The difficulties which have arisen in Shetland, the practical challenges to taking forward competition using the SPV and the competition proxy model, together with the inherent risks involved with the non-legislative approach to competition would suggest that Ofgem would be wise to move cautiously. We also believe that by incorporating proposals for how to extend competition in transmission as a mere component of a consultation on a specific project Ofgem materially understates the significance of what is at stake for all stakeholders. We would strongly encourage Ofgem to rethink its approach and, in the absence of primary legislation, undertake a stand-alone consultation exercise with all affected stakeholder.

We would welcome the opportunity for further dialogue as Ofgem's thinking develops.



Yours sincerely

Campbell Cowie
Head of Regulation - Transmission