TRANSMISSION CAPITAL PARTNERS

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By Email Only to: box.earlycompetiton@nationalgrideso.com

19th February 2021

To the ESO

Early Competition Plan - Phase 3 consultation

Transmission Capital Partners ("TCP") – a joint venture formed of Transmission Investment LLP ("TI") and Amber Infrastructure Group Limited ("Amber), with in-depth knowledge of financial, technical and regulatory issues associated with electricity transmission in the UK – is pleased to provide you with a response regarding the "Early Competition Plan – Phase 3 Consultation".

TCP manages one of the largest offshore electricity transmission portfolios in terms of the capacity of offshore wind connected. By the end of 2021, our offshore wind transmission portfolio will comprise circa £2bn of assets under management. In addition, TI and Amber have a strong and proven track record in the procurement of large-scale infrastructure projects through their respective involvement in the France-Alderney-Britain ("FAB") interconnector and the Thames Tideway Tunnel ("Tideway").

TCP has for many years been a strong advocate of introducing competition into the delivery of electricity network assets as a way to bring long term investment into the electricity system at the best price for customers. We continue to support the development of the required arrangements for these competitive processes *inter alia* through industry groups, responding to consultations such as these and, when called upon, providing evidence to parliament.

We are very supportive of the work that ESO has done to date, and continues to progress, in seeking to meet system requirements whilst achieving cost reductions through competitions like the Pathfinder tenders. These have demonstrated that tenders can achieve significant cost savings on low capital cost network investments whilst, as per the proposed early competition model, remaining technology neutral for some system requirements.

In our response below we set out some of the key challenges the ESO proposal in phase 3 consultation presents which, in our view, will require adequate resolution to successfully implement the early competition model. We also provide responses to the specific questions asked in the consultation in Annex 1 to this response.

Allocating Roles and Responsibilities

Any successful competitive model needs to provide the market with full confidence in the robustness and fairness of the process. The roles of both the network planner and the procurement body are both crucial to the process, and the organisation(s) fulfilling these roles will require a wide variety of skills and competences.

Given the significance of the expected changes in regulatory and market frameworks, the allocation of roles and responsibilities should not simply be to the organisations that already have these skills and competencies, particularly where this has significant negative implications for the competitive process. Instead, the allocations of roles and responsibilities should rather aim at securing a robust and fair procurement process, from start-to-finish, which can deliver best value for money to consumers.

Network Planner

We welcome the rethinking of the network planning process and the various industry parties' roles in this process, and the willingness of Ofgem and the government to make legislative changes where necessary to implement these competitive models and improve processes including the legal separation of the system operation and network operation/ownership functions or arms of transmission and distribution groups.

We note that the consultation documents tackle the issue of the Network Planning Body and report concerns and recommendations previously raised by the industry in that respect. However, whilst requesting views on the mitigating measures of risks raised by preferred proposal, the consultation does not offer a comprehensive analysis of the alternatives and opportunities for the Network Planning Body role to be more effectively and independently delivered.

We believe that the only satisfactory solution is that responsibility for planning the system to meet the planning requirements in the SQSS should be allocated to a fully independent (in ownership terms) body. This would both ensure a whole system approach to network planning (onshore and offshore), an independent identification of projects suitable for competition, and a level playing field in that competition. The network planning process and its interface with the procurement process need to be designed to minimise any inefficiencies or risk of delays that would undermine the opportunity to deliver network infrastructure through a competitive process.

We have expressed in our response to the Phase 2 consultation document the reasons why we do not consider that the current allocation of roles is fit-for-purpose in a competitive world, nor with one seeking to develop 40GW of offshore wind by 2030:

- There is a strong conflict of interest in TOs identifying solutions to system requirements that may then be competed for delivery (see below for our views on TOs competing under any early competition model) – one example of this will be the continuing claim of TOs that solutions cannot be competed as there is insufficient time to do so;
- It is questionable whether TOs will have the ability to identify solutions to system requirements with increasing development of offshore renewable energy and associated network infrastructure (for which they are not responsible), greater integration with DNOs, and once system requirements start to be met by third party providers such as CATOs or Pathfinder project providers.

Role of the TOs

We continue to have serious concerns over the role of the TOs in any early competition process. TOs should not have any influence over whether a solution is competed, or

any part in any tender process in which they are allowed to bid, for obvious reasons of conflicts of interest. The separation suggested by the ESO clearly does not work as it would not ensure a proper separation of entities involved.

We have previously noted that regulators in other sectors have specifically excluded incumbents from bidding in similar competitions when introducing competition to deliver network infrastructure, where the incumbents are involved in the delivery of the competitive procurement processes.

We expressed in our response to the Phase 2 consultation document the reasons why we argue that TOs should not be able to be a bid to deliver competitive networks and these remain still relevant to the proposal consulted in this phase three:

- The assets, experience and capabilities of the TOs have been entirely paid for by customers – these assets, experience and capabilities should be made available to the market in general to provide the best solution for customers, and not reserved to the incumbent;
- Some of the experience and capabilities notes above, paid for by customers, are difficult for the market in general to replicate, such as the volumes of equipment supply and installation contracts awarded due to a market participant not having a monopoly business to generate these volumes;
- There is a significant risk of cross-subsidisation between the regulated and competitive parts of a TO's business;
- Prior to competition in onshore networks the TOs have enjoyed a monopoly in delivering these networks to meet customers' needs. However, the main reason that competition is being introduced is that monopoly TOs have not met customers' needs cost-effectively. Competition is the result of a failure of the TOs and as such the TOs should be considered as having forfeited their right to deliver network solutions that are competed; and
- Any competitive process in which the TOs are allowed to bid would not be seen by the market as a fair process and would likely result in much lower interest (if any at all) from the market.

These reasons still stand even without TO involvement in delivering the procurement process. For the ESO to continue to put forward a model in which the TOs are both allowed to bid and to be part of the procurement process delivery, seems to indicate that it is not sufficiently listening to stakeholder feedback.

Tender process

We appreciate the complexity the design of the early competition model entails and we support the efforts of the ESO to date in addressing the critical issues presented by such a model. We are however concerned about how the tender design would deliver best value for consumers and we also do not see that, as currently devised, it would be seen to be anything other than subjective, and potentially biased towards incumbent TOs.

