



Department for  
Business, Energy  
& Industrial Strategy

# Competition in Onshore Electricity Networks

Closing date: 26 October 2021

August 2021



© Crown copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at: [ESSupport@beis.gov.uk](mailto:ESSupport@beis.gov.uk)

---

# Contents

General information	4
Why we are consulting	4
Consultation details	4
How to respond	6
Confidentiality and data protection	6
Quality assurance	6
Executive Summary	8
Introduction	9
Competition in Context	9
What is competition in electricity networks?	9
Onshore Competition and wider context	11
A Competitive framework for Onshore Electricity Networks	13
1. Secretary of State Appointing a Body to run Tenders	13
2. Types of competition to suit the constraint at hand	13
3. Competitions which invite different solutions	16
Role of Network Planning and Net Zero Infrastructure	19
The Process for Competitive Tenders for Electricity Assets	19
Implementation of Onshore Competition in Practice	20
Factors taken into consideration when appointing a body to run tenders	21
Criteria for competition at transmission level	26
Transmission: Purpose and Roles	26
Transmission: What are the competition criteria?	27
Competition at distribution level	30
Distribution: Competition Criteria for Projects to be subject to Competition	31
Distribution Roles	32
Roles and Responsibilities within Onshore Network Competition	34
Conclusion	36
Consultation questions	37
Next steps	38

# General information

## Why we are consulting

We committed in the Energy White Paper to enable competitive tenders for the build, ownership and operation of onshore electricity network. Allowing new parties to compete for onshore network projects will deepen the pool of capital available for the significant amount of investment needed in our networks as we transition to net zero. Competitive pressure in electricity networks is expected to improve efficiency, saving consumers more money, and encourage further innovations in system design and operation.

Ofgem and BEIS have previously consulted on this policy and clauses were drawn up by the Office of the Parliamentary Counsel and subjected to pre-legislative scrutiny in 2016. This consultation sets out the key changes that have taken place since 2016, including the introduction of legislative targets for net zero and changes in technology and governance, that require us to amend our approach to competition, for example by allowing bodies other than the regulator Ofgem to run tenders and designing processes to allow smart solutions to compete alongside traditional network infrastructure. We recognise that it is important that this policy works for those who will be impacted by the changes we are introducing and so invite stakeholder views on some of these proposed amendments and implementation of the competitive framework.

## Consultation details

**Issued:** 3<sup>rd</sup> August 2021

**Respond by:** 26<sup>th</sup> October 2021

**Enquiries to:**

Net Zero Electricity Networks Team, Energy Security, Networks and Markets  
Department for Business, Energy and Industrial Strategy  
3rd Floor, Abbey 1  
1 Victoria Street, London  
SW1H 0ET

Tel: 020 7215 5000

Email: [ESSupport@beis.gov.uk](mailto:ESSupport@beis.gov.uk)

**Consultation reference:** Competition in Onshore Electricity Networks

**Audiences:**

This consultation welcomes views from all stakeholders.

**Territorial extent:**

Great Britain

## How to respond

**Respond online at:** <https://beisgovuk.citizenspace.com/energy-security/onshore-competition>

or

**Email to:** [ESSupport@beis.gov.uk](mailto:ESSupport@beis.gov.uk)

**Write to:**

Net Zero Electricity Networks, Energy Security, Networks and Markets  
Department for Business, Energy and Industrial Strategy  
3rd Floor, Abbey 1  
1 Victoria Street  
London  
SW1H 0ET

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

## Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](#). The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

## Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: [beis.bru@beis.gov.uk](mailto:beis.bru@beis.gov.uk).

# Executive Summary

The electricity system will need fundamental change as we move towards Net Zero. Greater use of new, flexible technologies in generation and demand will create challenges for the electricity network from a governance and technical point of view, and the network will need to grow and adapt in new ways.

Electricity network companies are fundamentally responsible for building, owning and operating electricity network infrastructure, ensuring it is ready to meet the demands placed on it. Ofgem regulate electricity network companies to do this efficiently in the best interests of consumers through a system of price controls. This system of responsibilities has broadly worked well, but we need to consider whether there are areas where more can be done to foster innovative and efficient solutions to the emerging challenges.

Opening up electricity network ownership and operation to third parties will allow for new, innovative parties, with access to different sources of capital, to invest in our network infrastructure. It creates a new market, bringing with it potential for new, green jobs across all of Great Britain, while economies of scale and competitive forces should drive efficiency and lower costs for consumers. Consumers are at the heart of government policy relating to energy, and this policy will be a key to ensuring the necessary infrastructure investment needed to meet Net Zero does not unduly add costs to consumers.

The idea of introducing greater competition in onshore electricity networks has been discussed for several years now<sup>1</sup>. The Energy White Paper<sup>2</sup> last December re-confirmed the Government's intention to introduce the necessary primary legislation to enable this, and this consultation document provides an update on the principles and fundamental policy and discusses the more detailed policy and process issues that will need to be addressed as and when the new, more competitive regime moves towards implementation. This consultation document therefore seeks views on introduction of competition, factors considered by the Secretary of State when appointing a body to run competitions, and criteria for competitions.

---

<sup>1</sup> Parliament, *Pre-legislative Scrutiny* (2016)

<https://publications.parliament.uk/pa/cm201516/cmselect/cmenergy/776/77607.htm>

<sup>2</sup> BEIS, *Energy White Paper* (2020) <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>



# Introduction

## Competition in Context

Competition is the opening up of a good or service to competitive forces so a variety of parties are free to tender to provide a good or service. Competition brings benefits to sectors in various ways. First, it can help **lower the costs** of the provision of the service or good. Second, it can **foster innovation** by inviting more parties to solve a challenge which is being tendered for. Third, it can broaden the available pool of **investment funds** for these services and assets, thereby supporting innovation, new markets and jobs. It is for these reasons that we are supportive of competition in electricity networks and are keen to expand the existing competitive processes therein. Therefore, we committed to legislate to enable competitive tenders in onshore networks in the Energy White Paper<sup>3</sup>, published in December last year.

## What is competition in electricity networks?

### Onshore Electricity Networks

Network companies are regional monopolies who own and operate the electricity network. Ofgem, as the independent regulator, regulates these companies through the price control (RIIO), setting funding allowances and allowable rates of return<sup>4</sup>. RIIO incentivises companies to run efficiently and at lowest possible cost to the consumer. If new network requirements (wires, pylons, substations etc.) are foreseen by these companies, they can be submitted through the price control (RIIO) to Ofgem for approval. Network requirements and associated outputs and cost allowances can either be set at the start of a price control period, or during the course of a price control period, via what are referred to as 'uncertainty mechanisms'. A relevant example for the RIIO2 price control period is the Large Onshore Transmission Infrastructure (LOTI) process that electricity transmission owners can trigger if their project is worth £100M+<sup>5</sup>. Network companies work with Ofgem to build, own and operate this infrastructure at a reasonable price, and work to incorporate innovative solutions where possible and suitable for the network at hand, taking account of consumer needs.

