

Meeting minutes

ENSG

Date: 03/11/20	Location: Microsoft Teams
Start: 10:00	End: 13:00

Participants

Panel Chair	Dame Fiona Woolf	
Panel Members	Ed Rees (Consumer Representative)	Richard Clay (Seabed Manager)
	John Greasley (Interconnector)	James Dickson (OFTO)
	Andy Paine (Offshore Developer)	Douglas Allan (Onshore Developer)
	Marko Grizelj (Technology Supply Chain)	James Harris (Planning Representative)
	Hedd Roberts (TO)	Simon Rooke (Asset Contractor)
	Neil Copeland (Ofgem)	Tom Johns (Ofgem)
NG ESO Representative	Craig Dyke (Head of Strategy & Regulation)	
Early Competition Project Team Attendee	Hannah Kirk-Wilson (Network Competition Senior Manager)	
Offshore Coordination Project Team Attendee	Alice Etheridge (Offshore Coordination Senior Manager)	
Apologies	Cathy McClay (Existing Service Provider)	Tania Davey (Local Environmental Groups)
	Darryl Murphy (Asset Investor)	William Black (Planning Representative)
	Lynne Bryceland (DNO)	James Norman (Ofgem)

Discussion and details

1. Previous minutes and actions

Alice M said the minutes from the previous meeting had been updated with comments from Lynne and James and circulated for approval. Fiona thanked James and Lynne for their comments and encouraged the group to provide comments on minutes and expressed how it is important to ensure they are correct.

Rachel said the ENSG website should be going live within the next fortnight and asked for anyone who hadn't sent their bios to do so as soon as possible so they can be included on the website.

Alice E confirmed BEIS will be attending the 19th November meeting to give an update on their OTNR.

Actions 19, 22 and 23 were closed.

2. Early Competition - Stakeholder Workshops

Rachel Payne spoke through slides 5 to 9 to give an overview of what engagement is planned for phase three and how the feedback received has been used.

Rachel said they had been speaking with Ofgem to confirm when their final determinations will be published to ensure their next phase consultation is published ahead of it, which should be early December. The consultation will be open for 10 weeks. They are going to notify industry that the consultation is going live through twitter and newsletters. Then a week after publication there will be a launch webinar which will be recorded and published on the website. The team has considered the feedback that the consultations are large documents and are time consuming to reply to. They will run some Q&A workshops to allow stakeholders to ask questions and feedback comments. The team will run three webinar sessions twice, looking at specific chapters from the consultation:

- commercial model and implementation
- roles and early competition at distribution level
- project identification and end to end tender process

Again, these will be recorded and published on the website. Rachel said that they are happy for people to feedback verbally instead of in writing. In these cases, someone else from the ESO will take notes and then we will get written confirmation from the respondent that it has been captured correctly.

Rachel said that the team was producing document on “you said, we did” which will be published ahead of the consultation.

James D said the number of responses from phase two was disappointing, so for phase three engagement is there anything that can be done to solicit additional number of responses. Rachel said they are looking at different approaches and speaking to internal comms on what can be done through twitter. The ESO also runs an Operability forum which can include an agenda item on Early Competition. The team will use newsletters from the ESO to get to a wider audience. They are also calling new stakeholders to ask how they can engage with them and get them more involved.

Rachel said it was worth mentioning that in phase two, they still received a lot of good responses through workshops, even though they did not get the number of formal responses they were hoping for.

James D said that in order to get the best feedback they needed to identify who the audience was and be clear on who the potential competing entities may be and ensure they are targeted and are aware of the process, as this might not be something the targeted audience has focus on. For the process between phase two and three, it would make sense for there to be a reassessment through terms of reference in terms of developing this program to understand whether it has been clearly identified and adhered to, as there is currently no visibility of that. Hannah said they have the Ofgem published letter which was high level in terms of specific models. They also have an advisory committee to ensure they are delivering against the scope. Rachel said she will make sure the diagram on slide 7 is updated to show that as it will be published in the consultation document.

ACTION: Rachel to update the diagram to include the advisory committee

Douglas asked when receiving feedback during the workshops, how do they know the individuals are competent and are giving the views of the company without a formal response. Hannah said it was a good

point and not something they had considered. If a formal response was given as well, they would give more credence to it over verbal. But Hannah agreed she needed to consider that further.

ACTION: Hannah to consider how to validate verbal feedback during workshops.

Hedd said he read the pre-read and it had the feedback included but wanted to ensure that the feedback received was being considered. Rachel confirmed it was.

Fiona asked whether the ESO is going to provide reasons for its decisions. Fiona said it does make for a long document when providing the reasoning, but it gives comfort that the points being made have been well thought through. Rachel said the consultation document will sign post how the decisions have been made.