Our concerns centre around:

i) Inefficient risk allocation of funding and limited flexibility on equity pricing which could lead to significant equity risk premiums being locked in for

longer than necessary (and could have significant cost implications for consumers);

ii) Limited competition on debt funding, with the bidder not being incentivised to undertake a comprehensive funding competition, despite debt costs being one of the most significant components of the TRS;

iii) The ability to seek to game the tender process by submitting low bids with a view to adjustment at the Post-Preliminary Works Assessment (PPWCA) stage; and

iv) The very subjective nature of the ITT Stage 2 process which seeks, as far as we understand it, to adjust the TRS bids both in respect of capability for project delivery (which we consider should be a threshold test) and the risk that the bidder may seek to increase the TRS at the PCWA stage.

The first two points appear to risk losing a significant amount of the benefits of competition. In respect of the last two points, any competition run along these lines, may therefore not only be perceived to be unfair, but may actually be unfair.

As noted above we respond to the specific questions in more detail in the following Annex 1.

Yours sincerely,

Federica Maranca

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TRANSMISSION CAPITAL PARTNERS

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N.	Question	Yes/No (if applicable)	Response
Chapter 2: Roles and Responsibilities			
1	1. Do you agree with the activities of the Approver we are proposing? Please tell us why.		We agree the Approver should be Ofgem but we have doubts about its activities. It is unclear on which basis Ofgem would provide approval of the needs to compete at stage gate 1 and to which extent that approved need would change between stage gate 2 and stage gate 3. Why does the Approver only approve the contractual documents (what would these include?) if it is a non-network solution? This is not reflected In Figure 2 (p8) other than in Stage Gate 2 which would apply to both network/non-network solutions (other than licence which would be only for network solutions). There is lack of clarity whether if a project continues to be in the best interest of consumers is only checked in stages 1-3 or also at stage 4 (which it should be). It remains unclear on what the review of the network need run by the ESO post market engagement would be based on and what would aim the market engagement aim at that stage and what is the role of the Approver in that respect. The Approver's role could be delivered at two levels: i) approval of the process to fulfil network needs through a competitive process and its tools and their adjustments and ii) approval of the outcomes of such a process (e.g. approval of the selected preferred bidder would be an approval of the selection process carried out). It is assumed that i) would not change substantially from one and another process and therefore after the first of kind it would focus on the adjustments; ii) instead would be rather a check of the process done in accordance with legislation, licence and any relevant future framework. Therefore, for instance, the Approver shall set the criteria and endorse the methodology used to identify needs and indicate solutions. Any policy aim impacting the network needs identification shall be covered by stage gate 1 decision.

The Approver similarly shall approve the evaluation criteria considering the market comments as well inputs from Network Planning Body and the Procurement Body.

It does not seem appropriate for the Approver to confirm is the Preferred Bidders meets all Licence requirements only at stage gate 3. It would be more appropriate if the two-stage ITT progresses to ascertain that all network solution providers that pass ITT stage 2 are Licence compliant.

Also, we think the Approver should rather design the procurement process.

2 2. What do you think the checks, that make up the other activities, should look like? Should they be a formalised process?

It is expected that gate decisions are supported by a clear transparent framework which sets criteria to be fulfilled at each stage (e.g. if to launch the tender or not would be decided on the basis if clear and transparent set of criteria not to undermine the confidence of the market in the process and the incentive of the market participants in engage in the previous stages and relevant activities that would support such a decision).

Without adding burdens to the process, these checks should be embedded in the role of the Approver and guide their decision at stage gate (see above).

The requirements to be meet at each stage shall be transparently and formally defined and so the validation of the fulfilment of the relevant milestones and targets. For instance, where the Approver shall check if a project continues to be in the best interest of consumers principles, criteria, methodology and tools used to ascertain such a requirement shall be clear and transparently made available to the market.

On this regard it is noted that the tools used by the Network Planning Body to provide information re the needs such as the NOA shall be reviewed to ensure are fit for purpose.

Similarly, the criteria on which the transparency and fairness of the process is measured should be clear and measurable to assess compliance on the more transparent and robust way possible.

Regarding the checks to ensure that consumers are protected from any significant change from gate 3 to gate 4, it is expected that from gate 4 onward under the licence and the contract terms the consumers will be protected by the operation of the licence and the contract and it remains unclear what “checks” would be carried out [and if] on the operation of the Licence and Contract Counterparties.

3 3. Who do you think is the most appropriate party or parties to perform the Procurement Body role?

It remains unclear who the Procurement Body would act on behalf of and what drivers and liabilities would have in respect to the design of the procurement process.

We agree with the NGESO regarding the need to consider the liabilities, risk and remuneration framework to have a better clarity on which entity or entities are best placed to undertake this role.

			It appears more appropriate for the design of the process to remain with Ofgem. It is expected that the Procurement Body will feed in the design process should this change in the future. It would be extremely beneficial to maximise the success of delivery to limit changes to the process. It remains unclear the definition of responsibilities in respect to the definition of the evaluation criteria. Any definition of specific performance requirements of the solution to the need to tender shall be set by the Network Planner. Where the PB deems necessary to adjust for procurement reasons these requirements the underlying process and liabilities shall be clear to ensure the process transparently delivers the optimal solution for the consumers' benefit. Therefore, it is important that the model used by the NP in identified needs and criteria adopted to defined solutions' requirements are [consulted and] approved. Although it is expected some sort of coordination it would be preferable that roles and responsibilities between the Network Planning Body and the Procurement Body are clearly defined to avoid any overlap or interference of one process into the other given the substantial different nature and drivers of the two functions. Subject to a full independence from NG group and the procurement of the needed expertise – ESO.
4	4. Taking into consideration the role of the Approver, do you think an Independent Assurance activity is needed?	**NO**	We do not think an Independent Assurance activity is required if the Procurement Body role is carried out by the ESO or Ofgem. It is understood that resources capacity may impact timing of the process but reliance on another entity or external consultants for assurance purpose may add uncertainty to bidders and costs to consumers. Ofgem is subject to gov. rules and audit and the NAO shall run assessment of Ofgem performance and assist. It is understood that resources capacity may impact timing of the process but reliance on another entity or external consultants for assurance purpose may add uncertainty to bidders and costs to consumers. Ofgem is subject to gov. rules and audit and the NAO shall run assessment of Ofgem performance and assist. We do not think an Independent Assurance activity is required if the ESO or Ofgem would cover the role of the Procurement Body. If the ESO is the Procurement Body then it would depend on how well the above three Issues had been addressed. We do think that if the Independent Assurance activity is required it is because the underlying Procurement Body is probably not fit-for-purpose.
5	5. Do you agree with our position on the Contract		The Contract Counterparty should be a fully independent organisation. We support the ESO proposition to carry out the Contract Counterparty role subject the definition and implementation of an adequate liability,

