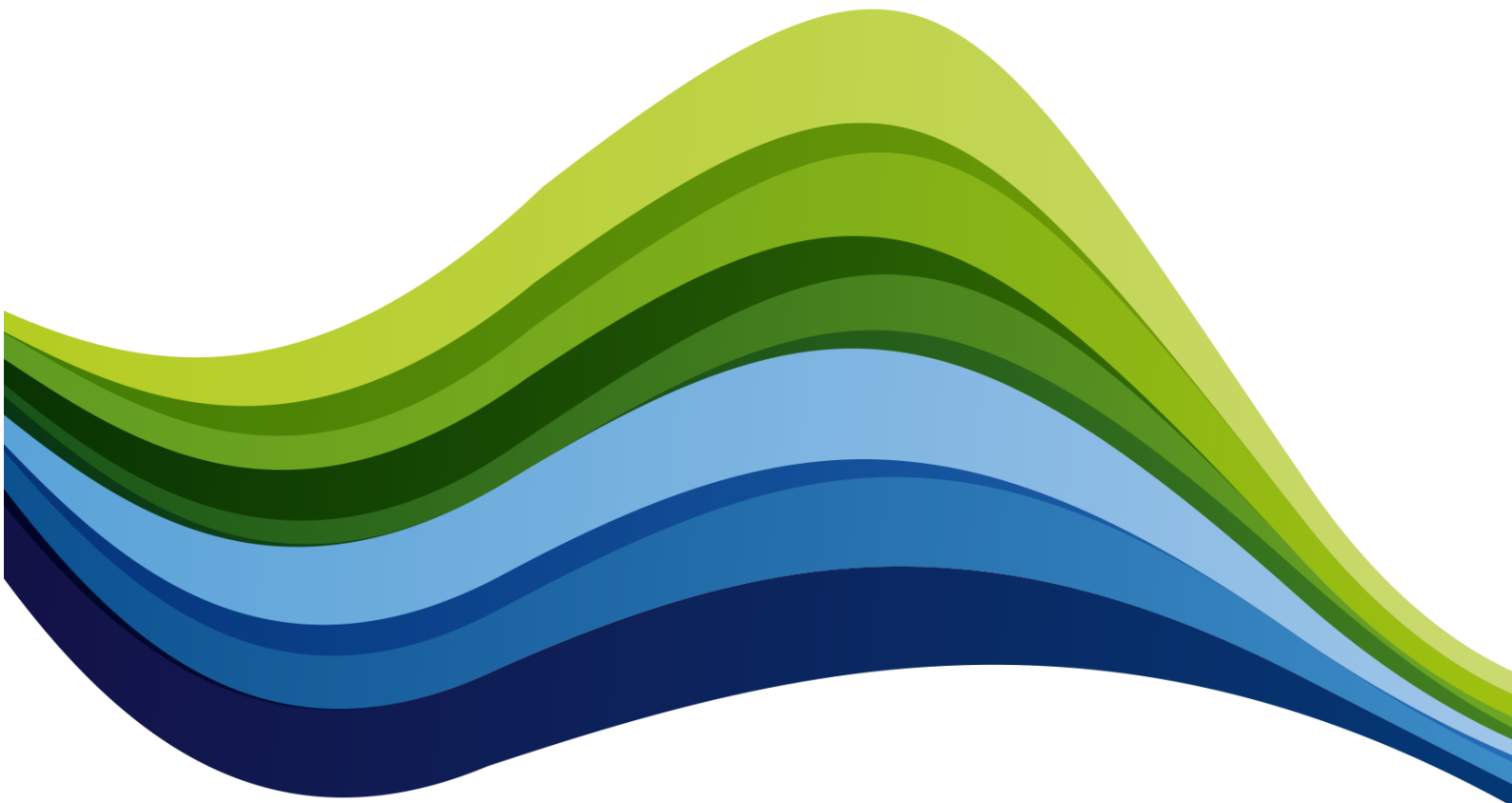




Contestability in Connections

Proposed Next Steps Paper

If you have any questions in relation to this response, please contact me at fiona.hannon@sserenewables.com





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Dear Ronan,

Introduction and Summary

SSE welcomes the opportunity to comment on the UR's Next Steps consultation on implementation of contestability in delivery of connections to Northern Ireland's electricity networks. It is clear from responses to the earlier consultation, that there is a considerable level of support for this policy across all sectors of the potential market and rapid progress towards full implementation must therefore be a priority. In this context, we note and welcome the UR's expectation that the scope of contestability will be kept under review following initial implementation and updated as found necessary. SSE would also request that areas initially classed as non-contestable on the grounds of perceived safety concerns should be included in this review process.