Sally spoke through slides 10 and 11 to give an overview of the workshops held in September on the indicative solution identification process, focussing on how stakeholders can be engaged in this process and provide input.

Mike spoke through slides 12 and 13. The first slide was about the workshops held on risk allocation and post preliminary works cost assessment process. Feedback received from a handful of stakeholders showed concern on there being a cap and performance bond and how they would potentially control costs.

There were workshops held on operational incentives and the feedback said that the incentives need to be clear up front and the arrangements needed to be level between network and non-network solutions with some flexibility.

James D said the risk allocation and operational incentives will determine what type of investors will be attracted, so to what degree has the team done any assessment into that in comparing the counterfactual of the current arrangements in place. Mike said in the early stages they looked at having similar incentives in place to what the onshore TOs have but felt it would be less appropriate. So, they have been looking at the OFTO regime and pathfinder regimes. Currently, the OFTO floor is 90%, whereas in the pathfinders, where you might have a different type of participant, the floor is 0%. The team is looking at having something similar but as there are different investors, they need to consider the floor and need to have some elements of these regimes on a case by case basis for incentive design. Someone who has something constructed and is providing an additional service may be able to take on more downside risk than someone who is building something new and is only providing that one service.

James D asked in terms of risk allocation, has there been any thinking done on whether the team is looking at implementing a greater transfer of risk through this process or maintaining the existing risk allocation between the consumer and TOs. Mike said it was not something they had fully considered yet and they will consider it as part of the next consultation. They have not started with the existing RIIO risk allocation, they are building it from bottom up whilst keeping an eye on OFTO regimes and current regime as well as looking at what Ofgem are considering for the late competition model. When they get to a built-up position for early competition, they will demonstrate what they think is an appropriate balance between consumers and bidders to make the process work at an earlier stage. Then they will need to look at that against the RIIO regime.

Mike spoke through slide 14 on the workshops on heads of terms and industry code impacts. He said it was a less controversial area. In the workshops they went through some of the detail around future code changes and when and how, rather than overarching principles. There were some concerns raised around the performance bond element. Overall, attendees seemed to agree with what was presented.

Richard P spoke through slide 15 on ESO role in Distribution. Richard said it is not included in phase two but will be considered in phase three. Ofgem has asked the ESO for a thought piece on what the ESO

role could be for competition at distribution level. The team ran workshops and consulted an ENA sub-group, chaired by Lynne, to get feedback on their proposals. The team has considered whether the proposed model and roles for transmission would transfer well to distribution. There was a strong opinion on existing roles at distribution continuing to carry out those roles. There was little appetite for a third party to be introduced or the creation of a new role. There was less concern of conflicts of interest at distribution level than at transmission. There was a lot of support for contract and payment counterparty roles and feedback agreed that Ofgem should be the approver, but it was suggested their decisions should be reviewed.

Richard P went through slide 16 on information provision workshops. He said that they used webinars to explore industry feedback on what additional information was needed. The feedback on what was provided suggested that it was generally sensible, but several stakeholders suggested that there may need to be additional information supplied depending on the proposals.

The webinars were used to test the question of whether more information is required up front as part of the tender or if it is a case of additional studies to be done once bidders have set out their outline proposal. Feedback suggested that it would be very difficult, if not impossible, to provide all the information on all the different permutations that might come back and that studies, particularly network impact studies, are generally unique to the proposal. So, feedback said impact studies will be necessary and it will not be possible to provide the information up front to remove the need for additional studies once outline proposals have been prepared.

The team have planned workshops to look at who would be best placed to do those studies; currently it is the TOs. It needs to be considered how to complete those studies without having a conflict of interest. There also needs to be further consideration of what information is available with more granularity, and how to work around the lack of availability.

3. Early Competition - Network Planning Roles and Responsibilities

Sally spoke through slides 17 to 30 in order to facilitate a discussion on the two issues:

- whether and how TOs should be able to provide potential solutions for competed projects; and
- if TOs participate, their network planning roles could give them an advantage in competitions.

Hedd said it has been discussed that interested parties can provide solutions at an earlier stage, before the incumbent TO has done an initial solutions development. Then, the team seems to be saying there will be a process where the TO is involved in an initial solution which is causing a problem. Does this relate to this issue? Sally said that this does relate and how we make it fair and transparent was raised by stakeholders. There are a lot of other conflicts including the additional information that the incumbent TOs have access to. Hedd said for that element of conflict of interest you have some options, but he wondered if allowing everyone to provide their solutions at an earlier stage mitigates that element of conflict.

