

## Offshore Electricity Transmission: Consultation on the Enduring Regime

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### **Overview:**

This document sets out our updated proposals for the enduring regulatory regime for offshore electricity transmission. Following a number of previous consultations, it sets out the remaining issues in relation to the enduring regime, the options we have considered and the rationale for our suggested policy proposals. We welcome comments from interested parties by 12 February 2010.

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## Context

Electricity generated from offshore renewable energy sources is expected to make an important contribution to the achievement of the UK's share of the EU's target of generating 20 per cent of energy from renewable sources by 2020. It is therefore necessary that fit for purpose offshore electricity transmission infrastructure is developed to transfer the electricity generated offshore to the onshore network and ultimately to consumers. It is important that this infrastructure is developed in a timely and cost-effective manner, which provides best value to present and future electricity consumers.

Ofgem and the Department of Energy and Climate Change (DECC) have developed and introduced a new regulatory regime for offshore electricity transmission. A key part of the new regime is that offshore electricity transmission licences will be granted following a competitive tender process run by Ofgem.

The Government commenced the new offshore transmission regulatory regime in June 2009. Shortly afterwards Ofgem launched the first transitional<sup>1</sup> tender round, in which £1.1 billion worth of transmission connections to offshore wind farms are currently being tendered. Ofgem will undertake one further transitional tender round, which is currently scheduled to commence in summer 2010. Under the enduring regime, an Offshore Transmission Owner (OFTO) will be appointed to design, finance and construct offshore transmission assets as well as operating and owning them. The first round of tenders in the enduring regime are expected to commence during the second half of 2010.

Ofgem published an open letter on the enduring regime on 5 November 2009. The letter set out the scope and timing of Ofgem's consultation process on refining the regulatory regime and competitive tender process. It explained, and invited views on, the key themes to address in this consultation document. We received and have considered nine responses to the open letter.

This document updates our proposals for refining the regulatory regime and the competitive tender process. This includes consulting on minor amendments to those aspects of the transitional regulatory regime and tender process that require fine-tuning in order to reflect lessons learned from the first transitional tender round and continue to ensure that assets can be operated and maintained in a timely and cost effective manner.

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<sup>1</sup> Under the transitional arrangements developers are able to construct transmission assets which are then transferred to an OFTO appointed through Ofgem's tender process. The developer will transfer ownership of the completed transmission asset to a licensed OFTO at a price set by the Authority following an assessment of costs. Therefore, for transitional projects, the role of the OFTO is to finance, own and operate an asset that has been or will be constructed by the generator developer.

## Associated Documents

- [Offshore Electricity Transmission: An Open Letter on the Enduring Regime, November, November 2009](#)
- [Offshore Electricity Transmission: Final Statement on the Competitive Tender Process, June 2009, Ofgem ref: 71/09](#)
- [Overview of Great Britain's Offshore Electricity Transmission Regulatory Regime - joint DECC-Ofgem statement, June 2009, Ofgem ref: 67/09](#)
- [Offshore Electricity Transmission: Updated Proposals for the Competitive Tender Process, March 2009, Ofgem ref: 21/09](#)
- [Government Response to Offshore Electricity Transmission – A further Joint Ofgem/DECC Regulatory Policy Update, March 2009, Ofgem ref: 23/09](#)
- [Offshore Electricity Transmission – A Joint Ofgem/DECC Regulatory Policy Update, November 2008, Ofgem ref: 153/08](#)
- [Offshore Electricity Transmission - Competitive Tender Process, October 2008, Ofgem ref: 142/08](#)
- [Consultation letter for draft tender regulations, July 2008, Ofgem ref: 108/08](#)
- [Offshore Electricity Transmission - A Joint Ofgem/BERR Regulatory Policy Update, June 2008, Ofgem ref: 84/08](#)
- [Offshore Electricity Transmission - Regulatory Policy Update, January 2008, Ofgem ref: 4/08](#)

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## Summary

The Government has set an ambitious target for the deployment of renewable energy over the next decade and beyond. Offshore wind will play an important part in meeting renewable energy and carbon emission targets and improving energy security by 2020 and beyond. However, the successful delivery of offshore generation is dependent on the timely delivery of fit-for-purpose infrastructure to transport power to energy consumers.

Ofgem and the Government have developed a new regulatory regime for offshore transmission in order to provide a framework to encourage the new investment needed to deliver this infrastructure. This framework, involving a competitive tender process to determine the party which builds transmission infrastructure, has been widely consulted on and is currently being used to award licences for the first offshore transmission assets.

Ofgem has consistently recognised the need to adapt our proposals to reflect the challenges, including the greater size and the need to design and build infrastructure, that enduring projects require. Where appropriate, and recognising our intention to only amend our approach where there is a clear need to do so, this document sets out updated proposals on the regulatory regime and tender process.

In developing policy positions we have sought to: provide flexibility to meet the needs of generation project developers; create a stable regulatory regime which provides certainty for investors and can deliver the levels of investment needed to connect over 30GW of offshore wind generation; and to promote effective competition and encourage innovation. We have been particularly mindful of the need to protect the interests of present and future consumers.

We have previously consulted on the enduring regime and made tender regulation which govern the process. This document sets out our detailed proposed policy positions sequentially, beginning with the connection application process and finishing by considering arrangements at the end of a 20 year revenue stream. Our proposals are summarised at a high-level below:

- We see no reason to amend the existing two stage connection application process; consider that generators should be able to choose from a range of connection options (including staging and phasing); and consider that generation developers should be required to provide financial security pursuant to the CUSC.
- We continue to consider that tenders should be held in annual windows following the receipt of a request to Ofgem to commence a tender from a generator.
- We are advocating a flexible approach to the timing of OFTO appointment. We consider that this approach can reflect the different needs and preferences of generation project developers.

- We also recognise the impact that the time at which an OFTO is appointed has on pre-construction and contingency costs and we have included proposals to allow for the recovery of efficiently incurred costs.
- In order to allow for innovation, we are not proposing to limit the specification against which a party must bid.
- Our proposals are designed to provide strong incentives for parties to co-ordinate requests for capacity and allow multiple projects to be tendered together, so as to reduce the risk and cost of stranded investment.
- Having carefully considered the potentially undesirable consequences of contracting with equipment suppliers on an exclusive basis we are not minded to prohibit exclusivity but have set out proposals to amend the tender process to enhance the scope for effective competition at each stage. We are also consulting on whether OFTOs should be required to outline how they would make access to capacity or to land available and on whether other measures to promote competition are required.
- In order to streamline the tender process, while ensuring that there is a rigorous assessment of bidders and sufficient time for bidders to develop submissions, we are proposing to enhance the requirements of the Pre-Qualification Stage of the tender process, removing the need for the Qualification to Tender Stage and extend the Invitation to Tender stage.
- We have sought to provide opportunities for variant bids to be submitted where they can identify outcomes which are beneficial to generators and consumers.
- We recognise the need to evaluate bids taking into account the impact of a bid on factors including transmission losses and onshore costs in reaching a preferred bidder decision. We are therefore proposing that the Authority will be able to draw on information from the NETSO and generator developers to inform its assessment and decision.
- We do not consider that wholesale changes to our current proposals for the ongoing regulatory regime and package of supporting incentives are required and continue to propose that successful parties receive a 20 year revenue stream and face availability incentives.
- While not an immediate issue, to ensure the regulatory regime is certain and predictable, we are also consulting on the way that requests for incremental capacity and asset life extensions should be dealt with.

We have also outlined the changes to the Tender Regulations which would be required to enact the proposals set out above and to reflect lessons learned from our experience of the first transitional tender round. We will finalise and consult further on these changes in February 2010.

We recognise that the refinement of the regulatory regime is a collaborative process and would welcome views from interested parties. We are keen to work with stakeholders to further refine proposals and are proposing to hold a workshop to discuss these issues ahead of a consultation on tender regulations and decisions on the enduring regulatory regime in May 2010.



## 1. Introduction

### Chapter Summary

This chapter sets out the purpose of this consultation.

It explains the key decisions that have been taken by the Government to create the overarching framework for the regulation of offshore electricity transmission. It also sets out the scope of issues that Ofgem is now consulting to finalise the enduring regime for the first enduring tender process.

The chapter also highlights a limited number of enhancements that Ofgem is proposing to make to the design of the second, and final, transitional tender round.

