



Making a positive difference  
for energy consumers

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

Email: [NTIMailbox@ofgem.gov.uk](mailto:NTIMailbox@ofgem.gov.uk)

Date: 28 August 2020

Dear licensees and stakeholders

**Notice under Section 11A(2) of the Electricity Act 1989: statutory consultation on proposed licence modifications for the Hinkley-Seabank project under the Strategic Wider Works (SWW) arrangements**

This letter is a statutory consultation on proposed licence modifications to National Grid Electricity Transmission plc's ("NGET") electricity transmission licence (the "licence") following on from our<sup>1</sup> decision of 22 May 2020 (the "May decision")<sup>2</sup> and our subsequent informal licence-drafting consultation of July 2020 (the "July consultation")<sup>3</sup>. In our May decision, we approved £514.7m of additional allowed expenditure (in 2009/10 prices) for the Hinkley-Seabank project, NGET's technical solution for connecting EDF's Hinkley Point C nuclear power station in Somerset to the GB transmission network (the "Hinkley-Seabank project").

To implement the May decision, we propose to modify NGET's licence by inserting an SWW output and allowed expenditure for the Hinkley-Seabank project into Special Condition 6I (Specification of Baseline Wider Works Outputs and Strategic Wider Works Outputs and Assessment of Allowed Expenditure) of the licence ("Special Condition 6I"). We also propose to modify Part B of Special Condition 6I to reflect changes related to Cost and Output Adjusting Events ("COAE") set out in our May decision.

A Notice under section 11A(2) of the Electricity Act 1989 (the Act) including the proposed modifications to Special Condition 6I is published alongside this letter.

Further details of the project and the determination of the SWW output and allowed expenditure are set out in our October 2019 consultation ("October 2019 consultation"),<sup>4</sup> our subsequent May decision and our July consultation. However, the main points are summarised below.

If you wish to respond to this consultation, please do so on or before 28 September 2020. Please email your response to [NTIMailbox@ofgem.gov.uk](mailto:NTIMailbox@ofgem.gov.uk), or, if you are unable to email your response, please post your response to New Transmission Investment, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU.

<sup>1</sup> 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.

<sup>2</sup> [Decision on our project assessment for the Hinkley-Seabank electricity transmission project](#)

<sup>3</sup> [Consultation on a proposal to modify Special Condition 6I of National Grid Electricity Transmission's RII01 electricity transmission licence to implement the Hinkley-Seabank decision](#)

<sup>4</sup> [Hinkley - Seabank: Consultation on cost assessment](#)

## **Background on the Hinkley-Seabank project and summary of our May decision**

The Hinkley-Seabank project comprises:

- 49km of 400kV overhead lines – mostly using ‘T-Pylons’ rather than traditional lattice towers;
- 8.5km of underground cabling through the Mendip Hills Area of Outstanding Natural Beauty (AONB);
- construction of a new substation and a reconfiguration of two existing substations; and
- a reconfiguration of the local 132kV network.

In November 2018, NGET made a cost assessment submission (“**Project Assessment submission**”) to us for consideration under the SWW arrangements in Special Condition 6I for the Hinkley-Seabank project.

We consulted on our views on the Project Assessment submission in our October 2019 consultation. Having considered the responses to our October 2019 consultation we published our May decision. Our May decision sets out the reasons for our decision on cost allowances for the Hinkley-Seabank project.

### **Summary of our July consultation and responses**

We published our July consultation to seek the views of stakeholders on our proposed licence modifications, implementing our May Decision, before publishing this statutory consultation.

Further to our May decision, our July consultation in relation to the Hinkley-Seabank project, set out our proposed licence drafting to:

- Require NGET to deliver a SWW Output at boundary B13,<sup>5</sup> by the end of Q3 2024/25;
- Increase NGET’s allowed expenditure by £514.7 million (in 2009/10 prices); and
- Make changes related to Cost and Output Adjusting Events.

The July consultation explained the key modifications that we proposed to implement the May decision and included the proposed modifications as an appendix to the letter.

We received two responses to the July consultation. These were from Scottish Hydro Electric Transmission plc (SHE Transmission) and NGET.<sup>6</sup>

SHE Transmission welcomed our proposal to describe the Hinkley-Seabank output using continuous ratings and our proposal to take the same approach for future SWW projects, where appropriate.

NGET broadly welcomed our proposals, and provided detailed comments on several key topics. We summarise these in turn, below.

#### *Definition of the Hinkley-Seabank output*

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<sup>5</sup> The specific technical deliverables required through delivery of the Hinkley-Seabank project are set out in the new Table 5 of our proposed licence modification. Our July consultation provides further details on these technical requirements.

<sup>6</sup> Both responses are non-confidential and are published on our website, alongside the [July consultation](#).

NGET said in its response to our July consultation that the required delivery date of 'end of Q3 2024/25' is too specific and overly restrictive. NGET suggested that we define the required delivery date as '2024/25'. NGET stated that using a specific quarter as a delivery date differs from Table 1 in Special Condition 6I, where NGET's Baseline Wider Works projects are listed and defined.

We note that using a specific quarter as a delivery date is in line with how we have defined SWW outputs for other Transmission Owners (TOs). It is our intention to maintain consistency in how we define such outputs, where possible. We propose to maintain our drafting on this issue, in line with the text set out in our July consultation.