Douglas and James D both questioned what was meant by the option of a TO parent company not being able to compete. Sally said it was not an area that had been considered in detail yet and whether the whole company would be excluded or if there are some exceptions. Sally said in the most extreme option is no part of the TO being able to compete. Fiona said she can think of a few permutations that can be used to structure shareholdings to avoid other problems (e.g. tax) to make it not look like it is a subsidiary or parent company.

Fiona said San Diego Gas and Electric / Sempra Energy is an interesting example to look at.

Ed said there is a risk of duplication by having the TOs participate through RIIO and then through early competition process. The TOs also have an advantage by knowing their area and networks well. Sally said to remove duplication, the TO will not be providing a solution if the TO cannot compete.

Fiona said the TOs may be nervous about others owning assets or using their existing assets and TOs may deny others permission to do this in case something goes wrong. Sally said they have worked on the assumption that there needs to be clear accountability and ownership lines. Third parties utilising part of the existing network is going to be quite challenging.

Simon said the assets should be independent and separable, not projects working on the existing assets. It only becomes contentious when talking about assets on the mainland constructed by CATO type projects with assets for which the TOs are responsible. He pointed out that there may be the perception of a conflict of interest.

Simon suggested to try and separate offshore projects from onshore projects. Sally said this project is focussing on onshore work, but there may be a link offshore, with the bootstraps, for example.

Hedd said where utilising existing assets, he sees it meaning ratings of existing circuits are changed. Sally said this would be covered under the initial planning process; for some solutions there may be a situation where TOs can utilise existing assets.

Sally said that one incumbent TO participation option is that they are a formal bidder in competition. The alternative option proposed is that the TO provides a 'counterfactual' solution. Other bidders then must put forward a better solution than the counterfactual.

James D asked in relation to the second option, whether its consideration had already taken place because it had been decided to go to early competition? Sally said the TO solution would be put forward at the point of competition. For the first option, there still would be an indicative solution but not a solution to beat.

Simon asked if this is an early stage competition and what would counterfactual look like and if it is a budget. There is the issue that it would not be accurate and there could be a risk that it is adjusted at a later date. Sally said that a problem with this approach is that there will not be an accurate counterfactual. Simon said the TOs could say further down the line that their proposal would have been better. Sally said they need to make sure it is fair and the TO proposing the counterfactual needs to be held to account. The ESO position is that TOs should be able to compete as they are a strong competitor and they should be a formal bidder.

Sally said they hope to get a variety of participants in the competition. The ESO needs to understand how potential bidders feel about their chances to beat the TOs. Simon said he understands the problem they have, and it seems sensible that the TO can provide a competitive price, but if they can do that then why is there the need for competition? But to be able to compete on level playing field, it is quite difficult considering the size of the entities.

Fiona asked if Ofgem had given any indication of what the policy objective is. Sally said her understanding was that the aim was to get more participants involved rather than driving down TO prices. Tom said that was correct. They are looking for it to drive a widening of approaches and solutions and there is clearly a cost benefit of doing that. However, the starting point is that there should be as many bidders as possible to provide different solutions to the problem.

Hedd said one of the differences here was that they are specifying the need in quite a different way. The RIIO arrangement presuppose asset solutions lasts for an average regulated life of 45 years. You could potentially be specifying needs here that are considerably lower than that, which could mean different solutions could be more appropriate with differing levels of risk which could be why there is merit in TOs

being formal bidders in the competition as their solution may be different to the RIIO version of the solution. Sally said it would be hard to marry up the two processes so that they are equivalent and fair without fundamentally changing the RIIO process.

Sally gave an overview of the NOA process and the current roles of the TO and ESO. Fiona asked what happens if the TOs and ESO don't agree. Sally said there is a committee who has final authority, made up of people from the ESO and TOs. Hannah said it is an ESO run process run collaboratively with the TOs. But recommendations are made by the ESO and it is up to the TOs where they invest in the network.

Sally spoke through the conflicts of interest and the options to mitigate the conflicts. James D asked if there is any merit in the ESO doing the needs identification solely or is the process so intertwined that it is difficult to split it; Hedd supported James' question. Sally said they could, but identifying the needs case is the least controversial area, it is more the solution development where there is more conflict with the TO role. Sally said a lot of bidders said they would want the project more well defined before they bid but providing more information would be difficult to do.

Fiona asked to what extent is it driven by the issues, for example of asset health, that only the TOs can know what is required as they know the asset life and behaviour in the maintenance situation. Hannah said the TOs are responsible to drive the asset replacement process as they know what needs to be replaced and when. There are discussions on whether the assets could be replaced like for like or if there could be other solutions. Fiona asked if they had considered how they could police or audit this as some people will perceive a conflict of interest, where perhaps there isn't one. How do you demonstrate the ringfencing? Sally said the proposals they have put forward are based on Ofgem's late model so there is already a lot of detail.

