

To all holders of an electricity
transmission licence and other
interested stakeholders

Email: NTIMailbox@ofgem.gov.uk

Date: 16 December 2019

Dear licensees and stakeholders

Statutory consultation on a proposal to modify standard condition C27 (*the Network Options Assessment process and reporting requirements*) of the electricity transmission licence

We¹ are proposing to modify standard condition C27 of the electricity transmission licence ("**C27**"). Alongside this letter, we have published a notice of a statutory consultation on our proposal ("**Notice**").

From 12th February 2019 to 14th March 2019, we held a consultation (the "**February 2019 Consultation**") which covered the proposed modifications to C27 set out in the Notice (save for two differences, explained further below).² Preceding this, we held an informal consultation from 23rd January 2018 to 20th February 2018 (the "**January 2018 Consultation**") covering initial proposed modifications to C27³. The responses to this informal consultation are summarised further below in the letter.

For the reasons set out in the next section of this letter, we have decided not to make the modifications proposed in the February 2019 Consultation and we are re-consulting on proposed modifications to C27.

Why we are re-consulting

On 4th September 2018, Ofgem consented to transfer part of the licence of National Grid Electricity Transmission (NGET) to National Grid Electricity System Operator (NGESO) (the "**Consent**").⁴ Paragraph 11 of the Consent provided that "*Those parts of NGET's electricity transmission licence which are subject to this consent and which will be transferred to NGESO on 1st April 2019, will reflect any modifications made under s11A of the Act prior to the date of transfer as if they had been included in the Notice of Proposed Partial Transfer of 24 May 2018*".⁵

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-modify-standard-condition-c27-electricity-transmission-licence>. The responses to this consultation are also available on this page.

³ <https://www.ofgem.gov.uk/publications-and-updates/consultation-changes-standard-licence-condition-c27>

⁴ <https://www.ofgem.gov.uk/publications-and-updates/consent-partially-transfer-electricity-transmission-licence-held-national-grid-electricity-transmission-plc-national-grid-electricity-system-operator-limited>

⁵ <https://epr.ofgem.gov.uk/Content/Documents/Consent%20to%20partial%20transfer%20of%20National%20Grid%20Electricity%20Transmission%20Licence.pdf>

We did not make the proposed modifications to C27 (on which we consulted between 12th February 2019 and 14th March 2019) prior to 1st April 2019.

As a consequence of paragraph 11 of the Consent, and following NGESO becoming a holder of its own distinct electricity transmission licence on 1st April 2019,⁶ we are issuing a new consultation on the proposed modifications to C27 set out in the Notice.

Differences from the February 2019 Consultation

Substantive – early development “desktop works”

There is one substantive difference between the proposed modifications to C27 in the February 2019 Consultation and the proposed modifications set out in the Notice.

The difference is that we propose that the ESO’s role in early development should be described as “desktop works”.

The reasons for this change are explained further under bullet 3 of ‘Summary of the proposed modifications’ below.

Non-substantive

There is one non-substantive difference between the proposed modifications to C27 in the February 2019 Consultation and the proposed modifications set out in the Notice.

The difference is that we no longer propose to make housekeeping changes to the existing paragraph 15(b) of C27 (those changes being splitting the paragraph into two parts and adding the word “and”).

The reason for this is as follows:

1. A statutory consultation on EU Exit and modifications to the electricity transmission licence was launched (the “**EU Exit Statutory Consultation**”) on 4th July 2019 and closed on 2nd August 2019.⁷
2. The EU Exit Statutory Consultation includes proposed modifications to C27. In particular, to the existing paragraph 15(b) of C27.
3. In view of the above and to aid certainty, simplicity and clarity we no longer intend to make the housekeeping changes to the existing paragraph 15(b) of C27 which featured in the February 2019 Consultation.

For the avoidance of doubt, any proposed modifications in the EU Exit Statutory Consultation are distinct from the proposed modifications set out in the enclosed Notice. However, we note an overlap concerning a proposed modification to remove the reference to “TYNDP” from existing paragraph 19 of C11 to a new paragraph numbered 21 in C27. We believe this interaction to be non-substantive and will coordinate any future modification decisions as appropriate on this matter to ensure clear numbering.