## *COAEs*

### Materiality threshold

NGET said in its response to our July consultation that it believed that a 10% materiality threshold for the qualifying COAE risks would expose it to an unacceptable degree of risk.

We decided to set the threshold at 10% in our May decision and explained our reasons for doing so in that decision. In coming to our May decision we considered the views of NGET and other stakeholders, along with all other relevant considerations. Having considered NGET's response to our July consultation we confirm that our decision on the threshold remains as stated in our May decision.

### Existing COAE risk items

In our drafting proposals in the July consultation, two of the risk items covered by the existing COAE provisions in Special Condition 6I (the imposition of additional terms or conditions of any statutory consent, approval or permission; and unforeseen ground or seabed conditions) were not included within the new COAE provisions specific to the Hinkley-Seabank project. We explained that this was because we would be providing NGET with an efficient up-front allowance for those two risk items. We also stated that our May Decision included a drafting error because it suggested the risk items in the new COAE provisions would be added to the existing risk items in the COAE provisions, therefore implying that all the existing COAE risk items would be applicable to the Hinkley-Seabank project.

NGET said in its response to the July consultation that there remained significant risks associated with the two abovementioned risk items that were not covered by the up-front allowance that we had decided to provide.

Having considered NGET's comments and all other relevant considerations, we consider it is appropriate to include the two abovementioned risk items in the new COAE provisions specific to the Hinkley-Seabank project. This is because we are satisfied that there are significant areas of risk associated with the abovementioned risk items that are not covered by our up-front contingency allowance and it would be inefficient to set an up-front allowance for them.

The proposed licence modifications set out in Schedule 1 to the Notice accompanying this letter have been updated to include the two abovementioned risk items in the new COAE provisions specific to the Hinkley-Seabank project.

If, following this statutory consultation, we decide to implement our proposed licence changes, we note that in making any claim under the COAE provisions which includes costs associated with the two abovementioned risk items, NGET will be required to clearly demonstrate that the costs cannot otherwise be recovered under Special Condition 6I (including under the up-front contingency allowance).

### Wording of two new risk items

In its response to the July consultation, NGET raised some concerns with our proposed text for 6I.14(b)(ii) and (iv), relating to two specific COAE risks within Special Condition 6I. Having considered NGET's response, and all other relevant considerations, we have updated our proposed licence modifications (6I.14(b)(iv) and (vi) in Schedule 1 to the Notice accompanying this letter) to implement our May decision.

#### *Treatment of late delivery*

Our May decision confirmed that costs associated with the delay or cancellation of the Hinkley Point C ("HPC") project will not be included within the Hinkley-Seabank COAE mechanism. Our May decision stated that, if there was a significant delay or cancellation to the HPC project, any associated costs to Hinkley-Seabank would be considered separately.

In its response to the July consultation, NGET requested further clarification on how the delay or cancellation of the HPC project would impact NGET's obligation to deliver the Hinkley-Seabank project by the required delivery date.

We encourage NGET to maintain an appropriate level of engagement with its stakeholders at the HPC project so that it is aware of any material delays to the HPC project, and we request that it communicates the details of any such delays to us at the earliest possible opportunity. Where appropriate, we will review any such information to ensure the most economic and efficient solution. This may for example, include proposed amendments to the Hinkley-Seabank output that we are proposing to include within NGET's licence through this statutory consultation.

#### *Conclusion*

After taking into consideration both responses to the July consultation, we have updated our proposed licence modification drafting to implement our May decision. This drafting is set out in Schedule 1 to the Notice accompanying this letter.

#### **Next Steps**

If you wish to respond to this consultation, please do so on or before 28 September 2020. Please email your response to [NTIMailbox@ofgem.gov.uk](mailto:NTIMailbox@ofgem.gov.uk), or, if you are unable to email your response, please post your response to New Transmission Investment, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU.

Yours faithfully,

**James Norman**

**Head of New Transmission Investment  
Systems & Networks  
10 South Colonnade  
Canary Wharf  
London E14 4PU**

## **Annex 1 – Privacy Notice on consultations**

### *Personal data*

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

#### *1. The identity of the controller and contact details of our Data Protection Officer*

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at [dpo@ofgem.gov.uk](mailto:dpo@ofgem.gov.uk).

#### *2. Why we are collecting your personal data*

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

#### *3. Our legal basis for processing your personal data*

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest i.e. a consultation.

#### *3. With whom we will be sharing your personal data*

Your personal information is never shared with anyone outside of Ofgem. However, we will publish your response to our consultation on our website. If your response includes information that constitutes personal data, we will remove this information prior to publishing your response.

#### *4. For how long we will keep your personal data, or criteria used to determine the retention period.*

We will only retain your personal data for as long as:

- it is needed for the purposes set out in this document
- law requires us to

In general, this means that we will only hold your personal data for a minimum of 1 year and a maximum of 7 years.

#### *5. Your rights*

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data

- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3<sup>rd</sup> parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

*6. Your personal data will not be sent overseas.*

*7. Your personal data will not be used for any automated decision making.*

*8. Your personal data will be stored in a secure government IT system.*

*9. More information*

For more information on how Ofgem processes your data, click on the link to our "[Ofgem privacy promise](#)".