

Public

Ref: FOI/25/016

National Energy System Operator

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15 May 2025

Dear requester

Request for Information

Thank you for your request for information which we received on 14 April 2025. Your request has been considered under the Freedom of Information Act 2000 (FOIA).

Request

You asked us for:

All the submitted (accepted and rejected) availability and utilisation (where applicable) prices for the Mid-term (Y-1) Stability Market Round 1 2025/26 tender.

A tender results spreadsheet has been published on the NESO website ([Mid-term \(Y-1\) Stability Market | National Energy System Operator](#)) but without the accepted and rejected prices. This is insufficient to ensure transparency and competitiveness in the mid-term Stability market. We envisage the same level of transparency will be provided as was the case for the three phases of the Stability Pathfinders as published on the NESO website - <https://www.neso.energy/industry-information/balancing-services/network-services/stability-network-services>.

Under the tender rules, service providers were required to give consent to the disclosure of tender submissions by NGESO. Accordingly, there should be no issues in releasing this information.

I would like you to provide the information in the following format: Spreadsheet by email. It should also be published on your website to ensure transparency for the whole market.

Our response

We confirm that we hold information in scope of your request i.e., the submitted prices for the Mid-term (Y-1) Stability Market Round 1 2025/26 tender.

We are refusing your request under Section 43(2) of the Freedom of Information Act which allows public authorities to withhold information if its disclosure would or would be likely to prejudice the commercial interests of a legal person. Disclosing the requested information would prejudice NESO's commercial interests as it would undermine our ability to secure the best value for money in the procurement of mid-term stability services.

NESO has a public duty to promote competition in the market and to ensure that maximum value is provided to consumers. The Mid-term (Y-1) Stability Market Round 1 tender was the first procurement for mid-term stability services. There was a small pool of eligible tenders in Round 1. The disclosure of pricing information for Round 1 would be likely to impact on the behaviour of market participants and limit the competitiveness of future tenders as potential providers may seek to align their bid prices to those contracts awarded in Round 1.

The exemption at Section 43(2) is a qualified exemption which means that we are required to conduct a public interest test, i.e., we are required to weigh up the arguments for and against maintaining the exemption.

The FOIA sets a presumption in favour of disclosure, and we are mindful of the general public interest in transparency and accountability in relation to our activities, expenditure and duties as a public corporation. We already publish information about the procurement of stability services to ensure transparency and accountability in our management of that market. C9 of the Electricity System Operator Licence sets out the processes and activities NESO must undertake for the procurement of Balancing Services, including at C9.18 – C9.22 our obligations for publishing a Balancing Services Annual Report.

Our responsibilities regarding the promotion of competition in the market and delivering consumer value are very important and it would not be in the public interest for us to act in a way that would conflict with these duties. There is a public interest in public authorities not being disadvantaged in commercial negotiations with the private sector by requirements to be transparent. Where the disclosure of information would undermine our ability to maintain a competitive negotiating position and thereby ultimately impact on consumers (including public service providers, individuals and businesses) it is not in the public interest for us to do so.

Having weighed the public interest arguments for and against the use of this exemption, we find that the balance lies in favour of withholding the information and we are refusing your request.

This concludes our response to your request.

Advice and assistance

You have stated that, *'under the tender rules, service providers were required to give consent to the disclosure of tender submissions by NGENO. Accordingly, there should be no issues in*

releasing this information. The tender documents and the agreements with successful providers both state that NESO *may* disclose information in relation to a tender submission. This does not mean that we are required to publish all information provided by bidders. We consider whether it is reasonable in all the circumstances to publish information.

Next steps

You can ask us to review our response. If you want us to carry out a review, please let us know within 40 working days and quote the reference number at the top of this letter.

If you are still dissatisfied after our internal review, you can complain to the Information Commissioner's Office (ICO). You should make complaints to the ICO within six weeks of receiving the outcome of an internal review. The easiest way to lodge a complaint is through their website: www.ico.org.uk/foicomplaints. Alternatively, they can be contacted at: Wycliffe House, Water Lane, Wilmslow, SK9 5AF.

Thank you for your interest in the work of the National Energy System Operator (NESO).

Regards,

The Information Rights Team, National Energy System Operator (NESO)