### Development of Competition for Onshore Networks

In 2012, Ofgem launched the Integrated Transmission Planning and Regulation (ITPR) project which looked at the arrangements for planning and delivering the onshore, offshore and cross-

---

<sup>3</sup> BEIS, *Energy White Paper* (2020) <https://www.gov.uk/government/publications/energy-white-paper-powering-our-net-zero-future>

<sup>4</sup> Further information on the price control can be found here: [https://www.ofgem.gov.uk/energy-policy-and-regulation/policy-and-regulatory-programmes/network-price-controls-2021-2028-riio-2?sort=publication\\_date](https://www.ofgem.gov.uk/energy-policy-and-regulation/policy-and-regulatory-programmes/network-price-controls-2021-2028-riio-2?sort=publication_date)

<sup>5</sup> Ofgem, *Large Onshore Transmission Investments (LOTI) Re-opener Guidance* (2021) <https://www.ofgem.gov.uk/publications-and-updates/large-onshore-transmission-investments-loti-re-opener-guidance>

border electricity transmission networks. This was to ensure they can facilitate coordinated, economic and efficient development of the electricity system in the long term.

As part of this project, Competitively Appointed Transmission Owners (CATOs) were considered and consulted upon. This was to allow for competitive tenders in the build, ownership and operation of some onshore transmission network assets, to bring savings to consumers, as the Offshore Transmission Owner (OFTO) regime had done previously<sup>6</sup>. BEIS (previously Department of Energy and Climate Change) worked with Ofgem to develop draft clauses to enable such competitions in the onshore electricity network and took these to Pre-Legislative Scrutiny<sup>7</sup>. These clauses would give Ofgem the power to run competitive tenders for onshore transmission and distribution licenses for assets which met certain criteria. The criteria for which assets could be subject to competition and the methodology for any competitions would be set out in secondary legislation. Throughout this process, Ofgem and BEIS undertook extensive stakeholder engagement.

Limited Parliamentary time meant that those clauses were not introduced to the House. Since 2016 (when Pre-Legislative Scrutiny of the draft clauses took place), the electricity system has changed significantly, in ways which can be broadly categorised into three themes.

First, in 2019, UK Government committed to achieving **Net Zero** emissions by 2050<sup>8</sup>. In order to achieve this, we will see a substantial increase of renewable generation on the electricity system, including the Prime Minister's commitment to see 40GW of offshore wind on GB's network by 2030. We will also see greater consumer use of low-carbon technologies, such as low carbon heating and electric vehicles. These changes create a need for a different sort of electricity network than that which we have previously had; one which requires both more challenging and complex system balancing of supply and demand, and also greater capacity to cater for the anticipated doubling in electricity demand by 2050 and mitigate new constraints on the network. Earlier this year, we committed to reducing greenhouse gas emissions to 78% of 1990 levels by 2035<sup>9</sup>, in line with the Committee on Climate Change's recommendation in Carbon Budget 6<sup>10</sup>. In order to meet these targets, major investment in networks will be necessary and will need to happen at pace. We recognise that network companies have already been taking steps towards increasing efficiencies and driving innovation when making this type of investment. However, given the scale of change that is required for Net Zero and the level of investment that is required, we see competition, designed in the right way, as

---

<sup>6</sup> In 2009, competition in the ownership and operation of offshore transmission network assets was allowed via changes to the Electricity Act 1989. Offshore Transmission Owners (OFTOs) are parties which are awarded a licence to operate the offshore network infrastructure which connects an offshore development to the onshore electricity transmission network. To date, these competitions have saved more than £800m.

<sup>7</sup> Parliament, *Pre-Legislative Scrutiny* (2016)

<https://publications.parliament.uk/pa/cm201516/cmselect/cmenergy/776/77607.htm>

<sup>8</sup> The target will require the UK to bring all greenhouse gas emissions to Net Zero by 2050, compared with the previous target of at least 80% reduction from 1990 levels. Further information can be found here:

<https://www.gov.uk/government/news/uk-becomes-first-major-economy-to-pass-net-zero-emissions-law>

<sup>9</sup> BEIS, *Press Release* (2021) <https://www.gov.uk/government/news/uk-enshrines-new-target-in-law-to-slash-emissions-by-78-by-2035>

<sup>10</sup> The CCC, *Sixth Carbon Budget*, (2020) <https://www.theccc.org.uk/publication/sixth-carbon-budget/>

essential to further drive efficiencies and provide the best price for consumers while ensuring the necessary scale and pace of change.

Secondly, there have been notable changes in **technology** available to manage constraints and to reinforce the existing network. This includes a greater range of available smart and flexible technologies and services, which are becoming more market-ready. This means that solutions to network constraints are not restricted to new network build but can include other solutions, like aggregation or storage.

Thirdly, another significant relevant change since 2016 is **system governance**. National Grid ESO became a legally separate entity within the National Grid group in 2019, and Ofgem and BEIS are undertaking a further review of system governance, as described below. Roles associated with Distribution System Operation have developed, and DNOs have taken significant steps forward in flexible tenders to solve constraints on their networks. These developments create an environment where bodies other than Ofgem may be appropriately positioned to run tender processes in the future, or to provide advice which was not previously considered.

These considerable changes on Great Britain's (GB's) electricity system mean it is now timely to build on the competitive framework previously put forward and considered by stakeholders and proceed to implement changes in legislation. This consultation document will set out how we see competition working in practice under a legislative framework in onshore electricity networks, outlining the key high level policy changes from the draft clauses previously seen and seeking stakeholder views on specific elements of this policy's implementation, including criteria that Secretary of State will consider when appointing a body to run tenders and certain aspects of criteria for competition. The different models by which competition could be conducted in practice and how they will interact with regulatory mechanisms will be consulted on by Ofgem. BEIS and Ofgem will continue to work closely together to provide as much clarity as early on as possible to the electricity network market.

## Onshore Competition and wider context

Onshore competition is one piece of the puzzle to moving the electricity network forward to meeting Net Zero efficiently, effectively and at the least overall cost to present and future consumers. Other related policies and reviews are set out below. To note, this is a non-exhaustive list.

**Future of System Governance Review:** BEIS and Ofgem have recently published a consultation<sup>11</sup> on a proposal to establish an expert, impartial Future System Operator (FSO) with responsibilities across both the electricity and gas systems in order to drive progress towards net zero. The consultation outlines a proposal for the FSO to encompass all existing NGENSO roles, as well its potential to take on a greater role in driving competition in energy networks. This could positively impact on any potential role for NGENSO as tender body. BEIS

---

<sup>11</sup> BEIS *Proposals for a Future System Operator* (2021) <https://www.gov.uk/government/consultations/proposals-for-a-future-system-operator-role>

will ensure smooth alignment and transition where appropriate between these workstreams. In the electricity distribution sector, Ofgem are continuing to develop proposed reforms to the Long Term Development Statement (LTDS) and the role of a future DSO with a view to consulting on any decision and updated licence changes in early 2023.

**Offshore Transmission Network Review (OTNR):** This review is considering how offshore wind connections link to the onshore transmission network in a coherent, efficient and holistically planned way. Part of the OTNR is considering various delivery models for infrastructure needed to connect offshore wind, potentially also including elements of competition. There will likely be links with onshore competition that will need to be managed, including design of delivery models, roles and responsibilities of key parties and scoping of assets subject to competition.

**RIO and LOTI process:** For significant transmission projects, Ofgem will continue to run the LOTI process and will continue to consider the suitability of projects put forward for competition. In the electricity distribution sector, any final decisions on competition models for significant projects will be set out and consulted on through the RIO-ED2 draft determinations and final determinations in Summer and Winter 2022, respectively. The ED2 arrangements are likely to also include uncertainty mechanisms to allow Ofgem to make decisions on projects during the course of the price control period.