⁶ <https://www.ofgem.gov.uk/publications-and-updates/eso-separation-authority-s-decision-grant-or-transfer-relevant-consents-and-issue-direction-national-grid-electricity-system-operator>

⁷ <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-changes-national-grid-eso-electricity-transmission-licence>

Statutory consultation on proposed modifications to C27

The remainder of this letter provides an overview of our proposed modifications to C27, a summary of the responses to our previous January 2018 Consultation and an update on developments since that consultation.

To provide views on our proposed modifications to C27, please use the details in the Notice published alongside this letter.

Where appropriate, we will also consider responses to the February 2019 Consultation when considering whether to make the proposed modifications to C27.⁸

Background on proposed modifications to C27

C27 sets out requirements regarding the Network Options Assessment (“**NOA**”) report, which is published each year by NGENSO.

We have been developing changes to C27 to implement policy decisions made through our Integrated Transmission Planning and Regulation (ITPR) project and our Extending Competition in Transmission (ECIT) project.

Previous consultations

1. From 25th November 2016 to 27th January 2017 we informally consulted on a set of proposed amendments to C27.⁹
2. Following consideration of the responses to that consultation, and further consideration of the structure of the proposed amendments we informally consulted on a further set of changes to C27 between 23rd January 2018 and 20th February 2018 in the January 2018 Consultation – more information on this informal consultation is provided below.¹⁰
3. We held a statutory consultation (based closely on the proposals in the January 2018 Consultation) from 12th February 2019 to 14th March 2019.¹¹ As referred to above, we have decided not to make the modifications and we are re-consulting.

Summary of the proposed modifications

In summary, the proposed modifications fall into four parts:

- 1. Restructuring parts of C27 to provide a non-exhaustive list of the types of options for Major National Electricity Transmission System Reinforcements (“MNETSR”) that the NGENSO should set out in the NOA report.**

This proposed modification is intended to increase clarity.

As stated above, the list is non-exhaustive and does not seek to define what constitutes an option for MNETSR. For the avoidance of doubt, any other types of option for MNETSR not included in the list can be included in the NOA report.

The existing C27 does not seek to define what constitutes an option for MNETSR. It does refer to four types of option that should be seen as options for MNETSR, although these are not set out together in a numbered list.

⁸ The consultation responses can be found by following the hyperlink in footnote 2.

⁹ <https://www.ofgem.gov.uk/publications-and-updates/consultation-licence-changes-support-electricity-transmission-competition-during-rjio-t1>

¹⁰ <https://www.ofgem.gov.uk/publications-and-updates/consultation-changes-standard-licence-condition-c27>

¹¹ <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-modify-standard-condition-c27-electricity-transmission-licence>

The proposed modifications to C27:

1. bring the four types of option mentioned in the existing C27 together into a numbered list;
2. add a further four types of option, which are not referred to in the current C27. Table 1 of the January 2018 Consultation provides further explanation of the intended meaning behind these types of option.

The types of option listed are not mutually exclusive. In other words, an option could fall within more than one of the types listed.

2. A new requirement for the NGESO to assess certain projects set out in the NOA report against the criteria for competition, as described in the Guidance on the Criteria for Competition.¹²

This is intended to implement our previous policy decisions that NGESO should make a recommendation on which, if any, of the projects that it recommends should be developed further, meet the criteria for competition. We additionally propose to implement the same NGESO criteria assessment for generator and demand connections, as decided in our November 2016 policy decision document.¹³

We note that NGESO has already undertaken and published the assessment of such projects set out in the January 2018 and January 2019 NOA reports. This was also included in the NOA methodology consultation published in July 2018.¹⁴

3. A new requirement for the NGESO to undertake early development of options it intends to set out in the NOA report where early development is not carried out by another transmission licensee.

This is intended to implement our November 2016 decision that the NGESO should be responsible for undertaking early development of alternative or reduced build solutions to meet system needs.

The aim behind the new requirement is to promote the inclusion of the widest possible range of solutions in the NOA. Such options might include, for example, whole-system or commercial solutions, and options recommended previously by NGESO to proceed but which have not been progressed by the relevant TO to which the recommendation was given.

The requirement helps to achieve this aim by ensuring that these options are sufficiently developed such that they can be compared to other options as part of the NOA. This requirement represents an extension of the existing requirement in C27 for NGESO to undertake early development for 'Non Developer-Associated Offshore Wider Works'.