Implementation of contestability is now of extreme importance in the light of the UK Government's announcement of imminent closure of the current RO. NI cannot afford to rely on circumventing this decision and take a leisurely approach to implementation of contestability.

While our detailed responses to this current paper are set out in the relevant sections below, SSE would emphasise the need to

- explicitly address contestable delivery of shared network assets and "second comer" cost reallocation in the context of NI's cluster connection policy
- consider the size of the potential market in NI when defining the bureaucratic framework,
- make a balanced comparison of potential market designs that recognises the degree of congruence between the NI markets and those in neighbouring jurisdictions
- ensure that process requirements and obligations do not result in exclusion of competent NI contractors from participation in the market
- ensure that the implementation of contestability is done in a timely fashion and that there are no unnecessary delays due to over complication in the UR's decision
- address progression of the market, from ICP-lead, towards an IDNO model as is the case in GB, should be considered as a "day 2" issue.

SSE is particularly concerned at the UR's proposal to introduce an ICP accreditation requirement similar to that for GB distribution connections. Contestable delivery of connection assets has been extremely successful in ROI without this requirement and given the scale of the NI market, the all Island wholesale market and synergies between NI and ROI, SSE believes it is more appropriate for the UR to adopt a model similar to that operating in ROI. Introduction of a similar model to that in GB will lead to considerable and unaffordable delay in the introduction of contestability, as SSE anticipates that a full tender process would be required for the provision of an NI registration scheme. Analysis and development of the full range of requirements for NI would have to be completed before the procurement process could even start. To date we have seen no evidence provided by the UR to justify this delay or the implementation of such a complex regime in NI.

SSE's experience as a registered ICP in GB, is that the ongoing administration and fixed overhead cost of accreditation is likely to layer additional costs onto network delivery and exclude small to medium sized NI contractors from participation in the market for contestable asset delivery.

Accreditation for NI will differ in requirements from the GB arrangements and result in the need for impact assessment and a procurement/implementation process to introduce a scheme that meets the different scope of NI requirements. To avoid unnecessary cost duplication in the implementation of contestability, the interrelationship between accreditation and the level of construction supervision by NIE must be recognised. Developers must be able to make their own economic connection decisions, based on;

- the urgency of connecting – can they wait for an NI accreditation scheme to be introduced, and
- the tradeoff between their own ability to comply with functional specifications and the level of NIE supervision for which they must pay

Finally, it has been pointed out that the GB contestability model only applies to distribution connections. Should this model be adopted for NI, considerable development work will be required to extend it to support provision of shared generation connection assets; particularly where these involve hybrid transmission/distribution assets.

General

In NI, both the TSO and DNO provide offers for connection to their respective systems. Eirgrid and ESB Networks have well-established interface arrangements that address contestability in RoI, where the asset owner/asset operator structure is identical to that in Northern Ireland. It is clear that there are far closer synergies between NI and ROI than in the way GB operates. In the latter case, only distribution connections are open to contestable delivery, so GB arrangements will require major and time-consuming development if they are to be fit for the NI market. Whichever template is used, it is essential that contestability is allowed to deliver the efficiencies seen in other markets without further delay.

Arrangements should maximise the re-use of processes copied from neighbouring jurisdictions and involve a minimum of modification to fit the NI market. There must be neither a loss of retail market harmonisation on the island of Ireland nor any impact on all-island wholesale market arrangements. If this approach is adopted, SSE's experience of contestable delivery of connections in RoI and Northern Ireland would be that implementation of contestability should be straightforward and quick.

This latter point is of extreme importance now that the UK Government has decided to bring forward closure of the current Renewables Obligation scheme and the uncertainty of Northern Ireland's ability to circumvent the impact.