### **Purpose**

1.1. The Government commenced the new offshore transmission regulatory regime in June 2009, following an extensive consultation by Ofgem and the Department of Energy and Climate Change (DECC)<sup>2</sup>. Shortly afterwards Ofgem launched the first transitional tender round, in which £1.1 billion worth of transmission connections to offshore wind farms are currently being tendered. This first transitional tender round to identify Offshore Transmission Owners (OFTOs) is up and running and the first round of enduring tenders is expected to commence during the second half of 2010.

1.2. Earlier this year, Ofgem consulted on the overall design of our enduring tender process in “the March tender consultation document” (Ofgem ref; 21/09) and on regulatory incentives in “the March policy consultation” (Ofgem ref; 23/09). This consultation builds on those documents and comments received from respondents and sets out our current views on the amendments to the regulatory regime which are required to reflect the requirements of enduring projects.

1.3. This document also outlines the changes to the Tender Regulations which we consider may be required to implement the proposals set out in the document. In addition, it identifies a number of changes to the Tender Regulations which we consider are required to reflect our experience from the first transitional tender process and to improve the drafting and clarity. These changes are summarised in Appendix 2.

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<sup>2</sup> Previously the Department for Trade and Industry (DTI) and Department for Business Enterprise and Regulatory Reform (BERR).

1.4. In our November open letter<sup>3</sup>, we set out the scope of this consultation, it is our intention only to update the details of our previously stated approach where there is a demonstrable need for change to ensure the efficient operation of the enduring regime (i.e. our focus is on refinements rather than wholesale changes). Any updates will be within the framework set out in the Ofgem/DECC Statement<sup>4</sup> on the form of the offshore regulatory framework published in June, relevant developments in onshore regulatory policy, and any subsequent amendments to Government policy in this area.

1.5. Ofgem remains committed to ensuring that, within the framework established at "Go-Active" by the Secretary of State, the arrangements for enduring offshore transmission tenders remain clear and transparent, promote the efficient and economic development of the offshore transmission networks, deliver value for present and future consumers and provide the opportunity for new entry into the sector.

## **Policy Background**

1.6. Over the last four years Ofgem and DECC have worked together to develop and establish the regulatory regime for Offshore Electricity Transmission. The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2009 (the 'Tender Regulations') provide the legal framework for running the competitive tender process. Furthermore the Energy Act 2004 enabled the Secretary of State to make appropriate changes to the standard framework to facilitate the implementation of the regime.

1.7. The approach that has been decided by the Government is that licences to own and operate offshore transmission assets will be granted on a competitive, non-exclusive basis. A competitive tender process, administered by Ofgem, will be used to select offshore transmission licensees. The competitive tender process will result in the grant of an offshore transmission licence to the successful bidder. Offshore transmission licences include a number of special conditions which set out the specific obligations and rights of the licensee. These define, among other things, the revenue stream that the OFTO will receive for 20 years.

1.8. To ensure continued delivery of offshore renewable projects and to provide certainty to developers and funders of offshore investments, while the details of the regulatory regime were consulted on, the Government and Ofgem announced in July 2007 that there would be transitional arrangements (for projects that had met certain pre-conditions by the Go-Live date) and enduring arrangements that would

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<sup>3</sup> [Offshore Electricity Transmission: An Open Letter on the Enduring Regime](#)

<sup>4</sup> See "[Overview of Great Britain's Offshore Electricity Transmission Regulatory Regime - joint DECC-Ofgem statement](#)"

take effect for all other projects. The characteristics of the transitional and enduring arrangements are:

- Under the transitional arrangements developers are able to construct transmission assets which are then transferred to an OFTO appointed through Ofgem's tender process. The developer will transfer ownership of the completed transmission asset to a licensed OFTO at a price set by the Authority following an assessment of costs. Therefore, for transitional projects, the role of the OFTO is to finance, own, maintain and operate an asset that has been or will be constructed by the generator developer.
- Under the enduring regime, an OFTO will **design** and **construct** offshore transmission assets as well as financing, operating, maintaining and owning them (as under the transitional arrangements).

1.9. Both Ofgem and DECC have previously acknowledged that amendments would need to be made to certain elements of the transitional regime to make sure it runs smoothly on an enduring basis. We have therefore incorporated flexibility into the regime to ensure it can continue to deliver on an ongoing basis.

1.10. Ofgem has stated previously, and maintains, that the broad principles of the competitive tender process we have set out for the transitional regime will continue for the enduring regime.

## **Aims of the competitive approach**

1.11. In designing a regulatory regime for offshore electricity transmission, Ofgem/DECC recognised that the step change in network investment necessary to connect significant volumes of offshore renewable generation required a more dynamic approach to the development of offshore transmission networks. Following extensive industry consultation, it was decided that it was appropriate to introduce a competitive approach which encourages innovation and provides scope to attract new sources of technical expertise and finance to the sector.

1.12. In particular, the objectives of the competitive tenders are to:

- Deliver fit for purpose transmission infrastructure to connect offshore generation and facilitate the realisation of significant carbon savings;
- Provide certainty and best value to consumers through the competitive process; and
- Attract new entrants to the sector.

1.13. Ensuring that the regulatory regime achieves these objectives is particularly important given the significant changes that are occurring in the energy sector and the demands facing investors in a difficult economic climate.

## **Amendments to the Transitional Tender process**

We are also proposing to make a number of changes to the transitional tender process based on our experience of running the first transitional tender round. The aim of these changes is to make the tender process as efficient as possible by streamlining some aspects of the transitional regime.

During the first transitional tender round, it became apparent that a more flexible process for the calculation of developers' costs in connection with transmission assets would be beneficial to both Ofgem and to Developers. We propose to amend the transitional cost estimate process in the Tender Regulations to enable us to track developers' costs more closely to enable us to provide more accurate figures to both developers and bidders.

In relation to the tender commencement process, we propose to amend the Tender Regulations to allow ourselves more flexibility as to when we write to developers and set out the tender entry conditions. This change would give developers more time to plan and undertake the required steps in order to meet the tender entry conditions. In general, we consider that the tender entry conditions remain appropriate. However, we propose to require a stronger undertaking from developers to commit to transfer assets to successful bidder prior to full licence award. These and other administrative changes to the Tender Regulations are set out in detail in Appendix 2.

## **Structure of this document**

1.14. We have, as far as possible, structured the document according to the stages which parties will need to go through to participate in the enduring regime. In each of the following chapters we outline the issue under consideration, discuss the options we've considered and, where appropriate, set out our policy position:

- Section 2 summarises the key issues raised in the open letter, outlines respondents' views and identifies the ongoing issues which we have considered in developing the document;
- Section 3 sets out our proposals for the connection application process, outlines the options available to offshore developers and discusses financial security;
- Section 4 outlines proposals regarding the process for triggering a tender, discusses the time at which tender processes should take place and sets our proposals for dealing with pre-construction and contingency costs;
- Section 5 considers the way that tender specifications are developed, including setting out our view on the amount of capacity that should be tendered;
- In section 6 we consider the way in which participation and effective competition in tender processes can be facilitated;

- In section 7 we discuss amendments to the stages and timings of the tender process;
- Section 8 considers the scope for variant bids and sets out proposals for the way in which submissions will be evaluated;
- Section 9 outlines the rights and obligations which will face successful licensees;
- In section 10 we consider what happens at the end of a revenue stream period and briefly consider options for dealing with future offshore developments; and
- Finally, section 11 sets out consultation timescales and next steps.

1.15. The document also contains a series of appendices:

- Appendix 1 summarises the questions raised throughout the document.
- Appendix 2 sets out the amendments which would need to be made to Tender Regulations to introduce our current proposals (recognising that these may need to change following consideration of responses to this document).
- Appendix 3 summarises responses to the open letter.
- Appendices 4 to 6 provide a glossary of terms, an outline of Ofgem's statutory duties and details for providing feedback on the consultation process.

## **Ofgem E-Serve**

1.16. Ofgem has recently undergone a major internal restructuring. As of 8 September 2009 the Ofgem Group was split to become Ofgem and Ofgem E-serve. Ofgem E-Serve will deliver the environmental programmes the regulator is now administering, including the regulatory regime for offshore transmission. E-Serve remains governed by the Gas and Electricity Markets Authority (GEMA) This document refers to Ofgem, Ofgem E-Serve and the GEMA interchangeably.