Early development works are limited to 'desktop works'. We have added this reference to 'desktop works' following consideration of the responses to the consultation that we held from 12th February 2019 to 14th March 2019. Some stakeholders expressed the view that activities beyond desktop works (e.g. consenting), would continue to sit best with a TO, rather than the NGESO.

¹² The criteria for competition are New, Separable, and High Value. More detail on the definitions of each of these criteria is available in the Guidance on the Criteria for Competition published on 12th February 2019, <https://www.ofgem.gov.uk/publications-and-updates/guidance-criteria-competition>

¹³ https://www.ofgem.gov.uk/system/files/docs/2016/11/ecit_november_2016_decision.pdf

¹⁴ <https://www.nationalgrideso.com/sites/eso/files/documents/NOA-methodology-July-2018.pdf>

Having considered stakeholders' comments, we are satisfied that it is not in consumers' interests at this stage to require that early development activities go beyond desktop works, and our proposed licence modifications reflect this.

We intend to keep early development works under review. If we consider there is consumer benefit, we may bring forward proposals under which the requirement on NGESO to carry out early development would go beyond desktop works.

- 4. Structural and housekeeping changes.** We propose a series of modifications to clarify requirements within C27, for example on the provision of data to the Authority.

A marked-up and a clean version of C27, showing our proposed modifications, are enclosed as Appendices 1 and 2 of the Notice published alongside this letter.

January 2018 Consultation

As referred to above, we informally consulted on proposed modifications to C27 in our January 2018 Consultation.

The proposed modifications set out in the enclosed Notice (and in the February 2019 Consultation) are closely aligned with the proposals in the January 2018 Consultation. For that reason, we provide more information about the January 2018 Consultation and responses below.

As we noted earlier there are some differences between the proposals in the enclosed Notice and the proposals in our January 2018 Consultation. Two of those differences are explained further above in this letter. The other differences are explained in the summary of responses to our January 2018 Consultation below.

Responses to our January 2018 Consultation

We received responses to our January 2018 Consultation from the three incumbent onshore transmission owners (TOs), NGESO¹⁵ and one Distribution Network Operator (DNO). We published the responses on our website.¹⁶

In the remainder of this section we set out the main points raised by stakeholders in response to our January 2018 Consultation (including, where appropriate, additional detail provided during subsequent engagement) alongside our views on the points. Where relevant we provide a description of how our proposals changed following our January 2018 Consultation.

References to paragraphs in the following sections are references to paragraphs in the proposed modified version of C27 in the Appendices to the Notice.

Competition and process related responses

Two respondents considered that we should not make any of our proposed modifications to C27 until Parliament has passed the Competitively Appointed Transmission Owner (CATO) legislation.¹⁷ The respondents said that the changes in C27 are intrinsically linked to the CATO form of competition developed between 2015 and 2017.

¹⁵ The response from National Grid was a joint TO-SO response.

¹⁶ <https://www.ofgem.gov.uk/publications-and-updates/consultation-changes-standard-licence-condition-c27>

¹⁷ In June 2017 we published an update on competition stating that we were pausing development on the CATO regime until such time as we had further clarity on the timetable for the CATO enabling legislation: <https://www.ofgem.gov.uk/publications-and-updates/update-extending-competition-transmission>

Our proposed changes require NGESO to give its view of which, if any, of the projects that it recommends should be developed further meet our 'criteria for competition'.¹⁸ As set out in our competition update in January 2018, we consider that those criteria remain appropriate for identifying projects that may be suitable for delivery through our Competition Proxy and/or SPV delivery models. We therefore consider that the changes being made here remain relevant even without the CATO legislation.

Two stakeholders stated that the process for identifying projects using the criteria for competition should include an assessment of the costs and benefits of applying competition to that project. One of the responses specified that this assessment should occur prior to a decision to implement competition for a project. Our proposed changes to C27 require NGESO only to give its best view of which, if any, projects meet the criteria for competition. It is our role, as regulator, to decide whether a project meets the criteria, and which delivery model will be applied, including considering the benefits and risks to consumers.

One respondent stated that C27 should include a requirement for NGESO to undertake its assessment of projects against the criteria for competition in line with the repackaging principles set out in our November 2016 decision document. To-date, this has been included by NGESO as part of its NOA methodology. Our view is that the NOA methodology is the correct place to include this, and we expect this to be included as a part of future NOA methodologies.