Should ICPs evolve towards an IDNO model as has happened in GB, there will be a significant market system and harmonisation impact, because the retail market design allows for only a single data collector and aggregator; this notwithstanding that Article 10AA of the 1992 Order now allows Northern Ireland to have multiple licensed electricity distributors.

Given the range of connection activities, from housing developments to generation projects, across distribution and transmission systems, it is vitally important that arrangements for contestability take full account of the differing levels of complexity involved across connection types. SSE is therefore pleased to note the UR's position, that avoidance of discrimination in contestability requires consistent guidelines rather than uniform processes. The UR's decision on accreditation should reflect this statement; allowing use of an ICP as a choice and not an obligation.

In terms of next steps, the CWG must quickly draw up a full list of connection types, setting out the key attributes of each in terms of eg design, wayleaving, construction and supervision. **It is essential that requirements are defined before solutions are developed.** A list of this type¹ will therefore be an important

¹ Contestability of Connection Assets, Eirgrid (October 16th 2007)

step towards identification of processes that are appropriate for each item, which will help to ensure both their consistency and that control arrangements are proportionate to the circumstances of each.

SSE believes that acceptance of these general points, together with the more detailed considerations below, will facilitate successful implementation of contestability. However success should also be evaluated in terms of the level of market participation by NI contractors. Post-implementation monitoring should reflect this to ensure that arrangements do not inadvertently result in their exclusion.

Scope of contestability

SSE is generally supportive of the UR's proposed scope of contestability. However the lack of any reference to the inclusion of cluster substations and construction of shared assets within the scope of contestability is a specific concern; particularly as the consultation rules that upstream reinforcement is out of scope. Given the UR's policy of cluster connection for groups of generation developments, this is a fundamental issue that must be explicitly addressed if Northern Ireland's renewable targets are to be delivered in a timely and economic manner². As transmission connections fall within the scope of contestability in NI but not in GB, the only feasible approach to contestable delivery of cluster substations compliant with the UR's stated policy of not reinventing the wheel, is to adopt appropriate RoI processes. The development of hybrid transmission/distribution substations will be more difficult and logistically risky, if these are shoehorned into a GB model of contestable delivery, adapted to fit the differing circumstances of Northern Ireland, rather than adopting proven arrangements that demonstrably fit the scope of NI connection policy.

Delivery model

SSE has considerable experience of successfully delivering shared transmission and distribution connection assets, as do other generation developers working in NI. SSE is currently lead developer for contestable delivery of the shared transmission connection for West Galway's 300MW wind park projects, although cluster connections in NI may well have a narrower scope than this work, which comprises inter alia, 2 substations, an underground cable and a river crossing; all at 110kV. Eirgrid has proven documentation for customer processes required to deliver both individual and shared transmission connection assets of this type. It also has appropriate interface arrangements agreed with the DNO. Cost minimisation and timely implementation of contestability in NI strongly suggests that the proven package of contestability scope and rule framework that these companies already operate across the connection voltage range, should also be implemented in NI.

SSE can see only one area that would require focus within the NI market framework. This is the question of Northern Ireland's cost recharging legislation. This law must be reviewed and necessary amendments addressed, should further clarification be required. Currently, the legislation is silent on the issue of non-domestic connection recharging, but this is interpreted by the UR as a prohibition on recharges for anything other than domestic connections. This is discriminatory and must be reviewed. Either the law, or its interpretation, must be changed if contestable asset delivery is to be a success in NI. "Second comer" regulations in GB are being revised to address this major flaw in current arrangements there and NI must not fall behind this development of best practice.

This discrimination arises, in that only a subset of connection providers is given explicit protection by the second comer regulations. The UR has stated that it, "would seek to implement contestability guidelines that are consistent across all connection types to ensure there is no discrimination". Policy and legal compliance therefore demands this issue to be corrected without delay.