	Counterparty role? Please tell us why.		risk and remuneration framework and a full independence to make sure that counterparty rights and obligations are appropriate. We also agree with the ESO in respect to the need of acquiring any needed skills and expertise to manage the complexity of the contracting arrangements the early competition would entail – we note the complexity and criticality of the Post-Preliminary Works Cost Assessment and the need for a robust and transparent methodology be agreed with Ofgem and consulted on with the industry. We note the legislation and licence changes are yet to be defined and a new commercial services agreement could result from the relevant regulatory changes, including ESO Licence updates. However, we note that initial draft of Head of Terms and the intention to align contract obligations to Transmission Licence obligations, and we believe that these will need further consideration in light of licences' review to be followed by a more in-depth discussion with Ofgem and other stakeholders.
6	6. Do you agree with our position on the Payment Counterparty role? Please tell us why.	**YES**	Yes, for the reasons set out in the consultation document and subject to an appropriate liability, risk and remuneration framework to be backed up by proper regulatory arrangements (including charging review). To this purpose we note that clarity is needed on what credit rating would be used should the ESO become an independent entity from the National Grid Group. It is also noted that in other schemes the credit rating issue is addressed by the payment and collection mechanisms supported by structure of the levy and charging arrangements. It should be explored if this route would deliver cost savings to consumers whilst preserving confidence of bidders and their investors. It is understood that the ESO has already the required resources in place in house- it could be better clarified what would and could be outsourced.
7	7. Do you agree with our proposed approach to conflict mitigation?	**NO**	We fundamentally disagree with the approach the ESO is taking to this issue. We note the comment (Chapter 2 p25) that "As the ESO does not build or own transmission assets, expertise on these areas does not sit in the ESO". But it later states (Chapter 3 p15) that "This role would also involve the ESO undertaking greater review and challenge of TO options to support the competitive process. This would require an increase to the ESO's skillsets to include, for example, project delivery expertise. This would allow the ESO to undertake more extensive challenge of TO proposals such as challenging TO delivery dates and proposing different solutions or technologies". This is something that the ESO will need to address anyway both in order to run the NOA process effectively (how can it challenge the proposals being put forward by the TOs in the NOA process if it

is saying it has not expertise in this area?) and if it is selected as the Procurement Body (how can it run a process to select a party to build network assets if it has not expertise in this area?).

The consultation document mentions some of the examples brought by stakeholders in in the previous phase on the separation adopted by other countries of the role of the network planner, fully independent, from the system operation and network owners. The need for a fully (legally) independent Network Planner to ensure a neutral network planning should be fulfilled in the interest of consumers independently from the competitive process adopted.

The Network Planning Body and the Procurement Body will work together to ensure that the tender specifications and the parameters of the needs will result in the best value solutions for consumers. However, roles are still confusing in terms of responsibilities and relevant competencies. For instance, it is not for the procurement process to compare partial solutions where it is established that the requirements are set by the Network Planning Body.

Even without the above two reasons, we consider that the ESO should be the Network Planning Body as to allow the TOs to carry this role, and also to be allowed to bid into the Early Competition process presents too many conflicts of interest for the TOs, and it is challenging to ensure a level playing field and, in any case, it is unlikely that the market will get comfortable that there is a level playing field. The consultation document notes other concerns that we have in this area [including cross-subsidising RIIO activities, solutions.

We also note that two of the three TOs do not consider that they should compete and so it appears that these conflicts are largely being sought to be addressed in order to satisfy one TO only (which happens to be part of the same group as the ESO).

The consultation claims (Chapter 2 p27) that TO bids could "increase competitive pressures". In reality, unless they are excluded from any advisory role in the tender process, or from competing, they are likely to reduce competition as it has been noted (Chapter 2 p26).

The ESO in supporting the case for the TO’s ability to deliver competitive bids “due to their expertise in delivering such projects” also notes that (Chapter 2 p27) the “Incumbent TOs also have the potential to utilise their existing assets within their bid, which would not be the case if the TO's parent company participates through a separate entity” effectively confirming on of the advantages of the incumbent TOs using assets that have already paid for by consumers would prevent any level playing field in a competitive tender.

The challenges reported (Chapter 2 p27) for the TOs participating as a 'counterfactual' seem to be similar to those presented by their participation in the competitive tender in consideration of their regulated operation under the RIIO framework, pointing out the limitations of an incumbent TO participating in a competitive process. Thus, for instance "Accounting for costs - in order to assess the true costs of bids all TO costs would need to be clearly accounted for. Therefore, any costs associated with developing proposals being competed would need to be separated from other RIIO costs"; "Incentives and obligations - the incentives and obligations applied to a competitive tender may be different to the RIIO framework given that most bidders will be single transmission asset owners rather than incumbent TOs".

We note the two options being put forward in the consultation document. We reject Option 2 for the reasons set out above. We would propose either Option 1 where the TOs only retain planning roles on connections and assets health (but not on boundary reinforcement that should instead be centralised) or the option where the TOs are not be allowed to compete in Early Competition tenders, as the only options that adequately deal with conflicts of interest.

In general, we consider that the conflict mitigation measures proposed will not be effective - we can cite the proposals under this ECP consultation as a good example of where these separation measures do not work, or are not perceived to be working, in that the proposals in this ECP consultation (notably here and In the ITT design) appear to favour the TO which Is part of the ESO's group. We accept that whilst the ESO is part of a group with a TO, it is not going to recommend that TOs do not compete In the Early Competition process.

8 8. Do you agree with the key differences between early competition and these case studies? And do you agree that the key differences would limit the lessons that can be learnt for the purposes of developing the model for early competition?

We agree with the key differences outlined for TTT which stem from it being a late model vs the ECP model considered here. Whilst acknowledging these differences limit the direct comparison learnt, there are some points worth noting on how TTT achieved its competitive cost of funding. In particular, TTT being underpinned by a strong Government Support Package whereas ECP is not expected to, despite the consultation document stating, "early competition has high risk" (p34). This could have a material pricing impact on the funding of ECP and may limit the overall benefit to consumers. This is particularly relevant as the preferred option is for equity pricing to be fixed (as an IRR) at the ITT (stage 2), relatively early on in the project's development, compared to TTT.

Regarding the CfD despite being a long-term contract underlying intense capital investment we agree that the nature and the structure of the tender are different from those of the ECP. The access to the CfD tender is reserved to consented projects in the first instance. The procurement process itself and relevant criteria are set by BEIS and ultimately governed by Ofgem (who monitors it though without

any approval stage). The evaluation of technical elements such as the supply chain plan is undertaken by BEIS, whilst compliance with the contract is run by LCCC. It is worth noting that although the expected volatility was higher in the case of the CfD payments, the payment mechanism and relevant money collection has been prompted also to address the lack of a credit rating of LCCC (see response above).