## **Responding to this Document**

1.17. We would welcome comments from respondents on all issues raised in this consultation, although particular issues on which we are seeking feedback are highlighted in the relevant sections. However, many decisions have already been taken and we are not looking to reconsider positions where this is the case.

1.18. Responses should be received no later than 12 February 2010. All responses should be sent to:

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1.19. This document will be followed by a consultation on the Tender Regulations in February 2010. We expect to announce our decisions in May 2010.

## 2. The open letter on the enduring regime

### Chapter Summary

This chapter summarises the key issues we raised in the open letter on the enduring regime for offshore electricity transmission which we published on the 5 November 2009 and outlines issues which we have been mindful of in developing proposals.

### **Introduction**

2.1. We published an open letter on the enduring regime on 5 November 2009. The letter provided advanced notice of our proposed consultation on the enduring regime and provided an opportunity for parties to inform the scope of the consultation.

2.2. This chapter briefly outlines the key issues raised in the open letter and briefly outline responses. It also highlights a number of related issues which we have been mindful of in developing proposals and summarises the potential routes through which our proposals could be implemented.

### **Key Themes**

2.3. This section summarises the key themes that we highlighted in the open letter. We do not seek to repeat each issue but provide a brief summary of key points.

- *The timing of OFTO appointment and treatment of pre-construction costs* - we recognised the need to consider issues associated with early and late OFTO appointments and to define the scope of the pre-construction works for which the generator can recover costs.
- *Risk management, refinancing and incentives* - we considered whether the incentives applicable under the transitional regime need to be flexed or updated given the different circumstances of enduring projects.
- *The role of the NETSO* - we noted the important role of the National Electricity Transmission System Operator (NETSO) and outlined the need to carefully consider its role in facilitating efficient development and decision making under the enduring regime.
- *Qualifying project pre-conditions and tender entry criteria* - the open letter considered how the conditions for participation in the regime may need to change to ensure that they remain fit for purpose and consistent with other parts of the overall regulatory and legal framework.
- *Stages of the tender process* - we noted that the focus on design and construction of assets in the enduring tender rounds may mean that timings and

structure of the tender process need to change. In particular we raised the possible need for amendments to the length of the ITT stage.

- *Assessment and evaluation* - we noted the need for robust methods of evaluating bids (including variant bids if appropriate) and recognised the need to consider the role of other parties in informing the Authority's tender evaluation decisions.
- *Supply chain and competition* issues - we outlined our intention to take steps to address concerns over supply chain exclusivity, if such arrangements are expected to reduce the extent of competition in the tender process under the enduring regime.
- *Future Capacity Increases* – finally, we acknowledged that, while not necessarily an issue to be resolved in the short-term, we needed to consider the way in which future increases in capacity could be dealt with and remunerated.

## Responses

2.4. We received one confidential and eight non-confidential responses to the open letter on the enduring regime. Respondents welcomed the opportunity to provide comments prior to the publication of this consultation document and offered a range of views on most of the key issues raised.

2.5. There were some issues on which a general consensus was evident. For example, the majority of stakeholders advocated a longer tender process for the enduring regime. There was also a general consensus that there should be no re-financing mechanism included in the OFTO licence, but there was some support for an insurance adjustment mechanism. Some respondents supported a late OFTO appointment because they were concerned about the risk of OFTO selection causing delays to project timetables, whilst others were keen to see the OFTO appointed sooner in order to benefit from greater opportunities to innovate.

2.6. Several developers requested that the transitional arrangements be put in place on an enduring basis. This is not within the scope of this consultation. The Government has previously decided that, under the enduring arrangements, the OFTO will be responsible for the construction of offshore transmission assets.

2.7. Non-confidential responses are available from the Ofgem E-Serve website and a summary of responses is provided in Appendix 3. Respondents' views have informed our thinking about the options set out in the remaining sections of this document and we thank respondents for their contributions to date.



## Ongoing developments

2.8. The open letter also outlined a series of developments which we recognised that we needed to be mindful of in developing the enduring regime. We have continued to monitor progress in these areas and to further consider their interaction with the enduring regulatory regime:

- *Amendments to Crown Estate policy* - including proposals to increase the term of leases, to allow parties to bid to develop particular zones (i.e. the round 3 arrangements) and to allow existing lessees to increase capacity.
- *Strategic Environmental Assessments in Scotland* - we noted ten developers have been awarded exclusivity over sites.
- *The Third Package of legislation on the liberalisation of the internal electricity and gas markets* - which we noted may have consequences for tender entry criteria.
- *Ongoing onshore policy developments* - we recognised that revisions to transmission access arrangements are currently being considered<sup>5</sup> and that there is a credible prospect of a model which provides firm connection dates (a so called "connect and manage" model) being introduced. We also noted Ofgem's ongoing RPI-X@20<sup>6</sup> and Enhanced Transmission Investment Incentives<sup>7</sup> projects.
- *Operational experience of the first transitional tender round* - recognising that the first process could have important lessons for the enduring regime.

2.9. We will continue to ensure that policy decisions are taken in the context of these wider issues.

## Regulatory Framework

2.10. In this section, we briefly set out the regulatory framework which governs the enduring regime and how it may be used to implement our proposals.

- *Standard Industry Governance* - The suite of industry codes which govern rules for connecting to and using the transmission network can be amended through standard industry governance arrangements.

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<sup>5</sup> Details are available from the [DECC website](#).

<sup>6</sup> See the [RPI-X@20 section of the Ofgem website](#).

<sup>7</sup> [See Ofgem's initial proposals consultation](#).

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- *Special Licence Conditions* - There may be elements of the proposals in sections 4 and 9 (of this document) that will require Ofgem to further develop the special licence conditions within offshore transmission licences.
  - *The Tender Regulations* - The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2009 (the Tender Regulations) came into force on 2 June 2009. The Tender Regulations include provisions for both the transitional and enduring regimes and provide the high level framework for the offshore regulatory regime. They provide Ofgem with strong enforcement powers and provide certainty to participants as to the way in which the tender process will be run. As there was a degree of uncertainty relating to the way that the enduring regime would be run at the time when the regulations were made, we envisage that in order to bring the enduring regime into effect, some changes to the regulation will be required. These changes will need to be made by the Authority and approved by the Secretary of State.
  - *Tender Rules* - The Tender Regulations prescribe that Tender Rules are published for each tender exercise. The Tender Rules prescribe the tender process in more detail than the Tender Regulations and enable Ofgem to adjust the detailed administration of the tender process where required within the overall framework set out in the Tender Regulations.
  - *Cost Recovery Methodology* - The Tender Regulations prescribe that a cost recovery methodology is published in respect of each tender exercise. This document sets out the amounts which are required to be paid by all participants in the tender process and how those amounts should be paid.
  - *Tender documentation* - Tender documents are released at each stage of the process and set out further detailed rules and requirements which relate to each stage of the process. These documents are published for every tender exercise.
  - *Primary legislation* - The Secretary of State also has powers under sections 90 and 91 of the Energy Act 2004 to make modifications to the codes and licences in the 18 months following "Go-Active". However, neither DECC nor Ofgem currently anticipate that decisions made following this enduring regulatory regime consultation will be implemented through this route. As such, responsibility for the ongoing operation of the regime now lies principally with Ofgem and industry (including the NETSO).

2.11. In the following chapters, we set out our current position in relation to the detailed design of the enduring regime and how our proposals may be implemented by using these tools.

## 3. The connection application process

### Chapter Summary

This chapter sets out the connection application process. **This process has already been consulted on extensively and decisions have been made.** We do not intend to revisit the policy relating to these issues, but set out how the process works in this chapter.

### Questions

→ As we have previously consulted on and made decisions on all positions set out in this section, there are no questions.

## Introduction

3.1. A challenge for the enduring regulatory regime for offshore electricity transmission is in ensuring that offshore developments occur in an efficient, economic and co-ordinated manner. We recognise that the regulatory regime needs to be capable of reflecting generation project developers' differing requirements, ensuring that tender processes produce optimal outcomes (from a technical, economic and timing perspective), minimising risks and costs to consumers, and needs to be sufficiently flexible to deal with the, currently unforeseen, forms of offshore development which could occur in future.