**Penrose Review:** In February 2021, John Penrose wrote a report for the Government outlining his proposals to boost competition to benefit businesses and consumers across the UK<sup>12</sup>. Onshore competition in electricity networks is one example of a sector which is working to take action to implement such proposals.

**BEIS and Ofgem's Smart Systems and Flexibility Plan:** Earlier this year, BEIS and Ofgem published their 2021 Smart Systems and Flexibility Plan, which follows on from the 2017 Smart Systems and Flexibility Plan and Progress update published in 2018. These publications set out various actions for Government, the regulator and industry to enable a smarter and more flexible system and deliver a world-leading regulatory environment for flexibility. One area of focus is on how Distribution System Operation capabilities will need to evolve to develop local markets for flexibility. The legislative framework for competition set out in this document is intended to complement and build on this policy area.

---

<sup>12</sup> Independent report: *John Penrose MP publishes proposals to strengthen UK's competition regime* (2021) <https://www.gov.uk/government/news/independent-report-john-penrose-mp-publishes-proposals-to-strengthen-uks-competition-regime>

# A Competitive framework for Onshore Electricity Networks

Against the background of a rapidly evolving electricity system, we committed in the Energy White Paper to legislate to enable competition in onshore electricity networks (or 'onshore competition'). Taking account of this evolving landscape, we are eager to create a competitive framework which can be adapted to suit the system needs. At its core, the policy relating to onshore competition remains as reflected in the earlier stakeholder engagement on onshore competition and CATOs. That is, network planning processes identify a constraint; should the solution proposed in the network planning process to address that constraint meet certain criteria, a competition can be run to determine the winning bidder who can then build, own and operate their network solution that addresses the constraint.

Bearing in mind the three themes of change outlined in the section above and the objectives of competition to lower costs for consumers while meeting Net Zero network needs in an innovative way, three high level updates to the policy are needed since the version seen through clauses in 2016. These are:

## 1. Secretary of State Appointing a Body to run Tenders

As set out in the Energy White Paper, the Secretary of State should be able to appoint a body they deem suitable to run competitive tenders under the legislative framework. This allows flexibility for the body running tenders (the Appointed Body) to be someone other than Ofgem (who is the body running tenders for OFTOs currently). It allows for change in system governance to date, and further flexibility in the future. The Secretary of State's power will cover competitions for solution delivery in both onshore and offshore networks. The detail of how this power will work is covered later in this consultation.

It is worth noting that Ofgem, whether the Appointed Body or not, remains the legal body responsible for awarding licences and will also continue to be responsible for meeting its principal objective and primary duties<sup>13</sup>. As such, if the Appointed Body is not Ofgem, the Appointed Body will be expected to work closely with Ofgem and share information as is relevant to Ofgem's role. This is also relevant to a contract counterparty should the outcome of a tender require a contract rather than a licence (please see part 3 of this section for further information).

## 2. Types of competition to suit the constraint at hand

The type of network constraint at hand can affect the types or range of solutions available to solve them. As such, the onshore competitive framework should allow for types of competition

---

<sup>13</sup> Ofgem, *Powers and Duties* (2013) <https://www.ofgem.gov.uk/publications/our-powers-and-duties>

most suited to the constraint at hand, whether it be early-stage competition or late-stage competition.

**Early-Stage Competition** is competition that occurs when a network constraint is identified (e.g. not enough capacity on network to allow for supply and/or demand, and/or there are issues with balancing supply and demand) but prior to the detailed design, surveying and consenting phases of asset development, so the design, construction and delivery of a project is tendered for. The inclusion of this type of competition is important to reflect the fact that the electricity system is changing and will continue to change as different types of solutions have, and will, become available. Previously, if there was a constraint, a network licensee would often only be able to solve it through a traditional solution (normally infrastructure build). Increasingly, a constraint could be solved in different ways, bringing different benefits. Competition can help find the best solution for the system and consumers (see example of different solutions which could come forward in a scenario in the ‘Competitions which invite different solutions’ below). National Grid ESO recently published their Early Competition Plan<sup>14</sup> which sets out their suggestions of how early stage competition will work in practice. Ofgem will consult on the detail of those proposals shortly<sup>15</sup>.

**Late-Stage Competition** is competition that occurs after the main design phase is complete and major planning consents are secured, so it is the construction and delivery of a project that are tendered for. Late-stage is a more established and common competition model (both in the electricity sector and in terms of wider Public Private Partnership procurements); it is when a constraint on the network has been identified, the solution decided and received development consent, and parties bid to build, own and operate that solution.

In short, the key difference between early and late-stage competition is the stage at which the constraint is put out for tender. The scope of tender is limited to one particular type of solution in late-stage competition, whilst a broader range of solutions to address the constraint in question is invited in early-stage competition.

Early or late competitive frameworks will suit different types of constraints, and could bring different benefits. Those which we have identified thus far are outlined in the following Table:

Benefits of Late Stage Competition	Benefits of Early Stage Competition
Greater certainty as planning permission for network solution known at start of competition – this allows greater competitive pressure on capital, financing and operating costs.	Supports green recovery post Covid by removing a market barrier to new technologies and third parties seeking to provide technological solutions to network constraints.

<sup>14</sup> NGENSO, *Early Competition Plan*, (2021) <https://www.nationalgrideso.com/future-energy/projects/early-competition-plan>

<sup>15</sup> Ofgem *Early Competition Consultation* (2021) <https://www.ofgem.gov.uk/publications/consultation-our-views-early-competition-onshore-electricity-transmission-networks>



Benefits of Late Stage Competition	Benefits of Early Stage Competition
<p>Tender methodology for comparison of bids is expected to be more straightforward as they are comparing bids for the same solution.</p> <p>Widens the pool of capital available to invest in network solutions to support Net Zero beyond traditional network owners.</p>	<p>Widens the pool of capital available to invest in network solutions to support Net Zero beyond traditional network solutions to other technologies.</p> <p>Enables and encourages innovation by creating a competitive framework from which bidders are not excluded by pre-supposing a traditional solution.</p> <p>Create an environment where different types of network solutions (either traditional or novel and ‘smart’) can compete on a level playing field, supporting free market principles to identify efficient and economic outcomes through competition to address a network constraint.</p> <p>Helpful if constraint on network is new and different solutions could solve in different ways.</p> <p>Potential for significant capital cost savings from smart and/or non-network solutions, where possible, compared to a traditional ‘asset heavy’ solutions.</p>

The nature of a constraint and its possible solution, and thus the appropriateness of any particular competition process for resolving it, will depend on the specific circumstances. We therefore feel it is important to create an enabling regime which is flexible enough to enable both early- and late- stage competition processes, with the choice of route to be determined by the Ofgem in the light of the circumstances.

There are other types of competition. For example, ‘Very Late Competition’ is where the asset is built and the tender is for ownership and operation of the asset. This is the type of competition (‘generator build’) currently used for OFTOs. We expect that type of competition to continue to be available under the competitive framework for offshore, and perhaps even onshore, electricity networks, not least to cater for ‘projects in flight<sup>16</sup>’ and to support the progress of offshore generation projects, due to the speed in infrastructure build necessitated

<sup>16</sup> Projects in flight are projects that are at an advanced stage of development (e.g. in construction) at the time a new competitive regime is in place.

by the UK's Net Zero objectives. Under this type of competition, network solutions could either be built by offshore generators, or potentially by incumbent network licencees under the RIIO framework (where often consumers benefit from competition which exists in the network companies' supply chain), or perhaps even in future by onshore generators, and the rights to own and run the asset tendered out thereafter.