SSE believes that paragraph 4.2.5 of the proposed next steps is unnecessarily restrictive. Subject to appropriate decision cutoff points along the connection process timeline, there is no reason why developers should have "to take on all contestable activities from the point of connection or none". While it would be unreasonable to allow pieces of contestable work to be "sandwiched" between line items in the project plan in

² This has of course become of particular concern, given the uncertainty as to whether NI can avoid the imminent closure of the RO and delays inherent in the current, non-contestable connection policy.



a way that would introduce dependencies on the developer for NIE, there are points along the project timeline at which NIE could hand over responsibility for delivery.

Operation and Maintenance

SSE supports the use of standard costs to set the charges for O&M for connection assets transferred to NIE, where these have been delivered contestably. However the design of such assets may differ materially from the non-contestable delivery option proposed by NIE; for example undergrounding a connection rather than OHL. Therefore, while O&M should be based on standard costs, these should be the standard costs for the assets as delivered; eg £/km of overhead line & £/year for transformer type y, rather than being based on NIE's original design.

In relation to the ownership boundary, principles must be defined so that developers can have a good understanding of outturn ownership in advance of the project. This is important even if precise ownership details are not established until the project is at the handover stage,

Accreditation

Accreditation has turned out to be the most controversial aspect of the proposed contestability framework for Northern Ireland. With experience as a registered ICP in GB and developer of major transmission and distribution connection infrastructure across the island of Ireland, SSE believes that contestable asset delivery is an area in which a one-size-fits-all approach would be particularly inappropriate and blur the issue of contractual liability for delivery of assets that are fit for purpose; ie compliant with the contestability agreement between the developer and DNO/TSO.

As an accredited party under the GB NERS scheme, SSE believes that the small scale of the NI market and differences in the scope of contestability compared with GB, are likely to result in conflict with the stated cost, accessibility and efficiency objectives that the UR has set for contestability in Northern Ireland. There are five reasons for this;

- lack of accreditation in significant areas of the market, as ICPs in GB have focused on demand connections and have little involvement in generation, apart from for small wind turbine connections and solar PV installations, where they have been very successful,,
- lack of congruence between the scope of contestability in GB and NI,
- the overhead of compliance management,
- the consequential constraint on the ability of NI contractors to compete, and
- timescale for introduction.

While some GB ICPs have significant experience in certain areas, there is little expertise in connecting at higher voltages or in overhead line construction. However, developers do not find it difficult to procure competent, but non-accredited, contractors for such work. Developers at this end of the project scale also tend to have considerable expertise and be involved in far fewer projects than those undertaking LV demand projects. Often, their projects also include a material element of electrical construction that will not be adopted by the DNO. In view of the urgency of implementing contestability, it would be unreasonable to obligate large scale developers to use ICPs if these do not exist for transmission connections and no framework exists for the definition of accreditation requirements for such work. It would be unacceptable if a paucity of qualified competitors were to result in higher delivery costs.

The consequence of the material technical and contestability scope differences between GB and those proposed for Northern Ireland cannot be ignored. NI contractors cannot just sign up to the existing GB scheme and offer their services to the entirety of the NI market, meaning that significant effort will have to be undertaken to develop the full range of performance standards relevant to NI.

NERS is undertaken by Lloyds register, as a contractor on behalf of GB DNOs. It is SSE's understanding that NIE would be required to undertake a separate procurement process before appointing a similar body for NI. The time taken to develop accreditation standards relevant to NI would add further to any delay in implementing contestability; contrary to the UR's stated objective. It is also not guaranteed that a competitive procurement



process would result in Lloyds winning the contract and therefore a full implementation process would be required by the newly-appointed NI scheme register administrator before contractors could become accredited.

In the experience of SSE, a full time internal administrator is required to maintain the Company's NERS scheme obligations, even though its accredited role is only as a project manager. It is difficult to believe that the scale of contestable work available in NI will be sufficient to provide adequate revenue to support a viable group of competing local contractors, with the result that accreditation is likely to act as a barrier to participation by NI contractors and result in most contestable work being delivered by contractors from GB.

The UR is seeking timely implementation of competition in the provision of connections in NI, but the above issues will undermine delivery of these objectives.

SSE accepts that some form of voluntary accreditation scheme may be very useful in providing smaller or less experienced developers with assurance as to their procurement process, but contestability for experienced developers should not be delayed for the benefit of this market sub-sector. Although offering assurance to smaller developers, use of an accredited contractor should be their choice about how they deliver assets that are fit for purpose. It should not be an obligation.