3.2. We recognise that considerable environmental benefits that can be delivered via a transparent regime which delivers certainty to investors and leads to the timely development of offshore assets.

3.3. A first important step in achieving these objectives is to ensure that generation project developers have sufficiently flexible options for signalling their requirements and that proportionate arrangements are in place to ensure that consumers do not face unnecessary risks. This section sets out:

- The options available to generation project developers via the connection application process; and
- The level of financial security which parties are required to put in place to enter the tender process.

## The connection application process

### Outline of the process

3.4. Our previous consultations set out proposals for a two stage connection application process. These stages are:

- *Stage 1:* Within three months of the submission of a competent CUSC application for connection by an offshore generation project developer, NGET will provide an offer to the offshore generator setting out the works needed on the onshore transmission system. This offer will include assumptions regarding the offshore transmission works that will be required. An offshore generator has three months in which to accept a connection offer<sup>8</sup>. An offshore generator must have signed its connection offer and satisfy any other pre-conditions set out in the tender regulations before a tender process can be triggered<sup>9</sup>.
- *Stage 2:* Once a Preferred Bidder is identified as part of the offshore transmission tender process, NGET will provide the offshore generator with a second stage offer that will include the works required to construct the offshore transmission system<sup>10</sup> and any changes to the works required to the onshore transmission system that are necessary as a result of the offshore transmission works.

3.5. We recognised that the exact design of the offshore transmission system would not be known to NGET or generator developers when the CUSC connection application is made and noted that it would only be identified by the offshore transmission tender process. We also recognised that NGET will not be able to make a comprehensive offer of connection to the offshore generator until it has detailed information about the design of the offshore transmission system required to provide a connection at the offshore connection point specified in the connection application.

3.6. However, we considered that NGET is able to make sufficiently robust assumptions about the likely design of the offshore transmission system to enable the impact on the onshore transmission system to be assessed in sufficient detail to identify the works that will be required on the onshore transmission system. We therefore determined that NGET's obligation to provide an offer within three months can be applied offshore, albeit that the offer made at that initial stage would only detail works identified on the onshore transmission system.

### **Policy Position**

3.7. The position is therefore that the two stage connection application process outlined above will be standard for offshore generators.

3.8. Throughout our development of the regulatory regime we have been particularly mindful of the need to ensure that the differing requirements of generation project developers can be accommodated within the connection application process.

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<sup>8</sup> Any dispute on the content of a connection offer can be referred to the Authority for determination. Either party can make the reference. Any reference for determination must be made within three months of the offer being made.

<sup>9</sup> Further discussion on the party that triggers the tender process can be found in chapter 4.

<sup>10</sup> Reflective of the contractual terms based on the TO Construction Offer provided to NGET under the STC by that preferred Bidder.

3.9. We note that the existing connection application process provides parties with scope to reflect the specific circumstances of their generation project in their connection application. Parties are able to request a phased or staged connection (where different amounts of capacity are accommodated at different times) or to indicate that they would like a 'customer choice' design variation (where they receive a connection offer which reflects a higher standard than the conditions set out in chapter 7 of NETS Security and Quality of Supply Standards (SQSS)).

3.10. We also note that NGET's licence conditions require it to operate the national electricity transmission system in an economic, efficient and co-ordinated manner in all cases. In the context of making connection offers, this condition requires NGET, in tandem with Transmission Owners (TOs), to seek to identify connection designs (including designs to connect multiple projects) which can deliver benefits to consumers by realising cost savings based on efficiency savings or economies of scale. We consider the treatment of 'co-ordinated connection applications' further in chapter 5.

## **Securing the costs of connection works**

### **Outline of the process**

3.11. As well as considering the connection application process, through previous consultation, we have carefully considered the levels of financial security which need to be in place at different stages of that process to ensure that consumers and onshore transmission licensees are protected from the risk of incurring unnecessary costs and that bidders receive a signal about the credibility of generation project developers.

3.12. We consider that financial commitments are important in ensuring that the credibility of players is visible to Ofgem and potential bidders and in minimising the risk of creating stranded assets (i.e. in the event of an OFTO being appointed to connect a generation project which is subsequently not constructed). However we also recognise that commitments need to be proportionate and should not represent a barrier to entry.

3.13. Offshore generation project developers are subject to the security requirements contained within the CUSC. Hence when they sign a connection agreement and become signatories to the CUSC, they will be required to put in place financial security. As with onshore generators, parties can choose from two methods of providing security – the Final Sums Liability (FSL) regime and the Interim Generic User Commitment (IGUC) arrangements:

- The FSL arrangements require parties to underwrite the costs of a profile of works specified in their connection agreement. Hence, at each stage of the connection process, the costs of assets constructed by an onshore TO or an OFTO would be underwritten by the generation project developer. At the point when a plant begins generating the liabilities fall away. In the event that a developer

pulls out part way through the connection process, securities to cover the costs of works which are stranded as a consequence are payable.

- The IGUC arrangements allow developers to opt for a profile of securities which is fixed ex-ante and which ramps up over time. Generators place non refundable financial commitments based on transmission charges which increase as projects get closer to completion.

### **Policy Position**

3.14. We note that decisions about the arrangements pursuant to the CUSC are ultimately a matter for NGET, following industry engagement and consultation, to determine. We also note that the connection application process outlined previously means that parties which accept a connection offer are required to put in place financial security to cover both on- and off-shore works. This means that, in the event that an OFTO (or an onshore TO) had undertaken certain works (recognising this may be unlikely) those costs would be covered by the offshore generation project developers.

3.15. We view financial security as an important issue and are keen to ensure that sufficient yet proportionate commitments are put in place, to ensure that financing for renewable projects can be secured. We note that the levels of security which the existing CUSC arrangements would require offshore generators to put in place would, in absolute terms, be greater than that provided by the majority of parties onshore. However we note that this is a function of the higher cost of the assets which are being installed to facilitate parties' connections. We also note that these securities will apply to both the cost of onshore, and the expected cost of offshore, works. As such, and recognising NGET's role in governing those arrangements, we consider these arrangements to be fit-for-purpose.

## 4. Triggering the tender process

### Chapter Summary

At present, under the Tender Regulations, Ofgem requires a request from a generation project developer to commence a tender process. The developer is then required to successfully complete a two stage tender entry process. As part of this process, the generator developer is required to liaise with the NETSO and possibly other developers in order to present all the required pre-tender information.

This section considers whether this process needs to be amended, asks which party is best placed to trigger the enduring tender process, questions whether the existing project qualification criteria and tender entry conditions are sufficient and discusses the arrangements for underwriting the costs incurred by the Authority in running the tender process.

### Questions

- ➔ Do you agree with the proposed approach to initiating the tender process?
- ➔ Should there be an earliest or latest point (relative to the connection agreement held by the generator) at which the generator should be required to request an OFTO appointment and when should that be?
- ➔ Do you agree with the proposed amendments to the qualifying project pre-conditions and tender entry conditions for the enduring regime?
- ➔ Do you have views on the time of year at which a tender window should be held?
- ➔ Do you have views on the best method of dealing with contingency costs?
- ➔ What is your view on the capping of the contingency and any associated incentives?
- ➔ Which items do you consider should be defined as pre-construction costs (and why)?
- ➔ Do you consider that an Ofgem defined, standard pre-construction works transfer agreement is the appropriate vehicle for managing the transfer and payment of pre-construction costs?

### **Introduction**

4.1. At present, under the Tender Regulations, Ofgem requires a request from a generation project developer to commence a tender process. The developer is then required to successfully complete a two stage tender entry process. As part of this process, the generator developer is required to liaise with the NETSO and possibly other developers in order to present all the required pre-tender information.

4.2. This section considers whether this process needs to be amended, asks which party is best placed to trigger the enduring tender process, questions whether the existing project qualification criteria and tender entry conditions are sufficient and discusses the arrangements for underwriting the costs incurred by the Authority in running the tender process.

## **Qualifying project pre-conditions and tender entry conditions**

### **Outline of the issue and current policy**

4.3. Under Schedule 1 and 2 of the Tender Regulations developers are required to demonstrate to the Authority's satisfaction that they have met a number of pre-conditions and a series of tender entry conditions in order to participate in a particular tender process.