We expect that Ofgem, as the licensing body, would work with the Appointed Body and the wider industry when a constraint is identified that may be appropriate for competition, make an assessment and decision on the type of competition, if any, applicable to the constraint at hand, as the needs case is established. It is expected this will strike the right balance to allow for flexibility to the constraint in question and certainty for the market. It will also take into account the impacts of competition on timelines and factor this into assessment of costs and benefits. This will ensure parties in the industry are aware of the intention to have a competition and the type of competition expected at an early stage.

- 1. In order to provide certainty for those planning networks and potential bidders, we think it would be appropriate for Ofgem to publish a decision on the type of competition, if any, to be utilised on any given constraint as part of the needs case assessment. Do you agree this is appropriate?**

### 3. Competitions which invite different solutions

Two fast-paced changes in the electricity sector affect the types of solutions suitable to address electricity network constraints:

- New and innovative smart technology and flexible solutions are developing rapidly and increasingly becoming market ready, as costs are decreasing; and
- The network itself is changing, as more renewable generation is joining the network (including at distribution level) and demand users are taking a more active part in the network, so the types of constraint on the network are changing.

The recent publication of BEIS and Ofgem's Smart Systems and Flexibility Plan 2021<sup>17</sup> sets out the ongoing work and actions for BEIS, Ofgem and industry to remove barriers and reform markets in order to drive forward the smart and flexibility agenda. We estimate that increased flexibility could reduce system costs between £30-70bn across that period<sup>18</sup> (2012 prices, discounted). Such technologies are essential for integrating high volumes of variable renewable generation and increasingly variable demand through the take up of electric vehicles and heat pumps but also to realise the potential savings from avoidance/deferral of traditional network investment.

---

<sup>17</sup> BEIS and Ofgem, *Transitioning to a net zero energy system: smart systems and flexibility plan 2021* (2021) <https://www.gov.uk/government/publications/transitioning-to-a-net-zero-energy-system-smart-systems-and-flexibility-plan-2021>

<sup>18</sup> 2012 prices, discounted



In order that we gain the benefits of true competition, any competitive regime to address network constraints should be open enough to allow new types of solutions to bid in. This allows for innovation and new markets to emerge by allowing different solutions to compete against one another in the market on a level playing field. Some innovative, non-network build solutions are market ready already.

For example, the ESO has started identifying a limited number of solutions to network challenges already, under the most recent Network Options Assessment<sup>19</sup> (NOA) they proposed four commercial solutions which they say will combine to save consumers £2.1bn. Without the ability to enter into competition under the wider forms of competition provided for by the proposed new legislative framework, the new solutions do not benefit from the opportunity of competition to drive down costs or economies of scale further as they cannot enter the market of electricity network ownership and operation. Moreover, consumers will benefit where the most cost-effective solutions available are able to compete.

We expect a variety of solutions to be suitable for different network constraints, illustrated in the Case Study Box below. The delivery of solutions will vary: some solutions involve activities that require licences, whereas others involve non-licensable activities. Depending on this, the outcome of a tender could be Ofgem awarding a licence to a winning bidder or a contract counterparty entering into a contract with the winning bidder.

Case study of technologies which could come forward under competition to solve a constraint:

**Situation:** constraint on the electricity transmission network (i.e. either there is excess of supply or excess of demand and a network solution is needed to manage this). Levels of renewable generation are high in a location, with limited demand due to lower population density levels.

Options which could come forward to solve this:

**Solution 1:** a wire (transmission licensed activity) connecting the location with high supply to an area of high demand.

**Solution 2:** a battery (which could be a generation licensed activity) to store energy when generation production is high, to release when demand is needed in that area.

**Solution 3:** an aggregation service (non-licensed activity) which amasses demand across a region, turning up or down as required to meet network balancing needs.

**Solution 4:** a voltage providing service (non-licensed activity) so the wires can maintain their integrity, responding to the particular challenge of surging electricity when wind suddenly commences without warning.

---

<sup>19</sup> NGENSO, *Network Options Assessment*, (2021) <https://www.nationalgrideso.com/research-publications/network-options-assessment-noa>

**Solution 5:** Single large demand consumer solution e.g. very large industrial consumer such as an electrolyser to produce hydrogen. This would require a contract with the energy system balancer (currently NGESO).

Some of these solutions will require the winning bidder to have a licence (otherwise they would be carrying out unlawful activity) (e.g. Solutions 1 and 2) – whereas other solutions may involve activities that do not require a licence (e.g. Solutions 3, 4 and 5).

Competition for unlicensed solutions to network challenges is already underway through various means, including National Grid ESO's Pathfinders work, and DNOs' flexibility tenders. These are beginning to demonstrate the variety of network solutions available on the electricity network in GB. Ensuring a framework whereby licensed and unlicensed solutions can compete against one another in one form of competition could encourage efficiency. As such, the competitive framework set out in this document should be viewed as additional to rather than replacing existing competition processes.

The process by which these different types of solutions are compared within a tender process considering their suitability to address a network constraint at hand will be set out in detailed Tender Regulations and Invitation to Tender documentation. These documents will set the process for the tender and factors that will be considered in the bids. Different types of solutions will be considered on equal footing and BEIS and Ofgem will work with stakeholders to ensure appropriate factors are used to ensure a fair assessment.

- 2. In order to enable fair consideration of flexible and traditional solutions under a competitive framework set out in legislation, what are the key factors you consider should form part of the Appointed Body's assessment of bids in the tender process?**
- 3. Are there any market barriers to smart, flexible solutions being competed alongside traditional solutions in a fair and open competitive process? It would be useful to understand the types of bidders interested in such competitions, and the types of solutions they might put forward for consideration.**

# Role of Network Planning and Net Zero Infrastructure

## The Process for Competitive Tenders for Electricity Assets

The table below sets out a high level indicative process and timeline for onshore competition allowing for the award of licences or contracts.

Stage of competition	Solution/Process	Estimated time
Pre-Tender	Identification of constraint	Up to a year or so of preparations
	Initial events inviting interest and providing information on the solution	
	Consideration of needs case and suitability of an indicative solution (to a constraint) for competition.	
	Tender documentation updated to cater for the specifics of the indicative solution subject to competition e.g. commercial models used and bid evaluation framework.	
Pre-qualification period	Consider if bidders have technical, financial and legal standing to become licensee or be awarded a contract.	2-4 months
Tender Process	Bids responding to Invitation to Tenders (ITTs) submitted to Appointed Body and assessed.	9-15 months
Preferred Bidder Stage and Licence / Contract Award	This stage is when the decision on preferred bidder is announced, open to challenge and final checks are undertaken, as well as licences/ contracts finalised	3-6 months
Solution delivery works	Winning bidder starts to build, own and operate the winning solution in line with requirements as set out in their licence and/or contract.	Flexible, depending on winning bid

This sets the competitive process (as will be enabled by legislation) at approximately 1.5 to 2 years from the start of the competitive process to commencement of delivery of the solution. Each network constraint is different and preparation time and commencement point during the network planning process will vary. The type of competition used will also affect this. We expect that Ofgem and industry will work together to ensure competition fits into existing network planning processes smoothly and, where possible and appropriate, stages of planning and competition can take place alongside one another to reduce timescales and minimise delays.