NIE will of course require that the assets they have to adopt have been built in compliance with the functional specifications and are fit for purpose. It may be that NIE would choose not to inspect registered ICP-delivered works during construction but, whether or not the company chooses to do this, contractual liability for connection quality will not transfer from the developer. If NIE does inspect the works during construction, then developers will be paying twice for the same oversight, without mitigation of their specification compliance risk.

If a developer is to retain full quality liability, then they must be free to choose the most appropriate mitigation approach; ICP or non-ICP. Any restriction on the choice of contractor will deflect some responsibility from the developer and the only solution is therefore to make accreditation a developer choice rather than an obligation.

In table 1, below, we set out and respond to some of the arguments that have been advanced in support of, what appears to be, the UR's policy preference for mandatory accreditation of contractors. The UR and NIE have both stated their preference for a contestability framework that requires the use of only accredited contractors for assets that will eventually be adopted.

Table 1 Assessment of the value of accreditation

| Arguments for ICPs reflecting in Working Group discussion and consultation paper | Response |
|---|--|
| Provides protection for NIE by ensuring that the contractor is competent and delivers to the required quality and standards | <ul style="list-style-type: none"> • this has not been a concern or requirement in ROI where contestable connections are currently being delivered successfully • NIE will still require a level of supervision of any connection that would not be removed regardless of the status of ICP used. There is a need to ensure developers aren't being asked to pay twice for the input of expertise in areas in which they are already competent. • developers have a contractual obligation to deliver works in line with NIE's functional specifications, the requirement to use a registered ICP would not change this obligation • the use of registered ICPs is not a guarantee of quality as evidenced by Ofgem's proposals to address shortcomings. • registration of ICPs could lead to developers relying on registration rather than their own expertise and rigorous selection of ICP and ultimately could lower standards • a requirement to select a contractor from an approved list will affect a developer's liability for delivery of assets that are fit for purpose |
| Accreditation will protect inexperienced/smaller developers who may not have the experience required to undertake the work. | <ul style="list-style-type: none"> • liability for fitness of purpose must remain unequivocally with the developer, • an inexperienced developer could choose to employ a registered ICP regardless of any regulatory obligation • it is not the market's responsibility to be structured in a manner that compensates for the inexperience of some participants at the expense of and by handicapping experienced developers • developers can choose non-contestable delivery if they do not have the expertise to select a suitable ICP |
| Having inexperienced developers carrying out complex work may be dangerous | <ul style="list-style-type: none"> • for generation, developers will be building windfarms that are also very complicated and involve high voltages with extremely high investment requirement. SSE does not believe the level of investment required will attract developers who will operate in this way • developers should employ relevant experts to deliver all aspects of their projects (internal or hired in). An inexperienced developer can still choose to employ a registered ICP |
| Developers may be unable to get funding without an ICP being involved | <ul style="list-style-type: none"> • this has not proven to be the case in ROI • this is not the case for transmission in GB as the registration scheme does not cover this level of connection • the purpose of contestability is not to protect developers • funders will require evidence of competence in delivery as part of the loan covenant for every other part of projects |

| | |
|--|---|
| | <ul style="list-style-type: none"> • developers can hire in specific expertise that they lack internally • developers can choose to follow the non-contestable delivery route |
| Some developers may not be able to complete their projects without the support of experienced ICPs | <ul style="list-style-type: none"> • it is not the market's responsibility to de-risk projects for developers who lack the skills necessary for delivery. • developers can choose to employ a registered ICP if they choose, but should not be obliged to do so • developers can choose non-contestable delivery |
| Changing CDM regulations require a named principal designer | <ul style="list-style-type: none"> • this does not absolve the developer from compliance with the law • it is not the market's responsibility to be structured in a manner that compensates for the inexperience of some participants by handicapping others having relevant experience • an inexperience developer can choose to employ a registered ICP if they choose, but should not be obliged to do so • developers can choose non-contestable delivery |
| ICPs are trusted delivery partners of the DNO | <ul style="list-style-type: none"> • liability for fitness of purpose must remain with the developer • large scale generators and builders of shared network assets cannot chose contestable delivery if ICPs don't have the expertise (eg limited availability of skills required to deliver OHL) or accreditation (no transmission accreditation in GB). |
| ICPs are best for all parties | <ul style="list-style-type: none"> • creates a regulatory barrier to small NI contractors competing due to overhead costs involved. • creating an LV network around a new housing development which would require a cheaper level of accreditation than one building new 110kV assets, and therefore realistically would not be a hurdle • preparation and internal supporting systems are more expensive than actual accreditation • GB accreditation will require modification for use in NI and may require a full procurement process • accreditation does not exist for contractors building transmission assets. |
| Working Group discussion indicates that GB ICPs don't do 11kV OHL work | <ul style="list-style-type: none"> • cannot mandate use of ICPs if none are accredited for construction of the type of assets . |
| All contestable works should be delivered in the same way | <ul style="list-style-type: none"> • The Working Group has agreed that all connections should follow the same approach rather than the same process. |