4.4. At present, in order to meet the qualifying project pre-conditions, a generator must obtain a Crown Estate lease and transmission connection offer (including posting the necessary financial security). In order to meet the tender entry conditions developers must provide information to the Authority to enable it to establish a data room and information memorandum, including a written warranty that this information is true accurate and complete; and comply with any other conditions that the Authority considers appropriate for a particular tender exercise. We consider that it is important to ensure that these conditions remain fit for purpose and are consistent with other parts of the overall regulatory framework

### **Minded-to Position**

4.5. We consider that, in order to simplify the tender entry process, it may be beneficial to combine these two stages to create a single tender entry stage. As discussed elsewhere in this document, we also propose to add a number of new tender entry conditions for the enduring regime. The list below sets out the proposed tender entry conditions:

- The developer has entered into a bilateral agreement with the holder of a co-ordination licence in accordance with the arrangements for connection and use of the transmission system;
- The developer has entered into a Crown Estate lease;
- The developer has provided information to the Authority (to our satisfaction) to enable it to both issue an information memorandum and establish a data room;
- The developer has provided a written warranty to the Authority in a form reasonably acceptable to the Authority, that the information provided to the Authority to establish a data room and issue and information memorandum is



to the best of the knowledge and belief of the developer, true accurate and complete in all material respects;

- The developer has provided an undertaking to provide information to the Authority during the evaluation process;
- The developer has entered into an undertaking to agree to enter into an Ofgem defined, standard pre-construction works transfer agreement prior to licence grant;
- A possible requirement, is that the developer's project has an energisation date which is with an fixed number of years from the developer's date of application to the tender process; and
- The developer has complied with other such conditions as the Authority may determine are necessary in relation to that particular tender exercise.

## **The party which triggers the tender process**

### **Outline of the issues**

4.6. At present, the Tender Regulations require a generation project developer to make a written request to Ofgem to trigger the start of the tender process (the developer also needs to meet the tender entry conditions as set out above). We have considered whether this remains appropriate for the enduring regime.

### **Options considered**

4.7. Ofgem's decision to commence a Tender process could, in theory, be informed by generation project developers, the NETSO or Ofgem. It could be argued that, given generation project developers are required to financially back requests for capacity, it is appropriate that they have a choice over when to trigger a tender process (or at least to indicate that they would like to be considered as part of the next tender window). It could also be argued that the NETSO has the most complete set of information. Alternatively, once Ofgem has received requests from developers, it may be considered appropriate that it decides on the timing of a tender process based on the information provided to it by generation project developers and the NETSO.

### **Minded-to position**

4.8. On balance, we believe that there is a role for the generation project developer (by deciding when to apply to Ofgem and ensuring that they meet the tender entry conditions) and Ofgem (in defining the precise timing of the tender - e.g. tender windows). We note, and discuss further below, that Ofgem has an important role in providing certainty over the time at which a tender process will take place. However,

we consider that generation project developers should continue to be provided with flexibility over when they request a tender.

4.9. We note that this approach may be expected to facilitate co-ordination if parties have access to sufficient information about other generation project developments. In this regard we note the requirement in NGET's transmission licence (licence condition C4) to produce an Offshore Development Information Statement (ODIS). The ODIS statement should provide information which should facilitate opportunities for co-ordination.

## **The use of tender windows**

### **Outline of the process**

4.10. Under the transitional regime, all tenders take place in a fixed window. That is, all projects which request connection within a given time period are tendered in concurrent timescales. We have previously consulted on, and confirmed that, we intend to use tender windows for enduring projects.

4.11. Tender windows provide a greater opportunity to co-ordinate requests for capacity; avoiding the duplication of costs and potentially making administrative cost savings. We have considered options which involve varying the frequency and timing of tender windows.

4.12. We have also considered the time at which the tender window takes place and whether the tender windows for the second transitional round and first enduring round could be commenced at a similar time. Clearly, the time of the tender window needs to reflect the time needed to complete the tender process such that appointment occurs at a point which allows efficient development by the OFTO (for example, if an OFTO needs to undertake certain works following appointment, it would appear necessary to avoid a process concluding in a season when those works couldn't be undertaken).

4.13. We continue to consider that annual tender windows provide a pragmatic balance between co-ordinating requests for capacity and reflecting the needs of developers. However, in the longer-term, there may be a case to amend the frequency of windows. Although we favour annual tender windows, we recognise that projects may occasionally require ad-hoc tender processes. We discuss tender timings in more detail in Chapter 7 of this document.

4.14. We do not consider that any implementation measures are required as the Tender Regulations allow the Authority to undertake both annual and ad-hoc tender exercises for particular qualifying projects.

## Securing the costs of the tender process

### Outline of the issue

4.15. Once a generation project developer has met the qualifying project criteria and tender entry conditions, they are required to put in place the following before their project(s) can be included in a Tender Process:

- A payment to Ofgem; and
- Security in the form of a letter of credit or a cash deposit.

### Options considered

4.16. Developer security is designed to cover the costs incurred by Ofgem in running the tender process and is intended to provide a clear signal of a developer's commitment and credibility. As such, if Ofgem incurs higher costs in running tender processes under the enduring regime we would expect a commensurate increase in security requirements.

### Minded to position

4.17. We consider that the costs of the tender process are likely to be significantly higher in the enduring regime than the transitional regime because the tender process will need to be longer due to the design element of the submissions and a more detailed evaluation of bids will be required (because of the additional complexity). As such we would expect the level of security and payment to increase.

4.18. Ofgem will carefully consider the appropriate level of security which parties should be required to provide. We intend to publish an updated 'cost recovery methodology' in the first quarter of 2010.

## The timing of OFTO appointment – contingencies and pre-construction costs

### Outline of the issue

4.19. The time at which a tender window is held will have some impact on the time at which an OFTO is subsequently appointed (and this issue has been highlighted above). We have previously set out that a generator will be able to make a request to Ofgem for a tender process to be held as soon as it has met the tender entry

conditions. As such the timing of the tender process, for a particular project, is to a certain extent led by the developer of that project. However, we question whether there is any need to put an outer bound on how early a developer can apply for an OFTO<sup>11</sup> as an entry condition.

4.20. We believe that this flexible approach should ensure that a generator is able to apply for OFTO appointment at a point which best reflects its specific project timetable. However, we recognise that dependent on the time at which a generator applies for an OFTO to be appointed (relative to the date at which a generator would expect to begin generating power), different risks will be faced by the OFTO and generator. For instance:

- **Early OFTO appointment** – if the generator applies for an early OFTO appointment, relative to the connection date in its connection agreement, then there may be considerable unknowns attached to the construction of the offshore transmission assets. These uncertainties could translate to a significant premium to the tender revenue stream bid in the tender process. However, on the other hand, an early appointment would also seem to enable the appointed OFTO to take a more holistic view of design and operational risk (and there may be benefit in the OFTO being able to choose and control risks). There may be a timing implication for the tender process under this model (which is considered in chapter 7).
- **Late OFTO appointment** – if the generator applies to enter a tender window at a date which is relatively late (i.e. is closer to the date at which they would hope to begin generating), as may be the case for some of the projects included in the Crown Estate's second round of leases, then there may be a risk that the development is delayed due to the time required to appoint an OFTO and to carry out consenting, pre-construction and construction works. Also, under the late appointment model, risk is effectively being placed on the OFTO, rather than the OFTO choosing to manage certain risks (as under an earlier appointment model).

4.21. We have therefore considered how these risks are best managed. We believe that it may be appropriate to allow for a contingency envelope to be set to mitigate the risks associated with an early OFTO appointment (and so minimise bid premium). We have also noted in previous consultation documents that we were minded to allow the recovery of certain efficiently incurred pre-construction costs (i.e. costs incurred by a developer prior to the appointment of an OFTO). This was driven by concerns that, without such a mechanism, projects may be unnecessarily delayed. We set out the issues considered in regards to contingency and pre-construction cost below.

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<sup>11</sup> As an aside, we are aware that potential developments in transmission access arrangements may have a bearing on parties' incentives to apply for connection at different times. This may change incentives connected to the timing at which developers apply for capacity.

**Options considered – Contingencies**

4.22. We are conscious that under an early appointment scenario, there may be considerable uncertainties about some of the costs an OFTO will face. For example, at the time of tender it will be unlikely that a party will be able to forecast the depth to which cables or foundations will be buried and, potentially, they may be exposed to changes in the unit costs of components (although such changes could be insured against). As set out above, we consider that not addressing this issue could lead to significant risk premium in bids, because of the uncertainty attached to these costs.