## Implementation of Onshore Competition in Practice

We agree with stakeholders who have emphasised that the introduction of competitive processes in network build, ownership and operation should not detract from, delay or disrupt planned or in-progress network reinforcement for Net Zero. In the interests of allowing timely decisions to be made on application of competition to specific projects, we are eager to provide as much certainty as feasible for those within the sector on when onshore competition will be introduced.

The table below sets out an indicative timetable for the introduction of any legislation to enable competition for onshore transmission or distribution licences, followed by when competitions would commence and when delivery of the winning solution would commence. These timings are all illustrative and should be treated as such. The table sets out the earliest point at which a competition would commence, assuming the lower end of the range of times for stages of competition set out on the previous page. If T were to be today, the earliest point for commencement of a competitive process would be 2023.

Introduction of Bill	Royal Assent	Any necessary secondary legislation	Constraint identification and pre-tender preparations	Competition (including pre-qualification and tender process)	Preferred Bidder selected	Delivery commences
Stage commenced	T	T+2/3 months	T+6 months	T+18 months	T+2years 5months	T+ 2 years 8 months

After Royal Assent occurs, we would expect to bring in competitions for onshore networks as quickly as possible in order to gain the benefits from it. As set out earlier, we think it would be appropriate for Ofgem to publish a decision on the type of competition, if any, to be utilised on any given constraint as part of the needs case assessment.

# Factors taken into consideration when appointing a body to run tenders

As set out above and in the Energy White Paper, the Secretary of State should be able to appoint bodies they deem suitable to run competitive tenders. This allows flexibility for the Appointed Body to be someone other than Ofgem (who is the body running tenders for OFTOs currently). The Secretary of State will have the power to appoint one or more bodies to run different types of tenders. This will allow for the most appropriate body to be appointed, in the context of the type of competition the body is appointed to run.

Ofgem consulted in their RIIO T2 Sector Specific Methodology<sup>20</sup> on what criteria a body appointed to run competitions should be required to meet. These criteria centred on (perception/actual) bias/conflict of interest, economies of scale, and technical proficiency. Ofgem found that there was broad agreement from respondents that these three factors were suitable. Given this prior consultation and responses, we are minded to recommend that Secretary of State will consider these ‘Essential Factors’ in their appointment decision. We have also identified additional factors that have not previously been consulted on that we think likely to be relevant to the Secretary of State’s decision to appoint a body. We describe these additional factors as “Desirable Factors”. The Desirable Factors identify things that may be additionally considered relevant by the Secretary of State when appointing a body.

We set out below more detail on the factors that the Secretary of State may consider when considering appointing a body. Please note, all factors and indicators are non-exhaustive and the Secretary of State will consider any relevant factors/indicators at the time of the decision.

	Factor	Indicators that the factor is met
	Essential Factors	
1	<p><b>Independence, actual/perceived bias and conflicts of interest</b></p> <p>The body needs to be sufficiently independent of potential bidders, incumbent network companies and potential network solutions, such that it can perform functions free from bias or a reasonable perception of bias or conflict of interest, in the</p>	<p>Indicators of independence, actual/ perceived bias and/or conflicts of interest include:</p> <ul style="list-style-type: none"> <li>• Ownership Structures                             <ul style="list-style-type: none"> <li>○ For example, are there pre-existing relationship to potential bidders, such as being part of the same group?</li> <li>○ Do the boundaries that separate parts of the organisation provide a suitable barrier to perceptions of bias?</li> </ul> </li> <li>• Reputation in industry</li> </ul>

<sup>20</sup> Ofgem, RIIO2 Sector Specific Methodology Consultation, (2018) <https://www.ofgem.gov.uk/publications-and-updates/riio-2-sector-specific-methodology-consultation>

	Factor	Indicators that the factor is met
	<p>interests of efficient network for Net Zero and consumers.</p>	<ul style="list-style-type: none"> <li>○ Would potential bidders feel confident that a competition run by this body will give equal chance to all bidders?</li> <li>● Interests in the constraint on the system that needs addressing               <ul style="list-style-type: none"> <li>○ For example, does the issue have an impact on other parts of the Appointed Body's organisation?</li> </ul> </li> <li>● Interests in the solution               <ul style="list-style-type: none"> <li>○ For example, do they have a vested interest in there being more traditional ("wire") or flexible solutions across the electricity network, or do they have a vested interest in certain types of solution?</li> </ul> </li> <li>● Financial benefits from competition               <ul style="list-style-type: none"> <li>○ For example, are there any ways in which their running of a competition could result in them having a financial gain?</li> </ul> </li> <li>● History/ experience of managing (actual/perceived) bias or conflicts of interest               <ul style="list-style-type: none"> <li>○ For example, has it successfully dealt with conflicts of interest before?</li> </ul> </li> </ul>
2	<p><b>Economies of scale</b></p> <p>One of the primary costs of competition is the cost of running the tenders. The centralisation of competition functions could, therefore, bring with it economies of scale and centralisation of expertise and culture. Where this centralisation is broadest, being both within and across the sectors, the cost efficiency would be expected to be maximised.</p>	<p>This is about determining whether it is cost effective to be appointing the body to this role. There are various factors that could influence this determination, such as:</p> <ul style="list-style-type: none"> <li>● How much would the initial cost be to bring in the expertise the body requires, and do we think the body could be efficient at retaining that expertise and using it for future tenders?</li> <li>● Is there a repeatable pipeline of tenders that makes it less important if there is a high initial set up cost?</li> <li>● Does the body have the right incentives (e.g., a wider interest in ensuring efficient tenders as</li> </ul>

	Factor	Indicators that the factor is met
		<p>the outcome is linked to other objectives it has)?</p> <ul style="list-style-type: none"> <li>• Does the body meet adequate and proper financeability requirements?</li> </ul>
3	<p><b>Technical Proficiency</b></p> <p>A competition-running institution will need to have strong technical and commercial knowledge appropriate to the type of competition it is running. It needs to have a sufficient depth of experience (although we note that an institution running a competition could potentially bring in external expertise – e.g., through consultancy – where efficient, to advise in areas where it did not have the necessary expertise and/or resourcing).</p>	<p>Indicators of technical and commercial proficiency may include:</p> <ul style="list-style-type: none"> <li>• In-depth knowledge and expertise in the type of network issue, and possible solutions, technologies, licensing and legal frameworks that bidders will use/operate within.</li> <li>• In-depth knowledge and expertise in the commercial framework in which major infrastructure is developed and financed, including understanding of risk.</li> <li>• Relevant experience of running competitions.</li> <li>• Experience of commercially sensitive data management.</li> </ul> <p>This expertise should be linked to the type of winning bidder role that is being evaluated as part of the competition. Linking the expertise to the type of bid being evaluated as part of the competition should help to ensure the Appointed Body has the appropriate expertise in the solutions that are put forward, to accurately assess them against the tender evaluation criteria. For example, on OFTO competitions, the main roles are technical operation and maintenance (O&amp;M) of the assets and funding the purchase and then ongoing O&amp;M of the assets. Whereas on early model onshore competition, the roles of the winning bidder are much wider (e.g., designing the solution, securing planning consent, building the solution), and some of these technical areas will be less important at the time of the competition (e.g., O&amp;M).</p>
	Desirable Factors	
4	<p><b>Experience in running tenders</b></p>	<p>The Secretary of State could consider, does the body have experience in running competitions?</p> <p>Indicators for consideration:</p>

