

New Transmission Investment team
Ofgem
10 South Colonnade
London
E14 4PU

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Contact / Extension
Lynne Bryceland
0141 614 3124

Dear team

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

SP Transmission plc (SPT) welcomes the opportunity to respond to the above mentioned consultation on Ofgem's proposals to modify standard condition C27 concerning the Networks Options Assessment (NOA) process and reporting requirements. We note that there has been limited change to the proposals since the January 2018 and February 2019 consultations. Therefore, the comments, as set out in our responses to these consultations, dated 20th February 2018 and 14th March 2019, also remain of relevance.

A new requirement for the ESO to assess certain projects set out in the NOA report against the criteria for competition

SPT recognises the benefits of competitive processes, where they deliver savings to consumers. We note Ofgem's publication of the Guidance on the Criteria for Competition, which sets out the criteria of new, separable and high value (>£100m) for projects to be considered eligible for competition. Whilst this Guidance is helpful, in helping TOs and the ESO determine which projects could be eligible for the potential late competition models of CPM, SPV and CATO, given the significance of the criteria, we would ask that Ofgem embeds the competition criteria within each of the licensees' licenses, not just in Guidance.

In the absence of Ofgem's late competition models, we remain of the view, that there is no need for the proposed licence changes at this time, particularly as acknowledged in the text of this statutory consultation, that the "*NGESO has already undertaken and published the assessment of such projects set out in the January 2018 and January 2019 NOA reports*"¹. Given that C27 is intrinsically linked to Ofgem's competition policy, we would expect Ofgem's competition models to be set out in the relevant licences, in the first instance, before then making amendments to this particular licence condition.

We consider it vital that decisions on competition are based on robust advice and cost justifications to ensure that consumers are protected. We continue to argue that detailed Cost Benefit Analysis must be undertaken by Ofgem, with support from the relevant TO(s), to determine whether a proposed competition model will deliver additional benefits to consumers, compared to the status quo, Strategic Wider Works (SWW).

Additionally, where it is considering the relative merits of different options for any particular project, the ESO must be able to assess the potential benefits, as well as likely costs, of any option, e.g. the increased risks and interface costs of multi-party solutions.

¹ Ofgem, (December 2019), Statutory consultation on a proposal to modify C27 (p4)

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

Despite our view that the proposed licence amendments are premature, we have outlined our views on the key licence amendments proposed by Ofgem, below.

The licence rightly recognises that the ESO can only make ‘recommendations’ to TOs, as each TO has its own duty under S.9 of the Electricity Act 1989 to “*develop and maintain an efficient, co-ordinated and economical [electrical] system*”. Given that it is ultimately the TOs’ responsibility to determine how their network is operated, any amendments to C27 must be drafted in a way which recognises this.

In this respect, we continue to have concerns with 16(a)(vi) “*options recommended previously by the licensee to proceed but which have not been progressed by the transmission licensee to which the recommendation was given*”. It appears odd, that the ESO is obliged to consider network options, which the transmission licensee has dismissed, albeit for sound reasons, given the various statutory duties and licence obligation already placed on TOs. However, should Ofgem make this amendment, we would suggest an additional requirement is added to 16(a), which makes the ESO consider, and factor in the reasons, why the transmission licensee dismissed the option under 16(a)(vi), in the first place.

Paragraph 23, suggests that the ESO must undertake the early development of an option, where that early development is not carried out by a TO. We are not aware of any instances where the ESO would choose to embark upon the early development of options, that the TO has chosen not to. Nor are we aware of a circumstance where a TO would not be able to agree with the ESO that an early development option should be progressed, or not. We welcome the latest update to this proposed licence, following the February 2019 consultation, in that any early development works undertaken by the ESO should be limited to ‘desktop works’ as Ofgem “*are satisfied that it is not in consumers best interests at this stage to require that early development activities go beyond desktop works²*”. However, we continue to hold the view that this licence amendment is not required, given the existing licence responsibilities of licensees. Instead we would suggest that this paragraph specifically acknowledges that it is the TO, rather than the ESO, that has the duty under section 9 of the Electricity Act 1989 to “*develop and maintain an efficient, co-ordinated and economical [electrical] system*”. We would also suggest that Ofgem refers to “*one or more transmission licensees*” in the first sentence of paragraph 23, given that TOs are required to co-ordinate on major and cross border projects.

Notwithstanding our comments above, if Ofgem decides to proceed with the modifications then the drafting in paragraphs 23 and 24 needs to be amended as follows to properly reflect Ofgem’s decision that early development works are limited to desktop works:

- First line of paragraph 23 should refer to paragraph 24, not just paragraph 24(b), as paragraph 24(a) contains the limitation to desktop works.

² Ofgem, (December 2019), Statutory consultation on a proposal to modify C27 (p5)

- Paragraph 24(a) should read “early development is limited to desktop works”. The current drafting suggests early development “may” constitute other works, which is not in line with Ofgem’s decision. Ofgem note that they may bring forward proposals under which the requirement on the ESO to carry out early development would go beyond desktop works.³ However the drafting should reflect Ofgem’s current policy position that early development activities should not go beyond desktop works. Any future proposals to extend the scope of early development works should be properly consulted on, with any required modifications made after that consultation process.

Further proposed amendments to Standard Licence Condition C27

We question why 16(a)(vii) “options that cross the boundaries of two or more electricity licensee’s transmission areas” is required, given that historically there have been many examples of cross boundary proposals which have been developed jointly and delivered successfully by TOs.

Paragraph 16(a)(viii) “options suggested by other interested persons”, as currently drafted, is unclear. There is no explanation as to who these ‘interested persons’ may be, nor the process by which they would be expected to submit options. We would therefore welcome further clarification in the licence on these particular points.

The proposal in 16(e) where the ESO includes an assessment of connection offers, and their suitability for competition, is premature. As noted above, Ofgem does not, as yet, have a clear competition policy and process in place, which determines how Ofgem’s competition policy would interact with the established connection offer process. We consider that this could have unintended consequences, in respect of, the timely delivery of new connections and reinforcing solutions.

Finally, it is important that Ofgem bears in mind that any increase in the number of options required to be assessed by the ESO, adds further requirements, to an already highly resource-intensive process. There is a risk that by adding significant workload into the NOA process, the quality of the final report is undermined, which would be an unfortunate outcome.

Please do not hesitate to get in touch should you wish to discuss any of the points raised in this consultation response.

Yours sincerely



Lynne Bryceland
Transmission Policy and Licence Manager

³ Ofgem, (December 2019), Statutory consultation on a proposal to modify C27 (p5)