4.23. We have therefore considered a range of different mechanisms for mitigating this risk. The contingency elements would be payable through the licence granted to the successful OFTO. These mechanisms would, to differing extents, provide comfort that costs could be recovered and lead to an adjustment being made to an OFTO's tender revenue stream where the Authority deemed that contingency costs had been economically and efficiently incurred. We have considered the following options in this regard:

- Making no allowance for contingency – which would retain the risk of premium being included in bids but reduce complexity.
- Asking parties to separately specify their required contingency elements from the core revenue stream that they bid - which may lead to a more complex evaluation process.
- Ofgem defining a series of costs items which would be included as contingency items before the tender is run – this approach would determine the categories of cost where contingency could be included and set out a cap on the level of contingency costs within the tender specification (i.e. Ofgem would define known and unknown items which would be considered for adjustment). The set of costs could be defined on a case by case basis.

4.24. We consider that each of the options above, with the exception of making no allowance for contingency, have merits. The option of separating bids into contingency and core element adds complexity to the assessment process, but gives more flexibility to bidders. While complex, (particularly given the scope for different periods of time between the time of appointment and energisation of the generator) defining costs ahead of a tender process would be expected to provide greater certainty to the tender process. We would welcome respondents' views on their preferred option and the method through which that option could be best made to work in practice.

4.25. We would also welcome views in terms of the items that should be included in a contingency allowance. We believe that it may be necessary to fix against adverse exchange rate and commodity price movements on unexpected additional expenditure (i.e. additional cable or switch gear requirements beyond that specified at the time to tender). On other items, such as planning permissions, consents, wayleaves, easements, leases, topography and sea bed surveys, environment and archaeological surveys, impact assessments, onshore connection works and other

preliminary works, we believe that a contingency cap would need to be set (perhaps as a percentage of capital expenditure). In order to incentivise an OFTO only to use contingencies as a last resort, we think that there may be merit in including an incentive mechanism to this effect. We would welcome views upon such an approach.

### **Options considered - Pre Construction Costs**

4.26. We have also noted in previous consultation documents that we were minded to allow the recovery of certain efficiently incurred pre-construction costs, following the grant of a the licence to a successful OFTO. This section sets out the issues that we have considered in this regard. In particular we have considered:

- Options for defining an appropriate envelope of pre-construction costs
- The way that decisions about the timing of OFTO appointment impact on the definition of that envelope; and
- The best method of managing the process of agreeing, refining and transferring costs.

4.27. The timing of OFTO appointment will impact on the pre-construction activities that a generator will undertake. There are consequently likely to be a range of cost items that would need to be considered as pre-construction costs. We have considered various options for determining which pre-construction costs are to be recovered:

- An approach in which a list of recoverable pre-construction costs is set-out ex-ante and, potentially, in which benchmark levels for these costs are developed; or
- A case-by-case approach in which high-level principles for the treatment of costs are established but where Ofgem undertakes an assessment to determine that costs are efficient and economic on a case-by-case basis.

4.28. The first approach assumes that there is a readily recognisable set of costs that all generators incur in all cases. We note that this could be difficult to establish in practice and would welcome views as to whether a one size fits all approach is achievable or desirable. Under a case by case approach we would envisage an approach more similar to the cost assessment process that has been used under the transitional regime, with Ofgem undertaking an assessment to ensure that costs were efficiently and economically incurred.

4.29. In either event Ofgem anticipates that recoverable costs could include items such as planning permissions, consents, wayleaves, easements, leases, topography and sea bed surveys, environment and archaeological surveys, Ofgem tender costs, impact assessments, necessary licences, related (and clearly delineated) professional fees, unavoidable onshore connection works and other preliminary works. We note

that several respondents suggested that the point at which factory capacity was booked with a manufacturer represented an appropriate end point for pre-construction costs. In all cases costs would need to have been clearly demonstrated to have been economically and efficiently incurred and would only be allowable where consent to transfer had been provided by Ofgem. We welcome views on the cost items that should be included as pre-construction costs.

4.30. We additionally note that a number of respondents to the open letter noted that in certain cases it would be desirable for the generator to work with a potential OFTO bidder (in undertaking the pre-construction works) prior to the appointment of an OFTO. Some concern has been raised that this might give one party an unfair advantage in the bidding process. We share this concern, whilst also recognising the benefits of allowing potential bidders to work alongside generators prior to appointment (given the likely specialism of these companies). To mitigate competition concerns we propose that all the data gathered (including any design studies), and rights obtained, be made available through a data room for all bidders to use in their proposals (noting that bidders would be required to sign confidentiality agreements where appropriate). Allowing equal access to this data should mitigate the concerns raised by respondents. This approach is consistent with that taken for the transitional regime. We would welcome views as to whether further measures are necessary in this regard.

#### **Minded-to position – Pre-Construction Costs**

4.31. In the interests of transparency and simplicity we consider that, for developers wanting to recover efficiently incurred pre-construction costs, a pre-condition of tender entry conditions should be the signing of a Ofgem defined standard pre-construction works transfer agreement. We consider that the pre construction works transfer agreement provides an appropriate vehicle through which to progress discussions over pre-construction costs.

4.32. In order to facilitate transfer of pre-construction works we expect to require developers to commit to transfer pre-construction assets according to Ofgem defined standard terms and conditions. Ofgem will assess these costs and then assess the value to be repaid by the developer by the successful OFTO following the grant of licence.

4.33. We also consider that a relatively flexible approach to dealing with pre-construction costs is required. This reflects our proposal to try and provide flexibility to developers in the time at which they choose to trigger a tender process (and hence the point at which an OFTO is appointed). However, while we are proposing to assess costs on a case-by-case basis to ensure they are efficiently and economically incurred (as required by our statutory duties) we would welcome views on the items that should constitute pre-construction costs.

**4.34. We also note that we would expect Crown Estate round 2 projects currently entering pre-construction agreements to enter into separate contracts for the offshore generation and transmission works. Such**

**transparency will aid the Authority's assessment of the efficiency of these costs.**



## 5. The scope of the tender

### Chapter Summary

As well as determining the time at which a tender should take place, we think it is necessary to consider the detail of the specification against which parties should bid and consider the party(ies) who should be responsible for informing the tender specification. This section outlines the options we have considered in these areas and requests respondents' views.

### Questions

- ➔ Do you agree that the tender specification should be based on the connection application, with information also being provided relating to any pre-construction works undertaken?
- ➔ Do you agree that bidders should be given flexibility to respond to this specification as they see fit?
- ➔ Do you agree with our suggestion not to incorporate capacity oversizing into the enduring regime (unless financial commitment is provided for that capacity)?

## **Introduction**

5.1. This section considers issues regarding the determination of tender specifications. This will be important in providing clarity to bidders, in ensuring the needs of generation project developers are reflected and in influencing the scope for innovation. This section considers:

- The party or parties that should be involved in determining the tender specification; and
- Whether connections should be "over-sized" to reflect future expectations of development and the level of capacity parties should be required to provide.

## **How prescriptive should tender specifications be?**

### **Outline of the issue**

5.2. Promoting innovation was a key element in the Government's decision to introduce a competitive tender to determine the party responsible for constructing offshore transmission infrastructure. In designing detailed aspects of the regime, we need to be mindful of how we can facilitate innovation, in designing, financing, operating and maintaining assets, to the fullest possible extent while recognising the important roles for various stakeholders.

5.3. In particular we recognise that the process of designing offshore connection solutions will require input from various parties. Generators will signal their requirements to the NETSO via their request for a connection offer. The NETSO will provide important information about onshore system conditions and requirements and will need to deal with interface issues. Given its role in generating an initial connection offer, it will also provide a strong indication of its view of the optimal connection solution (i.e. in the first stage connection offer).

### **Options considered**

5.4. The extent to which bidders are provided with scope to innovate is, in part, a function of the level of prescription within the tender specification. For example, if a party is required to connect a given amount of capacity to a given point in given timescales and is required to design that connection to a given set of technical standards, then the scope for innovation appears limited; though the scope for a more streamlined process may be greater. Alternatively, if a bidder is provided with complete freedom, the scope for innovation may be maximised but the number of combinations and permutations could increase.