Said that there are similarities with the process and the scheme intent – the minimum payment over 15 years would enable investment of hundreds of millions- though the approach is much different in terms of control on the project design, financing and delivery. The CfD use few requirements backed by contractual milestones to secure project progress towards delivery (though these are consented projects) and relies on the market to deliver the procured infrastructure achieving to date a successful cost reduction. Bidders are able to structure their project as they deem more appropriate and delays of delivery or lack of performance are disincentivised by contractual arrangements. It remains a relevant reference for a post preliminary works stage, where procurement and contractual strategy rely on the market and the merchant incentives to deliver value to consumers money. It also offers a useful reference where the Procurement Body or the Contract/Payment Counterparty were to be independent public company.

There are however other models that are much closer to those used as case studies.

The ESO mentions for instance the Direct Procurement Customer model as a reference model for CBA of projects above £100m (Chapter 3 p9). Why hasn't this model considered further?

For the non-network solutions, the Pathfinder are the obvious reference and an analysis of the outcomes including benefits and issues would assist in addressing some relevant issues under the ECP.

Chapter 3: Identifying Projects

9	1. Do you agree that only competing projects that appear in at least two FES scenarios will provide sufficient confidence that the project will go ahead?	The ESO proposal appears sensible in some respect for Early Competition but it does not address the issue of the certainty of the need which depends on various factor including the accuracy and reliance of inputs in the FES and other variables accounted in the NOA. We agree that a certainty measurement is requited but it is important that the future feasible scenarios used are aligned to those that would be used to run any feasibility to identify the best solution. It needs to be questioned the level of confidence required by Ofgem to agree on the tender launch (Stage 1).

It is worth considering if the FES and the NOA are fit for the purpose (procuring intense capital infrastructure to cover long term needs relying on the market appetite and competitiveness) considering that under the current process the TOs do not incur in costs without having those approved and the identification of needs and solutions under the current NOA do not have to fulfil same needs. It should be therefore considered if and what level of certainty should be brought forward at that stage 1 to mitigate risk of not receiving Ofgem approval at later stages. It is worth clarifying when the ESO envisage the correspondent of a Needs Case Study approval would be sought (commitment to fund studies to demonstrate needs case) and when the correspondent of a Needs Case approval would be sought (intended at stage gate 4).

We also think that that projects that are required but not identified for early Competition should be, subject to meeting the requirements for Late Competition, competed under a Late Competition model.

Network owners shall be involved but to provide inputs rather than set the needs in isolation – if a need for new network solutions is identified by the ESO it should not be for the TOs to lead/undermine the design and delivery.

10 2. Do you agree with our proposed approaches for different drivers of network investment? Are there ways single party connections could be identified as having sufficient certainty to compete?

We agree there should not be a value threshold and that smaller projects can deliver value for consumers through being competed.

Clearly it is not possible to compete everything and so it will be important that there is a fair and transparent process to decide whether competition is in the consumer's interests (the CBA process). As such we support the need for clear guidelines as used in the water Industry - we would also argue that these guidelines should best be applied by an independent body and not the TOs in deciding whether a project should be competed.

We do not agree with excluding enabling works from competition. To do so for example would exclude all of the existing offshore wind farm connections. However, we do agree that in some instances running a late competition may be better, with perhaps the connecting party completing the development of the enabling works.

We do not agree with TOs Identifying and reporting on compliance driven Investment. They have a clear conflict of Interest In this area. As noted above we consider that the ESO should be the Network Planning Body that Identifies compliance needs and then reports on those suitable for competition.

It is not clear why the ESO states (Chapter 3 p8) that "we would anticipate most suitable projects to be large scale" - whilst some may not meet the new and separable criteria, if a streamlined process is used for smaller scale projects, we would anticipate many more smaller scale projects could be tendered.

			We understand that Ofgem will need to consider additional factors in order to determine their final view on criteria for competition. We would welcome further consideration to the definition of "new" which should include modification of existing assets to the extent the new projects are separable.
11	3. Do you agree that continuing to develop the Interested Persons Options process is the best way to engage stakeholders in initial solution design?	**NO**	The Interested Person process does not appear to work effectively as confirmed by the experience to date. Although option 1 is better than option 3 and 4, it requires more thinking and probably as part of the overall planning activity. The incentive for the market to provide inputs is very little if any. For the benefit of the network planning all interested parties should have the right incentive to input into the process and to maximise these input the Network Planner should ensure that an adequate level in information is made available to these parties. The reliance on a potential indirect advantage is not appropriate to the purpose which is in the first instance planning rather than procurement or delivery. This needs further clarity to be reflected in the definition of roles and responsibilities.

Chapter 4: Commercial Model

12	1. Do you agree with the partial indexation of the TRS and the adoption of CPIH as the index? Why?		Our preference would be for bidders to select their preferred level of indexation, which is the same approach used in Ofgem's OFTO regime. As the TRS will be evaluated on an NPV basis, this flexibility could be accommodated easily. This additional flexibility would make the ECP model more appealing, allowing bidders to choose the optimal structure for their bids. Whilst the use of an inflation swap does add an additional cost, a bidder would weigh that additional cost against the benefits such a structure will bring, which should ensure UK consumers obtain best value from any solution. Inflation swaps are a well-known instrument, whether they are pegged to RPI or CPIH. Their use should not add greater complexity or execution risk to the project, and this should not lead to any unfair advantages as all bidders can access these instruments. We agree that the adoption of CPIH should be assumed as the preferred index for inflation, based on Ofgem's decision for RIIO-2. However, we note that there are differences between regulators between what is assumed as the most appropriate index, now that RPI is being phased out. For example, Ofcom, WICS and ORR using CPI. We would therefore propose the index used remains under review prior to the commencement of the first tender to ensure CPIH remains the preferred index used by the wider market.
13	2. Which of the options for extending the		We agree that pre-agreement on the terms of an extension, if there is a continuing need, is sensible as it limits the impact of a new tender cost for consumers. Finding the right balance between the