Sally said the next steps will be to put the ESOs preferred position in the phase three consultation. Douglas asked if any cost benefit analysis has been undertaken for the Early Completion project. What cost savings would be passed to consumers? Sally said there hasn't been a CBA done yet, but the purpose of the current review is to analyse how much it would cost to introduce Early Competition and that will then be considered in a CBA later.

Fiona asked the group if they are happy with the ESO's approach to analysing how the bidders would participate and the mitigation of the conflicts of interest. Fiona said there is merit in analysing the situation with TOs being bidders and there are different ways of mitigating the conflicts. James D said generally the rationale provided has been quite subjective and it is not clear what the detrimental effect could be. The team needs to set out the rationale behind the conclusions that have been drawn. It is important that they are clear in terms of who the entities are when discussing conflicts of interest, for example, group companies or group associated companies. Sally said they will reflect that in the upcoming consultation document.

4. Offshore Coordination Update

Alice E spoke through slides 31 to 34. Alice E said it was discussed in the last meeting that a report from the group would be useful and spoke through the scope of the report. Alice said the report would need to be completed by the end of November.

Andy said that he thinks something should go to BEIS to provide input in the wider study. Though he has concerns about timing as the consultation only closed last week and it was previously said the output would be available in December. The general worry is how the ESO work interacts with the wider BEIS review. Andy asked if there could be an initial view on consultation responses. Alice E said they are currently digesting the consultation response and should get a good steer from that. The first phase ends in December, but if phase two will be taking place they need to agree that early to be able to ensure they have the right resource.

John said there is a feeling that people are being bombarded with consultations on similar things. He hasn't seen a huge amount from BEIS and more information in the 19th November meeting may be more help. John said that whatever happens in phase two, it needs to be clear how it fits in with everything else going on and there is an overall objective and strategy. A clear simple statement would be useful to get the industry behind it. Alice E said there is now a statement on the OTNR website. In the detail there, it does make it clear that coordination is a big part of their objectives. Government policy has also been updated to reflect this.

Richard said he has discussed having a report with Alice E since the last meeting. Richard thinks a report would be a good thing and would fulfil the terms of reference. There are timing challenges to get this done but the group has a lot of expertise and would be useful to inform BEIS and give recommendations on phase two of the ESO work. Due to timescales it might need to be relatively light.

Andy said, reflecting on the role of the ENSG as a challenge group, it is not up to the group to write the scope for phase two, but they can make recommendations on areas of focus and critique it. The ESO should write the scope.

Alice E said overall there seems to be support from the group to produce a report and it would be useful to have a substantive discussion in the next meeting and then write it up. Then we can take a view as to whether there need to be further steps.

ACTION: Alice M to write report for Offshore Coordination by the end of November, the content to be discussed further in the next ENSG meeting.

Alice E then gave an update on the consultation response. Alice E said they have had 39 responses to their consultation with views from industry and environmental parties representing coastal communities. Overall there was support for offshore coordination. There were views about the difficulties in achieving the coordination and that there were other pieces of work ongoing. A strong message emerged for the need to review codes and frameworks. Stakeholders were generally positive about the approach and findings and gave some helpful feedback which will be used to refine the analysis.

Rhiannon M spoke through slides 35 to 39 on the current thinking of the phase two scope. The verbal feedback received in response to the consultation showed there is support for further work. Stakeholders said there was a need to progress at pace and the need to consider how to minimise impact on coastal environments and communities.

Andy asked whether, in terms of the scope with BEIS and Ofgem, the plan is to set out the codes and frameworks and then other areas are down to others. Rhiannon said there was an open letter from Ofgem; the ESO outlined in their response that code changes and standard changes would be required. They also highlighted areas that needed to be explored further. Rhiannon said they needed to be sure that the ESO are working within their remit as part of phase two as others are looking at roles and responsibilities. Andy asked whether there is any overlap with the ESO work and other pieces of work that are ongoing; we need to ensure there is no siloed thinking happening. Rhiannon said they do feed into the OTNR. There is a focus on the ESO remit but that doesn't mean they will not input into other areas. Alice E said feedback received on gap analysis said there is the need to look at roles and responsibilities across the piece, but they got a strong steer that BEIS should be doing that. Some of these elements will need a long-term strategic steer from BEIS.

5. AOB

There was no AOB.

Fiona thanked the group members for attending and said she looked forward to the next meeting on the 19th November.