Connections related responses

One respondent questioned whether it is appropriate to include generator and demand connections in the NOA, given that the NOA is underpinned by the probabilistic Future Energy Scenarios (FES) rather than absolute generation and demand background. Our view is that, provided NGESO is suitably clear in its report, the NOA can include both probabilistic and absolute requirements. We note that the NOA methodology for 2018/19 sets out one possible way to include connections in the report, which we consider could act as a reasonable starting point. For clarity, proposals for the NOA methodology are developed not less than once in each financial year.

One respondent considered that we should undertake further consultation on the proposed process for integrating connections with the NOA, and should only implement connections into the NOA for RIIO-T2. Two other respondents set out their views that we should consider further how the NOA interacts with the existing connections processes. We consider that stakeholder engagement with NGESO on its NOA methodology is the best way to ensure that NGESO's proposed method for integrating connections can work for all parties. Our view is that there is a benefit to starting to develop and refine the processes for connections within the NOA now.

Responses related to early development work

One respondent considered that it was not appropriate for NGESO to take forward projects that the relevant TO did not pursue, and that instead any disagreement should escalate to another arbiter. Similarly, most stakeholders noted that they did not know of any instances where the TO had not taken forward projects identified by NGESO through the NOA report.

The scope of the requirement is intentionally broad because we want the widest possible range of options to be included in the NOA. We acknowledge that there have been no instances where a TO has not progressed a recommendation by NGESO but we want to make sure that, were that to happen, the project would continue to be suitably developed such that consumers would not lose out on potential benefits.

¹⁸ Our criteria for competition are: new, separable, and high value. More details on the definitions of these criteria are set out in the Guidance on the Criteria for Competition published on 12th February 2019, <https://www.ofgem.gov.uk/publications-and-updates/guidance-criteria-competition>

One respondent requested further clarity on the scope of works that would comprise any early development works. In our November 2016 decision, we said that “...*these early development works will principally be desk-based analysis*” and that “...*this will enable the SO-led options to be compared with other options under the NOA process*”.

We changed our proposals following the January 2018 Consultation to clarify that the purpose of the requirement for early development work is to enable options to be adequately compared. As referred to above, having considered the responses to the February 2019 Consultation, we have also subsequently limited early development work to ‘desktop works’.

Our view is that NGESO is best placed to understand the required scope of development for a given option to allow NGESO to effectively/appropriately compare the option with other options put forward for consideration in the NOA. NGESO should continue to develop its approach through the NOA methodology. Stakeholders and Ofgem will be able to input into that process.

One respondent noted that the options described by paragraph 16(a)(v) (“options that require liaison with a holder of a distribution licence on distribution system solutions”) should be developed by or in conjunction with the relevant DNO, rather than by NGESO in isolation. We note that there is substantial work being undertaken within industry to explore routes for these cross-sector solutions, for example through the ENA’s Open Networks project.

Responses related to the term “interested persons”

Three respondents raised questions related to the term “interested person” found in the new paragraph 16(a)(viii). In summary, respondents considered that Ofgem should:

- define interested persons;
- detail the process by which interested persons would be able to submit proposals; and
- consider whether it is appropriate or efficient for NGESO to be required to analyse all options submitted by possible interested persons.

In respect of all of the points raised by respondents, our view is that NGESO is the party best placed to define the process for submitting proposals and appropriately select submitted options before setting them out in the NOA report. As we stated in our January 2018 Consultation, “*In relation to [interested persons], we note that the obligation in subparagraph 16(a) is (in summary) for the licensee to set out its best view of options that could meet system needs. Consistent with this, for the avoidance of doubt, it is not our intention that the SO set out all options suggested by interested persons*”.

Responses related to types of options

One stakeholder noted that they considered the wording of the option related to interconnector capacity to be different to the agreed scope of NGESO’s role in relation to identifying interconnector capacity. Having reviewed the proposed drafting, for the purposes of clarity we decided to remove the proposal to move the interconnector wording into the non-exhaustive list of types of option within paragraph 16(a). Two stakeholders considered that the drafting of the proposed amendments to the NOA appeared to exclude transmission options. This was not our intention.

To provide clarity to stakeholders that the NOA should include any transmission build options, we changed our proposals to include an explicit reference to those types of options at point (ii) in the list in paragraph 16(a).

Next Steps

We invite comments or views on the proposed modifications to C27 as set out in the Notice. Please send all responses to NTIMailbox@ofgem.gov.uk by 20 January 2020.

Yours faithfully,

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