	revenue period do you think are most appropriate? Why?		second and third option will be important; ideally as much visibility will be helpful for a bidder to consider the RV potential carefully but at the same time requires flexibility to accommodate prevailing conditions at the end of the initial revenue term. Any pre-agreed elements should allow bidders to better assess the potential RV during the original tender stage, which could be passed onto customers, providing better value, whilst taking the risk if any extension does not materialise. In addition, we agree that accepting an extension should not be mandatory. In terms of the factors to be taken into account, we consider that these should also include any additional decommissioning costs and the RV assumption of the bidder as if bidders are required to assume zero RV (which is the implication of basing future revenue on future costs plus margin) then all of the revenue extension risk essentially rests with consumers. It is important that the pre-agreed terms of any extension suitably incentivise the incumbent provider to ensure there is strong alignment of interest in maintaining and managing the asset for the benefit of consumers.
14	3. Do you agree with the preferred option of a fixed payment to the successful bidder upon the delivery of key milestones during the preliminary works period? Why?		The preferred option with a fixed cap but only recovery of actual costs is considered appropriate to avoid the issues of gaming the system, as outlined in the consultation document. Another option could be to assess bidder's revenue not purely on the single TRS bid but on the NPV of the revenue stream. It remains unclear how the reconciliation at post preliminary works costs assessment stage is envisioned to work but the determination of the preliminary works revenue cap via bidders forecast costs provided during the tender should be consider to prevent bid gaming.
15	4. Do you agree with our revised views and preferences in respect of the Post Preliminary Works Cost Assessment, Performance Bond and Income Adjusting Events? Why?	NO	It is unclear how it works and what is the ultimate intent. The risk allocation table does not provide much help in that respect either. The PWC seem to be part of the bid though indirectly assessed but unsure the benefit of this complexity and the transparency that could be achieved. It is unclear if bidders will be provided clarity about what is and what is not adjustable and, in that case, how the ESO expects that uncertainty to be better allocated to bidders. How do you compare different technology options when costs are so uncertain? A Performance Bond may be appropriate at the preliminary works stage - as long it's set at a reasonable level (£250k). This should be in cash form for all bidders for fairness.

			It should not be required during construction once Financial Close has been achieved - all parties will be incentivised to proceed at that point if at all possible. If a large bond Is required (say 20% of capex) and can be provided by PCGs - this will unfairly advantage the Incumbent TOs. It Is not clear though whether a successful bidder Is required to provide the Performance Bond or its contractors (Chapter 4 p27 "the size and type of security that contractors will need to provide"). The references to OFTO and TO cost assessment processes seem to have little relevance as they are only indicating what the efficient costs of building something was. The PPWCA will need to be done pre-construction and will need to be done with reference to figures that were tendered and whether any deviations from these were reasonable, which It seems will have to take into account whether the tendered figures were reasonable in themselves? In the PPWCA stage it is very unlikely that any costs would be recoverable through subcontractors or insurance as nothing will have been constructed at this stage. IAE proposals are generally appropriate although it is not clear why change in law is generally is included. The grid connection risk should not sit with the bidder - this is outside of the control of the bidder and there are clear conflicts of interest here with the TOs.
16	5. Do you agree with our preferred option regarding margins and overheads? Why?	**NO**	The proposal entails a large proportion of sensitive commercial information that could be disclosed to the market, affecting the commercial position of various players throughout the supply chain. It is not clear where the line would be drawn in terms of which members of the supply chain would be required to provide their overheads or profit margins. We think the many suppliers would be reluctant to share their margins so far in advance. We are also unsure whether this approach and interaction the PPWCA could lead to any gaming of the system, although we note the cap proposed as part of the PPWCA would mitigate this to an extent. In addition, developers generally seek to be compensated as a lump sum at Financial Close rather than a long-term margin on the TRS. This would be the equivalent of paying a third-party advisor on reaching the Financial Close milestone.
17	6. Are there any additional measures a Procurement Body could		Running an effective debt funding competition will be critical in ensuring the most suitable and cost-effective debt solution is utilised, and therefore delivering best value to the UK consumer. The largest component of the annual TRS will be debt service costs, so it is important this process is undertaken

	take to further drive value for consumers in securing debt finance?		effectively. We are pleased to see the debt funding competition is expected to occur at the end of the preliminary works and cost assessment phase, which we think is appropriate to attract the most competitive funding. However, the preferred option does not incentivise the bidder to obtain the best funding terms, which we think could create a weaker process. As the bidder will already be the Preferred Bidder, and with no other upside to them in delivering the best value funding, they will more likely be incentivised to run the swiftest process possible to close. Whilst we don't advocate passing on the risk of the debt funding competition entirely onto bidders, further thought should be given to incentivising bidders. Indeed, if the debt markets have changed substantially since the term sheet used at the ITT stage, requiring a complete change of the funding solution (something we have experienced in the procurement process of a number of OFTOs) the bidder will need to be instrumental in identifying and arranging the best debt funding solution. Incentivising them appropriately will ensure best value is delivered.
18	7. Do you agree with our current preferred option with regards to equity? Why?	**NO**	It remains unclear the role of the equity providers in the risk allocation and particularly in respect to the preliminary works. The equity providers are required to fix the cost of equity ahead of any mitigation of project risks that would include elements of risk that may ultimately impact on the IRR of the equity. To fully mitigate the financial risk whilst delivery efficiency the equity providers should be enabled to pursue such efficiency. The equity is constrained by fixed IRR on a larger amount than that estimated and should be underwritten before development risks are mitigated. What if the equity requirement is much lower the range of investors and their value proposition may change? It seems that consumers would pay for this? Our preferred option remains for the equity competition to be run at the same time as the debt competition, as outlined in our response to the Phase 2 consultation. This allows bidders to properly construct and optimise a funding solution (debt and equity) which will deliver the best value to the UK consumer over the construction and operating period of the asset.

The preferred option outlined in the consultation document would not allow the full efficiency of the capital markets to be captured: limitations to the equity sales pre-commissioning would inevitably result in higher cost of equity to remunerate.

The option relies on the equity provider's commitment to effectively cover i) any bidders' risk in the preliminary works stage without being able to remunerate that risk through pre-construction or pre-commissioning sales, and ii) consumers risk in the debt competition phase without having any control of such risk nor to have the opportunity to remunerate that risk through an adequate structuring or potential refinancing during construction.

Whilst the consultation document "recognise[s] that this may lead to higher equity return requirements" our concern is that this addition cost or risk premium in the IRR will be significant and will end up locking in the UK consumer to this level of pricing for longer than is necessary i.e. once equity has priced these development risks in at the ITT stage, consumers will be paying for it throughout the life of the revenue period.

Having said that, we acknowledge the principals of early competition are to focus on developing a model for "design and delivery" and therefore aligning equity risk with the design is important to draw out the benefits of this model.

Further details of the PPWCA mechanism would be needed to ensure equity is suitably aligned to delivering an optimum design whilst avoiding having to build in significant risk premiums that would be detrimental to the UK consumer, especially due to the significant amount of time between fixing the IRR and Financial Close. The PPWCA should allow for, amongst other things, changes in i) insurance costs, ii) O&M costs, iii) decommissioning costs, iv) tax rates, v) deposit rates and vi) inflation i.e. it should not be penalised for things that it cannot control over this long period. Otherwise, as noted earlier, equity will introduce significant risk premia which would not be best value for consumers.