If NIE believes accreditation is essential in NI, it should provide a reasoned argument as to why this should be so when its parent company in RoI (with which it has much greater technical congruence than it has with GB) does not impose such a requirement. SSE believes this position is being adopted as a 'nice to have' requirement, however an impact assessment of this approach on timelines, costs and ability to deliver contestable connections is not considered in the next steps paper. This is of extreme concern to SSE.

The UR should set out a detailed analysis as to how GB-type accreditation will result in a superior outcome compared with arrangements in RoI – which are seen as acceptable by the parent companies of both SONI and NIE and should also set out how to overcome the competitive barrier that accreditation will impose on local NI contractors who seek to participate in contestable delivery of connections. In order to allow developers to offset the additional cost of using an ICP, a guarantee must be provided that NIE will undertake a lower level of construction supervision as a result of any enforced accreditation regime. The offset in developer liability for the performance of the works in return for any obligation to use an accredited contractor should also be acknowledged and an explanation provided as to how projects outside the scope of GB accreditation can be addressed. SSE is extremely concerned about the inevitable delay that development of a comprehensive, mandatory accreditation scheme will cause to transmission connections.

Documentation

Based on the company's experience in development and expansion of its Slieve Kirk windpark, SSE is convinced that existing NI legislation fully supports contestable delivery of electrical infrastructure, with the exception of the clarification required to arrangements for recharging the cost of shared assets. At no stage in the development of this connection was any requirement for an ICP discussed, in recognition of SSE's expertise in delivering this type of project. A clear indication should be given that the use of registered ICPs will be a developer's choice rather than an obligation.

Apart from the specifics of NIE's functional specifications, SSE believes that SOINI/Eirgrid and ESB/NIE have defined and documented all requirements and processes necessary for the introduction and operation of contestability in NI. Basic functional specifications should be developed to start with and the rest produced as they are required for projects as they come along.

Other issues

As described above, the operation of contestability in relation to shared assets, such as cluster substations, must be defined as a matter of urgency.

SSE supports the UR's proposal that NIE/SONI should provide quotations in a standard format that developers can use to obtain alternative quotations for their connection.

Timelines for Implementation

On the basis of reusing existing processes, from whichever jurisdiction is chosen as the template for NI, SSE believes that contestability should be deliverable by Q4 of 2015. NIE and SONI should be directed to liaise with ESBN/Eirgrid, to replicate contestability management processes used in RoI. There should be re-use of IT systems where possible, but implementation of contestability should not be delayed in the absence of a desirable system.

Next Steps for Utility Regulator

To date, SSE is the only developer to have delivered a contestable transmission connection in Northern Ireland. Based on this experience, there is no reason to delay implementation of contestability, other than to take account of organisational constraints caused by volume of applications. To accelerate implementation of contestability, the UR should invite notes of interest and project timescales from developers, to gauge the level of interest and thereby help to assess the level of NIE support resource that would be required, prior to more enduring arrangements becoming available.

The only material issue remaining relates to recharging arrangements for costs associated with shared assets. Clarity is required on whether or not legal discrimination currently exists in this area, based on whether or not legal silence is the same as prohibition. If current law is found to discriminate, then it must be amended and the UR must work with the Department to remedy the situation.