	Factor	Indicators that the factor is met
		<ul style="list-style-type: none"> <li>• Frequency – is this something the body already does regularly?</li> <li>• Experience of running similar competitions – for example, are there transferable skills and a consolidation of knowledge and lessons learnt from running OFTO or Pathfinder competitions?</li> <li>• Scale – have they experience of running competitions for solutions of similar scale in terms of value, time taken, complexity of process?</li> <li>• Experience of running a particular competition model – e.g., early competition.</li> </ul>
	<p><b>Other potentially relevant additional considerations</b></p>	<p>Taking into account the wider government and energy system context, the Secretary of State may also wish to consider:</p> <ul style="list-style-type: none"> <li>• Whether there are external factors in energy network regulation that impact on the body’s ability to carry out the role, for example, is a new price control due to begin meaning there is less resource to run competitions, or are there legislative/policy changes such as those resulting from the Offshore Transmission Network Review, to account for?</li> <li>• Are there national security risks with the appointed body?</li> <li>• Would Government need to offer an indemnity to the body?</li> <li>• Does the body have a good record of embracing diversity and inclusion?</li> <li>• Does the body present a potential reputational risk to Government?</li> </ul>

Taking these factors into account, at this time we consider that Ofgem and NGENSO are currently the only two bodies that we view as being potentially suitable to taking on the role as



Appointed Body for onshore competitions.<sup>21</sup> We do not think that network companies assessing competitions for solutions to constraints on their own networks would provide a comparable level of confidence in their suitability to carry out the role. This is because we think it is reasonable some bidders would see the network companies as not being sufficiently independent as to be free from the perception of bias when running competitions for constraints on their own network. We recognise that network companies already run competitions for significant portions of the work carried out on their network, but that is different because it is competition for carrying out the work that the network company already has the right to do (and thus make profit from via the price control mechanism) rather, than competition for the award of the license/contractual right to build, own and operate a solution. We also recognise that network companies could put in place mitigations to protect against perceptions of bias, such as ring-fencing certain parts of the business. However, this potentially drives up cost of competition, tipping the balance on the economies of scale.

### **Questions for consultation:**

**While this decision will be made at the Secretary of State's discretion at the time the decision is made:**

- 4. Do you agree that these are the right factors and indicators to be included in their consideration?**
- 5. Do respondents have views on the suitability of Ofgem or NGENSO as a possible Appointed Body?**
- 6. Are there any other bodies that should be considered as a possible Appointed Body? If so, why?**

---

<sup>21</sup> As noted in the section above on the wider context, the ongoing review of the Future of System Governance may impact this assessment and a proposed impartial Future System Operator may be suited to this role too. BEIS *Proposals for a Future System Operator* (2021) <https://www.gov.uk/government/consultations/proposals-for-a-future-system-operator-role>

# Criteria for competition at transmission level

## Transmission: Purpose and Roles

The purpose of competition is to find efficiencies in delivery of a solution to a network constraint, compared to that which would otherwise be used to address the constraint by the incumbent licensee (usually new network infrastructure) through the RIIO process. The purpose of the competition criteria is to identify potential projects that are suitable to be subject to competition, rather than presuppose the outcome of a competitive tender (separate assessment criteria for the bids will be set out in the Tender Regulations and associated Tender Documentation). Therefore, the criteria for identifying projects suitable for competition should be applied against the indicative solutions that are proposed (by the incumbent network company or other relevant party) as part of the Network Options Assessment (NOA)<sup>22</sup> process or equivalent network planning process (taking account of the various ongoing reviews which will impact upon network planning, see sections above.)

If the indicative solution put forward does not meet the requirements of the identification criteria, the solution to the constraint at hand would be progressed under the usual arrangements (e.g. RIIO).

If the indicative solution put forward does meet the requirements of the competition criteria, the network company could take part in the competition process as a bidder (subject to meeting any relevant conflict mitigation requirements). Determining how the incumbent network is treated within the competition, whether as a direct bidder or as a counterfactual, is a matter for Ofgem, as the independent regulator. Ofgem will act in best interests of consumers, in line with their regulatory duties. Further consideration of this point will form part of Ofgem's consultation on early competition.

Whilst the framework for competition, including setting criteria for projects eligible to be competed under the legislative competitive framework, is the remit of Government, it would be up to Ofgem to apply the identification criteria to find projects suitable for such competitions.

---

<sup>22</sup> The NOA is National Grid Electricity System Operator's recommendation for which projects should receive reinforcement during the coming year to meet future network requirements. The methodology on producing the NOA is approved by Ofgem each year, and it is created using outputs from the ESO's Future Energy Scenarios and Electricity Ten Year Statement. NGESO, *Network Options Assessment*, (2021)  
<https://www.nationalgrideso.com/research-publications/network-options-assessment-noa>

## Transmission: What are the competition criteria?

### Early Model Competition

We are not consulting on the competition criteria for early competition as this instead features in Ofgem's consultation on early competition. Please see Ofgem's consultation for more details on this.<sup>23</sup>

### Late Model Competition

For late-model competition, we envisage that the criteria for identifying projects that are suitable for competition will be those where the incumbent's indicative solution is an asset that is new and separable from the existing network, and of high value. We set out below how we see these criteria operating and ask for stakeholder views on where to set the high value threshold.

### Why New and Separable?

The New and Separable criteria (which are explained in further detail below) are designed to increase the benefits and reduce the costs of competition, for example it could reduce the risk of property rights issues arising at the boundaries of neighbouring assets, or help to avoid excessive risk premiums in bids (due to uncertainty about the condition of assets) and avoiding disputes about liabilities further down the process.

### What does separable mean?

Ofgem have issued guidance on new and separable previously in the context of transmission<sup>24</sup> (and distribution)<sup>25</sup>.

Following engagement with engineers and industry, Ofgem have issued guidance stating that Separable means:

- The boundaries of ownership between these assets and other (existing) assets can be clearly delineated.
- Assets do not need to be electrically contiguous or electrically separable from other assets to be considered separable.
- In transmission, the System Operator may on a case-by-case basis propose electrical separability at project interfaces, if the SO considers there is a cost-benefit justification for this.<sup>26</sup>

---

<sup>23</sup> Ofgem *Early Competition Consultation* (2021) <https://www.ofgem.gov.uk/publications/consultation-our-views-early-competition-onshore-electricity-transmission-networks>

<sup>24</sup> Ofgem, *Guidance for the Criteria for Competition* (2019) [https://www.ofgem.gov.uk/system/files/docs/2019/02/criteria\\_guidance.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/02/criteria_guidance.pdf)

<sup>25</sup> Ofgem, *RIO-ED2 Sector Methodology Consultation: Annex 2 Keeping bills low for consumers* (2020) [https://www.ofgem.gov.uk/system/files/docs/2020/07/ed2\\_ssmc\\_annex\\_2\\_keeping\\_bills\\_low\\_0.pdf](https://www.ofgem.gov.uk/system/files/docs/2020/07/ed2_ssmc_annex_2_keeping_bills_low_0.pdf) (page 111)

<sup>26</sup> Ofgem, *Guidance for the Criteria for Competition* (2019) [https://www.ofgem.gov.uk/system/files/docs/2019/02/criteria\\_guidance.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/02/criteria_guidance.pdf)

### What does new mean?

In past guidance Ofgem have stated that New means a ‘completely new asset or a complete replacement of an existing asset.’ We propose that due to the broadening of scope to include flexible solutions, New should be taken to mean (1) a completely new solution/asset or (2) a complete replacement of an existing solution/asset.<sup>27</sup> Otherwise, we anticipate using definitions of New and Separable along the lines set out above.