Alternatively, perhaps another approach is to allow equity the option of restructuring alongside the debt with a gain/pain sharing mechanism. The specifics of such an approach would need to be considered further but this might attract appropriate development capital during the design and preliminary works phase and meet the requirement of aligning design and delivery whilst introducing more cost effective capital once the project is de-risked, with gains shared with the UK consumer. This alternative has its own challenges, but the risk is consumers will be paying for higher than necessary equity returns if equity is forced to fix and maintain that level so early in the procurement process.

Size of equity commitment

The requirement to price a larger amount of equity than required to cover shortfall without providing the ability to restructure the financing may result in higher costs. The equity provider would not have the ability to flex its equity to capture value: where the actual equity demand is smaller than anticipated the equity provider would not be able to adjust the gearing.

This is especially important given the level of variability in the funding amount between the ITT (Stage 2) and Financial Close. This variability supports why having an equity and debt competition or giving equity the option to restructure at the point of the debt funding competition (with the right risk / reward with the consumer).

Equity sales

We think this should be allowed earlier in the process, as outlined above.

We do not accept that selling down or changing an equity investor will be disruptive to solution delivery. There are many examples of PPP or other Project Financed assets where equity is sold during the delivery phase. The risk with the preferred option is that a very expensive form of equity will be locked in unnecessarily, reducing the value for UK consumers. Indeed, once this equity would be allowed to sell, post commissioning, there would likely be significant interest from the super core infrastructure funds with a very competitive cost of capital, which could lead to a windfall gain for the original investor i.e. the IRR delta between the ITT stage and a fully operational asset. It may be better to allow the original investors to recycle their development capital earlier, reducing the chances of windfall gains.

19 8. Do you agree with our views on indexation? Why? **?**

As noted in our earlier response, we believe the level of indexation used should be at the bidder's discretion, as used in the OFTO regime. As the TRS will be evaluated on an NPV basis, this flexibility could be accommodated easily. This additional flexibility would make the ECP model more appealing, allowing bidders to choose the optimal structure for their bids.

The consultation proposes using a sensitivity to set the real equity returns within certain limits, although it is unclear what that level maybe. It is conceivable that certain equity investors may wish to gain a greater exposure to inflation. As long as senior debt is protected from changes to inflation (which would always be a senior lender's requirement) then it should be up to bidders to decide their level of indexation.

20	9. Do you agree with our updated views on licence/contract and industry codes? Why?		We agree with the ESO regarding the distinction between network solutions requiring a Transmission Licence and non-network solutions not requiring such a licence but rather a contract with a Contract Counterparty. However, there is a clear need for better clarity about what is undoubtedly a non-network solution rather than a part of a network solution. The Pathfinder programme proves also there needs to a clear, firm definition of what falls under generation, distribution or transmission licence terms. We agree that the interaction of the early competition with the unbundling provisions shall be clarified in light of all possible non-network solutions and the ability of transmission licenced parties to provide a non-network solution. It will be important that any biases between licencees and on-licensees is removed as well as between different types of license. This has not yet been achieved in the Pathfinder processes with respect to the costing of energy losses in general and supplier levies charged on these which some bidders have to pay and some do not. The same Is true of TNUoS charges. We agree with the ESO that changes to codes shall be further considered and may not be minor but deliverable and the ESO would be well placed to undertake a more detailed code review analysis. Regarding the STC, although it is reasonable to assume that the CATO obligations and rights under licence and STC will be substantially similar to those applicable to onshore TOs, further consideration should be given to which extent hybrid arrangements which replicate OFTO (or other) arrangements are most suitable to a CATO. Regarding the technical standards, any reference to any specific standard beyond the IEC standard, beside affecting competition, would constrain the solution design at higher costs to consumers. We also agree with the ESO that further consideration should be given to the interaction of the European Network Code with the early competition, including assignment of relevant responsibilities to CATOs and ENTSO-E membership.
21	10. Do you agree with our views on need change or disappearance? Why?	**YES**	We generally agree - except it seems odd that the successful bidder has the option to reject a change and continue as bid during the preliminary works period. It would be in the consumer's interest that a bidder could be required to accept a change or have its contract terminated with costs (plus margin) reimbursed. Such a change request should be triggered only in specific limited circumstances when a threshold of incremental costs/savings is reached. It is paramount to mitigate these circumstances in the interest of consumers' money and market confidence in the process. Therefore, in addition to mitigate the risk of change or disappearance of a needs, through a robust and adequate network planning process, it should also be

			ensured that certainty/ risk of the change to disappear or change is transparently shared with bidders. Methodology and visibility of factors affecting the Network Planning Body needs assessment and the Procurement Body definition of the tender requirements shall be adequately shared with the bidders. The term “Changes (other than changes in system need)” included in the Head of Terms shall define in addition the timeline to trigger a change against the key milestones, the nature of these changes and threshold against the TRS and its adjustment or project value. This mechanism should not change post tender submission. See also our comment below to question 11.
22	11. Do you agree with our views and preference in respect of the ‘provider of last resort’ arrangements? Why?		There needs to be a balance here that if new entrants are to be encouraged, and the innovation they might bring delivers for consumers, the barriers to entry are not so high they cannot compete. Our comments In Chapter 5 In relation to disagreeing with the use of a qualitative assessment on deliverability are pertinent here. We think it also needs to cover the scenario where a preferred bidder is appointed but between appointment and contract or licence award the preferred bidder seeks to change the terms upon which it bid or defaults. This happened recently in a Pathfinder tender and the process through which the ESO went was not transparent and casts doubt on the outcome of the tender as a whole.
Chapter 5: End to End process for early competition			
23	1. Do you agree with our preferred position on pre-tender activities? Please explain your answer.	**NO**	We generally agree with the procurement support and project information activities. However, there are overlaps and interferences among roles and activities. For instance, it is not for the procurement process to compare partial solutions. It is not appropriate for the Network Planning Body (Chapter 5 p10) to be the involved in reviewing and adjusting the standard bid evaluation framework, weightings of the Technical Adjusted Tender Revenue Stream and commercial arrangements unless the ESO is the Network Planning Body, for obvious reasons of conflict of interest with TO bidders. Similarly, the Network Planning Body should not identify projects suitable for competition.
24	2. Do you agree with our preferred position on impact studies?	**NO**	In general, it is a suboptimal proposal if bidders cannot run their own "Impact proposal" to understand how their proposal will be assessed during the tendering exercise. It is asking bidders to effectively "shoot in the dark". The arrangements whereby the Procurement Body procures the study and provides feedback at the end of ITT stage 1, assuming that bidders can amend their proposals prior to stage 2, may somehow mitigate this deficiency, but may not.