5.5. We note that the SQSS sets out a minimum technical standard to which connections must be designed (unless a generator indicates that they are willing to accept a lower standard). We also note that, for reasons of practicality, it is perhaps unlikely that equipment manufacturers will be able to respond to (and cost) a series of markedly different design solutions. We further note that the process of providing information about onshore system conditions and capabilities is not costless.

### **Minded-to position**

5.6. Ofgem recognises that offshore developments will need to be compatible with some elements of onshore arrangements. However, we are minded to allow tender specifications which provide scope for parties to interpret them as they see fit. We consider that this would be expected to provide the greatest scope for innovation and lead to tender submissions which provide the best value for present and future consumers being brought forward for consideration by the Authority. However, and as discussed later in this document, we recognise that this creates challenges for evaluating bids in a fair and transparent manner.

5.7. Developers will be required to provide details of their connection requirements in relation to the size of capacity required and type of connection (i.e. to provide details of their connection application into the tender process). We would also anticipate that where pre-construction works are being undertaken, that these are visible to the bidders from the start of the tender process (in a data room).

## **Which party(ies) should determine the tender specification?**

### **Outline of the issue**

5.8. As noted above, while we favour a relatively high level tender specification, we recognise that it may be appropriate for various parties to be involved in determining that specification. We have therefore considered the role for the developer and the NETSO in determining the tender specification.

### **Discussion**

5.9. The NETSO clearly has an important role in facilitating co-ordination between the onshore and offshore systems and in ensuring that efficient overall solutions are put in place. We note that the request for a connection offer from an offshore developer would lead to the NETSO undertaking system studies (potentially involving TOs as appropriate) to determine the level of onshore reinforcement which would be expected to be required to facilitate the connection. We also note that this process would provide a strong indication of the onshore connection point which the NETSO considered optimal.

5.10. However, it is not necessarily a given that prospective OFTOs will wish to bid to connect at this point. For example, they may identify an alternative solution which they consider delivers better value for consumers. As such, we consider that there may be a need for the NETSO to make additional information available to bidders. There is a question as to whether some or all of this information is provided before the commencement of the tender exercise or whether it is made available in response to requests from bidders (potentially made via Ofgem). In the second case there is also a question as to whether all parties should be notified of the request, which might be expected to increase competition, or whether it should be kept confidential due to a fear that making information public may reduce incentives to innovate.

5.11. We note that the onshore regulatory arrangements currently involve relatively little scope for generator participation over and above them specifying their requirements in a connection application. However, we also note that several other regulatory regimes, such as the constructive engagement framework used in the aviation sector and the public contest approach to building infrastructure used in South America, do involve significant amounts of user participation. We also note that this issue is being explored as part of RPI-X@20 project.

### **Minded to position**

5.12. As we have set out previously, we consider that the regime should be generation developer led and that developers should be able to choose from a variety of flexible approaches which reflect their requirements, including indicating whether they wish to be considered alongside other known offshore projects. We do not currently consider that it would be appropriate for a developer to have a role

over and above this (although we note that they will be required to provide information, if requested to do so by the Authority, during the tender process).

5.13. We recognise the importance of the NETSO in facilitating on- and offshore system developments. We consider that an extension of the role they play onshore represents the appropriate role offshore. That is, we consider that the NETSO should facilitate the efficient and co-ordinated development of the offshore network by providing information to inform generator and bidder decisions. As such and in order to provide scope for innovation, we do not consider that the NETSO should formally determine the scope of what is tendered.

## Oversizing capacity

### Outline of the issue

5.14. As well as considering how prescriptive tender specifications should be and the party(ies) which influence the tender specification, we have considered the level of capacity which is tendered. The key questions to consider are:

- whether some allowance for known or anticipated offshore developments should be reflected in the level of capacity which is tendered; and
- which party should bear the risk that those assets are not used.

5.15. This was an issue which was raised by a significant number of respondents to the open letter. Several respondents expressed support for a system of "strategic investment", "anticipatory investment" or "no regrets investment". We take all of these options to mean that consumers assume some or all of the risk that an asset is constructed in expectation of future demands for capacity and that those demands do not result.

5.16. We also note that NGET's proposed approach to charging for offshore transmission provides a mechanism through which parties can choose a connection which is more secure than that required by the GB SQSS. This provides the ability for redundancy to be built into a connection design where a generation project developer requests that. However, the additional cost of the redundancy is targeted back to parties via the 'local' element of the charging methodology.

### Options considered

5.17. We have considered various options for providing capacity above a level which is financially backed, as outlined below:

- *No provision for "oversizing" infrastructure is made* – Prospective OFTOs bid to provide a level of capacity equal to the connection offer received and processed

by the NETSO (recognising that developers would have incentives to coordinate requests for capacity)<sup>12</sup>.

- *Bidders are empowered to take the risk* – OFTOs (following discussion with appropriate partners) are able to include an allowance for future developments in their bids if they see fit. Essentially this might be expected to involve a trade-off between the reduced chances of being successful if costs are higher against an ability to enjoy a better long-run position. However, there may be competition aspects to consider with this approach.
- *The incremental capacity incentive is set on a case by case basis (to reflect the probability of expansion)* – Prospective OFTOs are required to bid to provide a level of capacity equal to the sum of connection offers in a given area. However an assessment of the probability of future development in that area is made and is reflected in bespoke incremental capacity incentive values. This creates no additional upfront costs but may better reflect the likelihood of future development.

5.18. An important issue here concerns the risk that the connection is “oversized” in expectation of some development which does not result, meaning a proportion of the asset is effectively stranded.

5.19. We recognise the interaction with Ofgem's ongoing consultation in respect of enhanced transmission investment incentives to apply to onshore transmission owners. The enhanced Transmission Incentives Initial Proposals consultation document set out Ofgem's Initial Proposals for enhancements to the current funding arrangements, to facilitate additional investment within the current transmission price control period (TPCR4). Taking into account the need to support the delivery of critical investments, current financial market conditions, developments since our previous consultation, and interactions with related work including our ongoing review of regulatory arrangements, Ofgem has proposed to adopt a simple, pragmatic funding approach at this stage. For specific projects, Ofgem proposed to fund the costs up to the end of TPCR4. We recognise that stakeholders have discussed a number of issues relating to regulation of investment, including anticipatory transmission investment in the context of the RPI-X@20 review.

5.20. The open letter highlighted that changes in The Crown Estate's leasing processes had increased the likelihood of generation projects in a geographic area being owned by the same party. This may therefore increase incentives, which might already exist, for parties to co-operate. Assuming that projects are proximate and that there would be cost savings (seen by generators via lower transmission charges) from, for example, a shared connection, it is difficult to see why those

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<sup>12</sup> This is clearly dependent on the timing at which the OFTO appointment commences. Intuitively it would appear that appointing an OFTO as late as possible would mean the greatest amount of information on demands for capacity was available.

parties would not reach some kind of agreement to ensure the development occurs and apply for capacity in similar timescales. Given the NETSO must act in an efficient, economic and co-ordinated manner it also seems likely that it may seek to identify opportunities for such cost savings.

### **Minded-to position**

5.21. We note that several respondents to the open letter suggested that there was a strong case for 'no regret' investments offshore. We recognise the parallels with the enhanced transmission investment incentives consultation process and recognise that there can be benefits to this sort of investment; particularly where it is likely that planning issues may delay construction and where the costs of not acting (for example preventing new entry and/or escalating constraint costs) could be significant.

5.22. Given that developers are able to signal their demands for capacity at a time of their choosing, in light of our proposals to promote flexibility in tender specifications and recognising NGET's charging proposals where a party requests that redundancy be included in a connection design, we do not see a case for consumers taking on the risk that capacity is built and subsequently not used. Given our statutory duty to protect the interests of consumers, we find it difficult to argue that large, high cost subsea cables should be constructed to points a considerable distance from shore because of an expectation that developments will occur in those areas at some point in future.

5.23. However we recognise that decisions about the level of capacity to construct are ultimately matters for the OFTO and offshore generators to influence and manage through financial commitments. Therefore we would be content for connection designs to reflect expectations of future demand for capacity if those issues could be resolved on a bilateral basis and are financially backed through the connection agreement.