### Why high value for late model competition?

Setting a high value threshold is intended to ensure that the costs of running a competition are lower than the benefits that would result from the delivery of the winning bid.

Ofgem have previously issued guidance that states high value means:

- A threshold set at or above £100,000,000 of expected capital expenditure at the point of our initial assessment of the appropriate delivery model.
- The threshold will be a fixed nominal value and not indexed to a reference year.
- Expected capital expenditure will be assessed in the price base of the year of assessment.
- The expected capital expenditure will include:
  - purchasing the component parts of the relevant assets;
  - the construction of the relevant assets;
  - the land at which the relevant assets are situated;
  - compliance with the conditions attached to consents;
  - the third-party works upon which the operation of the relevant assets depends;
  - project management;
  - itemised risk and contingency allowances;
  - the procurement of itemised goods, services and works; and
  - any other cost elements which can be reasonably justified as integral or relevant to the construction or function of the relevant assets.<sup>28</sup>

We anticipate the use of a high-value threshold, calculated along the lines set out above. We would find it useful to gather evidence on whether the £100million threshold is still the appropriate level to set the threshold at, for late-stage competitions that address needs on the transmission system.

### Question for consultation:

---

<sup>27</sup> Please see section above on ‘Onshore Competition Electricity Network Framework: Competitions which invite all types of solutions’ for more details on different types of solutions/assets.

<sup>28</sup> Ofgem, *Guidance for the Criteria for Competition* (2019)

[https://www.ofgem.gov.uk/system/files/docs/2019/02/criteria\\_guidance.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/02/criteria_guidance.pdf)

- 7. Do you agree that £100m remains the appropriate threshold to be 'high value' assuming this criterion is applied to late model competition in electricity transmission?**

## Competition at distribution level

Increases in the numbers of non-network solutions and non-traditional assets being integrated across the networks, and the capability of distribution and transmission networks to support one another, means that Ofgem now requires network companies to coordinate their actions and consider whole system solutions, via their licence conditions. Working with Ofgem, government has also amended the distribution license to ensure DNOs procure flexibility where they are a cost-effective alternative to network build and to more clearly signal their future flexibility needs.<sup>29</sup> The legislative framework for competition at the distribution level set out below is intended to complement and build on this policy area.

As noted above in the transmission section, the purpose of competition is to find efficiencies in delivery of a solution to a network constraint compared to that which would otherwise be used to address the constraint by the incumbent licensee (usually new network infrastructure). The same reasoning applies to distribution. Early competition requires that the tender evaluation criteria will be sector agnostic, i.e. the successful solution to address a constraint on the system could be from either transmission or distribution sector, or a non-network solution (e.g. storage). For example, a bidder might propose that a number of demand-side response technologies could be applied on the distribution network, to accommodate a generation shortage at transmission level.

Our legislative framework will enable competition to address needs identified at the distribution level. We think there will be a good case for introducing competition to distribution networks in the future. This is because (a) the interaction between a whole system approach and network planning mean that needs on one part of the system can be addressed by actions elsewhere; (b) competition on the transmission network only would mean that 132kV network assets will be competed in Scotland but not in England and Wales, and as benefits can be derived from this voltage in Scotland, the same logic should apply in England and Wales<sup>30</sup>; and (c) there are existing parties that have the potential to present competitive bids, including non-network participants, and those that already operate at distribution level, such as Independent Distribution Network Operators and Independent Connection Providers.

We set out below how we envisage competition on the distribution network operating in practice.

---

<sup>29</sup> The Electricity and Gas (Internal Markets) (No. 2) Regulations 2020  
<https://www.legislation.gov.uk/uksi/2020/1401/regulation/4/made>

<sup>30</sup> The voltage level that distinguishes transmission and distribution is different in Scotland to the rest of GB. Therefore, if 132kV is competed in one part of GB (i.e. Scotland) and thus consumers get value from competitions there, then there is no reason not to compete 132kV elsewhere in GB (i.e. England and Wales) so consumers everywhere get the same level of benefit.

## Distribution: Competition Criteria for Projects to be subject to Competition

### Early Model Competition

We are not consulting on the competition criteria for early competition as this instead features in Ofgem's consultation on early competition. Please see Ofgem's consultation<sup>31</sup> for more details on this.

### Late Model Competition

We propose that the criteria for identifying projects on the distribution network that are suitable for late-model competition, should be those that are New, Separable and of high value. New and Separable are discussed in the Transmission criteria section above and the reasons for these criteria's applicability to Distribution aligns with Transmission.

We recognise that there has been some concern about the use of a high value threshold for distribution.<sup>32</sup> This is partly because projects on the distribution network generally cost less than at transmission, so applying a high value threshold risks some projects initially being out of scope of competition. However, setting a high value threshold serves a useful function because it ensures that the costs of running a competition are lower than the benefits that would result from the delivery of the winning bid. We anticipate that once competitions are established, the costs for running them may decrease. Furthermore, some of the costs for competition derive from the length of the process. There is potential that some of this work for competitions addressing distribution needs can be consolidated into shorter timescales. Therefore, there may be a case for reducing the high value threshold from the proposed level of £100million in the future. This would mean that more distribution projects will have the potential to fall in scope. We also note that Ofgem has set out that it has decided to carry out further work to consider potential mechanisms and principles for 'packaging' (i.e. combining) lower-value projects with a common need driver or common purpose, towards the £100m threshold, that may be applied in RIIO-ED2<sup>33</sup>.

We are aware that some network companies have concerns that distribution projects are different to transmission, because of their proximity to consumers, and thus, there may be implications from introducing third parties to the process. We think that the tender evaluation criteria rather than competition criteria are the right place to address the specific needs of managing stakeholder requirements. The bid itself can then be assessed for its wider stakeholder impacts.

---

<sup>31</sup> Ofgem *Early Competition Consultation* (2021) <https://www.ofgem.gov.uk/publications/consultation-our-views-early-competition-onshore-electricity-transmission-networks>

<sup>32</sup> NGESO, *Early Competition Plan Phase 3 – Chapter 7, Distribution* (2020) <https://www.nationalgrideso.com/document/181936/download>

<sup>33</sup> Ofgem, *RIIO ED2 SSMD* (2020) [https://www.ofgem.gov.uk/system/files/docs/2020/12/riio\\_ed2\\_ssmd\\_annex\\_2\\_keeping\\_bills\\_low.pdf](https://www.ofgem.gov.uk/system/files/docs/2020/12/riio_ed2_ssmd_annex_2_keeping_bills_low.pdf) (page 88)

## Distribution Roles

We think that the roles that apply to competition for transmission, broadly carry over well to their counterparts in distribution. For example, we assume that network planning roles will remain with the DNOs/DSOs. Ofgem will take on the role of Approver and Licence Counterparty, and the DNOs/DSOs could take on the role of contract payment counterparties (as described by the ESO in their Early Competition Plan)<sup>34</sup>. The difference in approach to transmission level, however, concerns the role of the body running tenders, the Appointed Body.