			The Approver and the Procurement Body should mitigate this risk in the pre-tender stages by the CBA and the methodology used to identify needs and solutions. In absence of feasibility studies the bidders should be able to progressively refine their bids – or the two-stage ITT is only a cost to bidders and consumers and lost time. We do not agree that TOs who are bidding should be any part of these Impact studies until after the successful bidder has been appointed.
25	3. Is there anything in our approach to sharing network information that you believe is unworkable? If yes, please provide details?		It is important that all bidders have access to the same information and that TO bidders do not have access to any additional information. There will be no incentive to TO bidding in the process to share network information. It is unclear how the TO bid teams would be restrained to use a specific model and how this would be monitored. The info to be shared should be reviewed at the time the network planning process is defined.
26	4. Do you agree that individual pre-submission reviews should not be offered to bidders during the tender process if the clarification question process is in place?	**YES**	TO the extent that network relevant info is made available to all participants and TOs are not advantaged in any way. Clarifying questions will be adequately shared across all bidders. A dedicated pre-submission review of a tender proposal should not be necessary if a bidder has the information it requires to carry out its own assessment. This should be the focus, ensuring that bidders have the information they require.
27	5. Do you agree with our preferred position on the Pre-Qualification assessment and process? Please explain your answer.		We agree with a one-stage PQ, a pass/fail threshold (assuming forms of evidence to be submitted are clearly identified), passporting principles for tender of similar scale and complexity within a certain timeframe. However, there are crucial topics that deserve further consideration and clarity: I) the level of gearing should be only indicative to assess fund raising capability within the financial capacity test; II) how does the use of corporate finance fit with the use of a [non-recourse?] debt competition is unclear and controversial; and III) need to be careful regarding the Technical Capabilities, in particular the construction experience where the projects are very large – where the complexity of projects of a certain nature and above a certain value would not increase proportionally with the totex level.

			Also, the purpose of the early competition is to open a sector so far monopoly of few entities to the market to capture the ability of market players to bring down cost through especially structure that attract a different pool of capital providers in terms of equity and debt. Therefore, the criteria should be set to value and capture such capabilities. This would mean that the experience to be proved is the experience in attracting investors and especially non-recourse lenders.
28	6. Do you agree with our preferred position on Invitation to Tender stage 1 assessment and process? Please explain your answer.	**NO**	Previous experience would inevitably greatly advantage the incumbent TOs. The ITT (stage 1) if needed should assess the robustness of the proposal based on the proposal itself rather than element of previous experience. Technical Capabilities should be assessed at PQ stage – if not meeting that threshold at the stage not point to get to ITT (stage 1). If the intention is to assess technical aspects such as operability including impacts on the existing network, this should be assessed objectively against clear transparent objective requirements. Any other requirement in terms of constructability and deliverability to eventually mitigate the risk of deliverability beyond the required construction bond, would most likely result in a subjective assessment which would undermine the efficiency of the bid and definitely increase cost where the ITT stage 1 requires more than a feasibility study (any detailed design element should be part of the scope tendered). We do not agree that TOs should be involved in this process if they are also allowed to be bidders. We are concerned that there is no limit to the number of bidders that would be taken through to the ITT stage 2. If this were more than say 3 or 4 it would be a strong disincentive for bidders to participate and incur significant bid costs. We note that the Approver and Procurement Body is to have discretion over this down selection if there is significant market Interest - we do not see why this should Include the Network Planning Body (if a TO) who clearly has a conflict of interest.
29	7. Do you agree with our preferred position on Invitation to Tender stage 2 assessment and process? Please explain your answer.	**NO**	We continue to have serious concerns here in including Technical Evaluation above a threshold level in the stage 2 assessment advantages some bidders over others and incentivises all bidders to incur pre-tender submission costs (in a development "arms-race" to improve their Technical Evaluation score, effectively making the amount of pre-ITT stage 2 tender development expenditure carried out, an assessment criteria). As well as unfairly favouring the incumbent TOs, this will greatly increase the cost of bidding and reduce the number of parties willing to bid and add subjectivity to the evaluation process undermining the success of the tender. Instead, the Procurement Body should set out the level of technical development that they expect proposals to have reached and make these threshold levels for projects to pass and not assessment criteria.

			Otherwise: i) TO identifies project that should be competed but delays informing the Procurement Body by a year; ii) During this year TO bidding affiliate develops its proposal (including potentially obtaining land options, commencing engineering and environmental surveys, securing key suppliers etc); iii) When competed TO bidding affiliate wins as it has the highest Technical Evaluation score even if more expensive. If there are non-commercial aspects (such as environmental impact) that need to be scored these should be clearly converted into commercial equivalents so that bidders can assess whether to be more expensive and score higher in these areas or not. Also, this would avoid that elements are double counted at technical and commercial level effectively enhancing robustness of the process.
30	8. Do you agree with our updated views in respect of late project delivery? Why?	**NO**	Alignment with RIIO-2 is not necessarily relevant in respect of the early competition in consideration of the substantial differences of the two regimes where the risks run under the first one are substantially mitigated whilst under the second one the market is requested to underwrite risks and costs that would be otherwise taken by consumers. The reprofiling of the allowance should reflect the risk taken at bid stage vs those taken at the plan submission under the RIIO-2. Also, whilst (Chapter 5 p48) the bidders are expected to rebalance their risk profile through their arrangement with the contractors, the process tent to fix as many cost elements as possible effectively limiting this ability. Risk margins/contingency should be capable of being fixed expect in specific circumstances where It may be appropriate to adopt a different approach - for example in projects involving significant offshore cabling and therefore ground risk - the alternative would be to end up with a higher price if a more 'fixed' price with contractors is required. The tender's structure and evaluation criteria should not force/advantage any contracting strategy and rather leave to the bidders the opportunity to structure the project as best as possible to mitigate risks in the most efficient and cost-effective way – the Procurement process and the Procurement process designer should not replace the market in these decisions. We do not agree with seeking to fix contactors profit margins - indeed we doubt whether bidders will ever really know what a contractor's profit margins are. Only overheads can be fixed. The proposal requires a great amount of commercial sensitive data that would be in any case inefficient to be set at that stage.

We bidders and equity investors will not have full control of the debt competition and therefore it is not appropriate they take the whole risk of the debt service costs – it has to be ascertained to which extent the insurance would cover that risk.

It is impossible to determine contractor's profit margins (for the reasons stated above). Contractors will just adjust the non-profit margin element of their bids.

When defining the terms of the tender and the licence consideration should be given to those items that can become critical and fall outside the control of the bidder eg insurance costs. Development costs should be small in the scale of things and so bidders could take the risk on incremental costs.

31 9. Do you agree with our updated views on the preliminary works / solution delivery incentive regime being proposed for early competition? Why?

Seems broadly ok for the successful ECP bidder to the extent that codes and licences are amended to address any competing interest from TOs - what incentives are there on the incumbent TOs to facilitate the time delivery of preliminary works by the successful ECP bidder?

Stakeholder Engagement report seems unnecessary but subject to a full alignment to normal practice could be acceptable.

32 10. Do you agree with our updated views on the operational incentive regime being proposed for early competition? Why?

We generally agree with the ESO view although there is a level of detail missing such as what caps and collars would apply.

A non-financial Environmental Action Plan/report incentive should be fine to the extent that the proposal is not to incentivise ECP bidders to go beyond what is required by consenting authorities at the cost of consumers - where is the justification for this? Financial SF6 incentive should be instead acceptable.

Performance security needs to be fit-for-purpose - it is also not clear that ESO understands the OFTO performance incentive, the OFTO performance incentive builds up to 50% over the last five years.

Some flexibility should be allowed to the timely connection depending in the licence arrangements.

33 11. Do you agree with our revised views and amended preference in respect of decommissioning securities? Why?

We broadly agree with the amended proposal not to require specific decommissioning security.

However, it is not clear what decommissioning security would be required in order to "cover the decommissioning processes and obligations set out in industry codes i.e. to provide assurance that decommissioning activities and disconnection is sufficient to not adversely impact the Transmission System" - we are not aware that any decommissioning security is currently provided by Users or TOs under the CUSC or STC. It is expected that if any financial security required will be the same for all bidders.

		The scope and value driver of that decommissioning security shall be further considered as the ESO suggests.
Chapter 6: Implementation		
34	1. Do you think Table 1 is a comprehensive list of high-level implementation plan activities? If not, what has been omitted?	It seems comprehensive. It should include any amendment of role and responsibility of Ofgem; confirmation of the “Needs Case” process (if embedded in Ofgem’s approval process of the ECP or it will need to be amended); and Price Control.
35	2. Do you agree with our proposed timing and sequencing for implementation plan activities? If not, what would you change?	It seems broadly reasonable. Although it is unclear why none of the activities can start before the completion of the Facilitative Licence Changes where a lot of the work could be done under current terms of the licence and driven by Ofgem. It is worth noting that most of Network Planning related activities could start earlier on Would licence changes need primary and secondary legislation? Unclear what tender specific policy covers and why would take that long.
36	3. Do you agree with the 'potentially advanceable' implementation plan activities? If not, what would you change?	Would the ESO independence impact the float referred for the “potentially advanceable” implementation plan? We would add providing further detail and understanding on: I) How the process interacts with other Ofgem approvals (Needs Case); II) How the interaction with the Late Model works; III) How tender underlying costs are then updated by the PPWCA process; and IV) How the debt competition should be specified and run, including what elements of a debt structure should be left for bidders to determine and how risk allocation between a bidder and its contractors, and any guarantees the bidders may be required to give providers of debt, may affect the debt competition.

37	4. Do you agree with our views on early competition prior to early competition legislation? Why?	It would be useful to understand why Ofgem/ESO think that legislation is required for any of the parts of ECP as for example, the Electricity Act 1989 already has provisions that would enable Ofgem to award new transmission licences.

Chapter 7: Early competition and Distribution

38	1. Is there any issue with the high-level early competition process being developed that means it could not be used for distribution sector needs? If yes, please specify the issue(s) and why they make the process unusable.	We agree with the consultation document in that at a high level we do not see any issue with the competition model being applied at the transmission level being developed to the distribution level. In fact, we see a number of benefits to this alignment. In particular, if the processes were indeed aligned and even integrated into the same parties (to the extent possible) then a whole system view could be promoted and access to the process would be simplified improving third party engagement and thereby promoting competition. However, we do acknowledge complications in the application of the process to distribution at a more detailed level. A key concern is around the separation of the DSO function from the DNO function which may require a different approach than that of the ESO and TO. The current arrangement presents conflict between the DNO and DSO and without separation similar to the ESO and TO this may need to go to a party other than the DSO. The timescales between identification of need and project realisation would need also need to be taken into account.
39	2. Which party is best placed to perform each of the key roles at distribution level? Where a third party is chosen please specify who you think this could be and why?	Our view on the best party to perform each role is as follows: Procurement Body – There must be comfort from potential bidders that there is separation between the Procurement Body and all potential bidders. Without clarity on separation between the DNO and DSO functions and assuming the DNO would be able to compete, this cannot sit with the DSO as a function within the DNO. We would therefore support this role to sit with the ESO possibly as part of the Procurement Body Role for Transmission. This would promote the process for the reasons set out in our answer to question 38. Network Planner – Given the influence this role has on the identification of need for projects we would support this sitting outside of any party able to compete in the process. This would exclude the DNO carrying out this role. However, we recognise the complications and expertise required of the role and the difficulty of moving this role out of the current DNO businesses. We would therefore support either the DNO being unable to compete whilst this role remains within the DNO or the ESO taking a supervisory role to oversee the Planner Role until such a time as this can become a separate legal entity. Approver – We see this role as remaining with Ofgem and do not see a need to adjust this responsibility.

Licence Counterparty – We see this role as remaining with Ofgem and do not see a need to adjust this responsibility.

Contract Counterparty – We see this role as sitting with the DSO function. However, some concerns may exist without legal separation between the DSO and DNO functions. These terms must be on an arm's length basis and must be managed as such. Any perceived favouritism between the DNO and DSO must be mitigated in the role.

Payment Counterparty – We see this role as best sitting with the same entity as the Contract Counterparty.

40 3. Should any of the additional roles be created as specific roles? If yes, please set out who you think is best placed to perform the role and why?

Given the number of different DNO regions and depending on where the eventual roles are placed, we would support auditor/supervisory type role to oversee the compliant, consistent and fair implementation of the process between regions. We see this as best sitting with Ofgem or the ESO.

Beyond this and again dependant on if the Planning and procurement Bodies were centralised in some way, we see a role for a Whole System Overview role. This role would be responsible for taking a whole system view to optimise between Transmission and Distribution Network planning. We see this as best sitting with the ESO.

{End}