We note that the ESO's Phase 3, Early Competition Plan engaged with this topic. The ESO stated that stakeholders "have expressed very strong support for [the Appointed Body] role to sit with the DNO/DSO. Strong themes heard in support of this position is their experience of running competitions already, their in-depth knowledge of the multi voltage networks, and that they are best placed to react quickly to customer needs in an environment that traditionally works to shorter timescales than transmission. The perceived complexity and cost of introducing Ofgem or a Third Party to this role is seen as a very significant disadvantage by nearly all stakeholders alike."<sup>35</sup>

However, there are also some concerns that the current relationship between DNO and DSO roles and responsibilities could result in a conflict of interest, or at least a perception of bias.<sup>36</sup> We are aware that the future relationship between these roles and responsibilities could change in the coming years. We are undecided at this time on whether this current level of potential (and/or perceived) conflict of interest is sufficient to preclude DSOs/DNOs from taking on the role of the Appointed Body. If Ofgem were the Appointed Body, this issue on conflict of interest would be addressed, as they are generally accepted as a fair arbiter due to their independent nature. However, potential/perceived bias is not the only element that needs to be considered. Technical proficiency and economies of scope and scale are also important factors<sup>37</sup>, and Ofgem may not therefore necessarily be the best choice.

Bearing in mind these difficulties with selecting an appropriate body to run tenders, we think that we should monitor how future energy system governance and distribution system operation projects are developing, ahead of the Secretary of State taking a decision on the Appointed Body.

---

<sup>34</sup> Early Competition Final Plan April 2021, p. 6.

<https://www.nationalgrideso.com/future-energy/projects/early-competition-plan/project-documents-early-competition>

<sup>35</sup> NGESO, *Early Competition Plan Phase 3 – Chapter 7, Distribution* (2020)

<https://www.nationalgrideso.com/document/181936/download>

<sup>36</sup> NGESO, *Early Competition Plan, Phase 3, Consultation Responses*, (2021)

<https://www.nationalgrideso.com/future-energy/projects/early-competition-plan/project-documents-early-competition>

<sup>37</sup> Results of consultation **question 4**, pending.



**Questions for consultation:**

- 8. Are the competition criteria for projects (new, separable and high value) suitable for late-model competition at distribution network level?**
- 9. Are there bodies other than Ofgem which have potential for consideration by Secretary of State to be the Appointed Body to run competitions at distribution level?**

# Roles and Responsibilities within Onshore Network Competition

Legislating to enable onshore competition will mean that bodies are taking on new roles and responsibilities. This section sets out at high level the key parties involved in the tender process and describes non-exhaustively what their roles will require.

Organisation	Role in Onshore Competition
<b>BEIS</b>	<p>Responsible for introducing and managing legislation.</p> <p>Secretary of State appoints Appointed Body and sets criteria for identifying projects that are suited to competition.</p>
<b>Ofgem</b>	<p>Responsible for awarding licences, and regulating the electricity network more broadly. As the body responsible for awarding licences, amongst its wider duties, Ofgem will retain an oversight role in the tender process to ensure the Appointed Body undertakes appropriate processes to enable Ofgem to be comfortable when deciding to award a licence after a preferred bidder is identified. Advisory role to BEIS on setting the identification criteria for projects' eligible for competition.</p> <p>Responsible for:</p> <ul style="list-style-type: none"> <li>Applying identification criteria for projects eligible for competition.</li> <li>Drafting tender regulations, that set out at a high level the form and focus of competitions and their processes therein.</li> <li>Working with the Appointed Body (if they are not the Appointed Body) to draft tender documentation, amongst their other key responsibilities in the process.</li> </ul>
<b>Appointed Body</b>	<p>Responsible for the design (working with Ofgem, if Ofgem is not the Appointed Body) and then smooth running of tender process and consideration and assessment of tender bids and identifying a preferred bidder.</p>

<b>Organisation</b>	<b>Role in Onshore Competition</b>
<b>National Grid Electricity System Operator</b>	<p>Proposed role as the contract and payment counterparty for contracted for solutions, should a contracted for solution to a transmission need be successful in the tender (currently has this role for Pathfinders work).</p> <p>Role in network planning (with network companies).</p>
<b>Incumbent network companies</b>	<p>Role in network planning, including identification of likely solution which can be treated as a counterfactual for application of the criteria for eligibility of projects for competition (further detail in section below 'Criteria for competition at Transmission Level').</p> <p>Delivery of solutions not subject to competition.</p>
<b>Bidders (including network companies)</b>	<p>Bidders participate in competitions in compliance with the tender process and tender regulations.</p> <p>Winning bidders can design, build and operate solutions in line with the requirements set out in their licence or contract, and any other relevant legal or technical requirements.</p>

## Conclusion

Allowing for tendering of solutions to address constraints on onshore networks is a key step in encouraging innovative, efficient solutions which can help networks ready themselves to meet the demands of Net Zero. This consultation document has set out the key changes to the overall policy since the draft clauses to implement it went to pre-legislative scrutiny in 2016, and seeks stakeholder views on various issues relevant to the implementation of the policy.

## Consultation questions

- 1. In order to provide certainty for those planning networks and potential bidders, we think it would be appropriate for Ofgem to publish a decision on the type of competition, if any, to be utilised on any given constraint as part of the needs case assessment. Do you agree this is appropriate?**
- 2. In order to enable fair consideration of flexible and traditional solutions under a competitive framework set out in legislation, what are the key factors you consider should form part of the Appointed Body's assessment of bids in the tender process?**
- 3. Are there any market barriers to smart, flexible solutions being competed alongside traditional solutions in a fair and open competitive process? It would be useful to understand the types of bidders interested in such competitions, and the types of solutions they might put forward for consideration.**
- 4. Do you agree that these are the right factors and indicators to be included in their consideration?**
- 5. Do respondents have views on the suitability of Ofgem or NGENSO as a possible Appointed Body?**
- 6. Are there any other bodies that should be considered as a possible Appointed Body? If so, why?**
- 7. Do you agree that £100m remains the appropriate threshold to be 'high value' assuming this criterion is applied to late model competition in electricity transmission?**
- 8. Are the competition criteria for projects (new, separable and high value) suitable for late-model competition at distribution network level?**
- 9. Are there bodies other than Ofgem which have potential for consideration by Secretary of State to be the Appointed Body to run competitions at distribution level?**

## Next steps

Consultation responses are required by 26<sup>th</sup> October to the address listed at the start of this document.

Once this consultation closes, we will review responses and consider the policy accordingly.

In any event, in whatever form we introduce competition we will need both primary and secondary legislation to implement it. The timing of legislation is, as always, subject to Parliamentary time and approvals. We expect that we will prepare secondary legislation to be ready for implementation as soon as primary is in place. See the 'Implementation of Onshore Competition in Practice' section for more details.

After this consultation closes, the Government will consider responses received and publish a response in due course.

Government will continue to work with Ofgem and other stakeholders as the details of competitive frameworks are developed.

Similarly to how Ofgem have consulted on the details of late stage competition, Ofgem are also consulting on early stage competition.

---

This consultation is available from: [www.gov.uk/government/consultations/competition-in-onshore-electricity-networks](https://www.gov.uk/government/consultations/competition-in-onshore-electricity-networks)

If you need a version of this document in a more accessible format, please email [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk). Please tell us what format you need. It will help us if you say what assistive technology you use.