## **The appropriate level of capacity to tender**

### **Outline of the issue**

5.24. We recognise that if applied in a very rigid manner the approach outlined so far in this document could lead to the development of a series of point-to-point, project specific connections. This approach could, we think, be criticised for failing to promote efficient and co-ordinated developments of offshore infrastructure. Hence we have considered how clear demands for capacity from projects in similar geographic locations in similar timescales can be considered together.

5.25. In our view it is important that a tender specification is sufficiently bounded to ensure that bidders can clearly understand the rights and obligations placed on them and therefore submit financially firm bids. We do not therefore consider that approaches which would place an open ended obligation on OFTOs (for example a

requirement to connect all future generation in a given geographic area) would be desirable. We do, however, consider that there could be circumstances in which it would be appropriate for a tender specification to require the connection of multiple projects in slightly different timescales and are keen to ensure that the economies of scale and efficiency savings which this may provide can be captured.

### **Options considered**

5.26. Currently, the onshore connection application process facilitates a forward-looking approach to network development. The generator can request a connection for capacity requirements that reflect a defined, phased development programme. Such applications will inform an onshore transmission licensee's strategic network planning. We have previously set out that this option should be extended offshore and consider that it would be beneficial for Round 3 projects. We also note that the regime would be flexible to future changes in the connection process, which would be implemented through the normal industry governance processes.

5.27. As such we consider that it may be appropriate for offshore developers to signal that they wish to be considered in tandem with another project, or projects, (which would be possible under our proposals providing flexibility about when projects are tendered). We also consider that the NETSO's licence obligation to operate in an efficient, economic and co-ordinated manner, together with the information contained in the Offshore Development Information Statement (ODIS), means that it should be well placed to identify opportunities to tender projects together. Hence, we consider that there may be merit in tendering all known projects in a given area simultaneously where this might be expected to generate economies of scale or scope.

5.28. However we note that this approach would create a possibility that an OFTO would be required to bid to provide a connection to a project with a very long lead time (on elements of the project). In this case the prospective OFTO may have insufficient clarity about the requirements of that project and may therefore feel it appropriate to include a premium within its bid. Were this the case, some of the benefits of co-ordination may be eroded. We have consequently considered whether a limit on the time into the future when a tender can occur would be appropriate (see above).

5.29. This could allow more bounded and certain projects to be tendered, increasing certainty for bidders, but could alternatively lead less optimal outcomes. We also note that the requirement to post financial security to underwrite requests for capacity might create natural incentives to co-ordinate projects and mean that the likelihood of connection offers for very long lead time projects being sought (particularly were connect and manage transmission access arrangements in place onshore) may be unlikely. We further note that the 20% incentive for incremental investment would provide opportunity for limited further capacity increases which could be used were a developer's needs to change, once the OFTO is appointed.

**Minded to position**

5.30. We consider that providing flexibility for developers is a crucial part of the offshore regime. We are therefore minded to provide scope for projects to be tendered together where those demands for capacity are known and to put in place a regime which provides commercial incentives for developers to coordinate their projects (noting that in some cases developers hold exclusive Crown Estate leases for offshore zones).

5.31. We recognise that several respondents suggested that tenders should take place on a zonal basis. In our view, the approach outlined above would facilitate the co-ordinated development of offshore infrastructure, provided that suitable financial certainty is provided, without placing open ended obligations on OFTOs. We consider that the likelihood of competition revealing efficient outcomes is likely to be reduced if parties are asked to assume an unknown obligation as a condition of receiving a transmission licence.

5.32. We recognise that this proposal does not provide hard and fast rules for how projects will be treated but consider it provides scope for the NETSO to make information available, an ability for generators to signal their requirements, provides flexibility to respond to future developments and provides a role for the party with arguably the most complete set of information to make informed decisions. We intend to engage with the NETSO and market participants to develop the details of this option further during the course of this consultation process. And we expect offshore generators and the NETSO to work together to develop a co-ordinated connection process.



## 6. Facilitating Competition

### Chapter Summary

A goal of the regulatory regime for offshore electricity transmission is to promote innovation and new entry through a tender process. The tender led approach is expected to allow competitive forces to deliver efficient outcomes for present and future consumers, to reveal information about the costs of offshore electricity transmission and to provide scope for innovation in design, build, finance and operation. During the course of developing the enduring regulatory regime, a number of parties have identified potential impediments to competition. This section considers whether there is a need to put in place policies which address potential barriers to participation or measures which facilitate new entry.

### Questions

- ➔ Do you consider that supply chain exclusivity should be permissible under the enduring regime? If not, do you have proposals for enforceable measures for precluding it?
- ➔ Do you consider that the option of bidding on the basis of indicative costs and tendering after appointment has merit?
- ➔ Do you support our minded to position that explicit steps to facilitate new entry should not be included in the enduring regulatory regime?
- ➔ Should we include provisions in the enduring regime to ensure that access to offshore cable capacity and to offshore cable routes is made available? If so, what form should those provisions take?

## Introduction

6.1. In our view, the likelihood of a tender identifying the party which will construct offshore infrastructure delivering the best outcomes for consumers, is likely to be greater as the number of participants involved in the tender processes increases. A highly competitive tender process can be expected to generate the scope for efficiency savings (which is beneficial on- and offshore), identify best practice and promote innovation. As such and in response to concerns raised by market participants, this section considers whether steps need to be taken to maximise levels of competition and participation or to provide scope for new entry and, more generally, how to ensure that innovation is facilitated.

6.2. Effective competition is important in keeping the pressure on costs, encouraging innovation and new entry and in delivering benefits to present and future consumers. Our priority is to help markets operate transparently and effectively, remove barriers

which may prevent this and, when necessary, use our powers to tackle anti-competitive behaviour or practices.

6.3. As an aside, we note that the Authority has concurrent powers with the Office of Fair Trading (OFT) under the Competition Act 1998 (CA98) to investigate and take enforcement action in relation to suspected infringements of UK and EC competition law. Guidance issued by the OFT on the CA98 can be obtained from the OFT's website. If a company or business entity is found to have infringed UK or EC competition law, Ofgem has a range of options available to it including:

- issuing an order to stop the behaviour; and
- imposing a financial penalty of up to 10 per cent of businesses' world-wide turnover.

6.4. This chapter specifically considers three issues.

- The treatment of supply chain exclusivity.
- The use of explicit measures to facilitate new entry as part of the enduring regime.
- Additional issues concerning competition and innovation within the enduring regulatory regime for offshore electricity transmission.

## **Supply chain exclusivity**

### **Outline of the issue and position to date**

6.5. In the March 2009 consultation document, we proposed to preclude the inclusion of supply chain interests in consortia on an exclusive basis. After further consideration, we concluded that rules on supply chain exclusivity would not be necessary for the transitional regime. However, we retained the ability to determine such rules for the enduring regime.

6.6. Potential concerns about supply chain exclusivity having an adverse impact on competition stem from the possibility that there are a greater number of prospective bidders than there are supply chain component providers (i.e. there are a limited number of parties that can manufacture cables and components, but a greater number of parties that could fund, own or operate offshore infrastructure). Assuming that each bidding consortium would need to have an agreement in principle in place with a supplier, the presence of exclusive agreements between bidders and supplier could constrain the number of bidders to the number of component suppliers and create a barrier to entry (at least in the short-term). There is a risk that this could constrain competition which could undermine the value that the competitive process can deliver for consumers.

## Options considered

6.7. In considering this issue we have sought to consider the incentives which parties involved in the tender process face and the consequences for competition of this sort of agreement being entered into. The attraction of an exclusive supply chain agreement for a bidder is clear. Such an agreement could provide certainty that it will be able to source components, could avoid search costs and, potentially, could increase the likelihood of a bidder being successful because the number of competitors it faces may be reduced.

6.8. The incentive for the supply chain equipment provider is less clear cut. Assuming they receive multiple requests for quotations from prospective bidders, it is not clear why, assuming they did not face resource or time constraints, they would not want to provide prices to all those parties as this would increase the likelihood of them being associated with a successful bidder.

6.9. However, we understand that, in practice, an equipment supplier may not be willing or able to respond to a series of variable requests from multiple bidders. For example, we understand that the cost of scoping and responding to a request from a bidder would involve considerable time, resource and cost. As such, it may only be practicable to develop a limited number of designs. These designs could then, based on commercial judgements, be made available to some or all parties.

6.10. We have also considered how, in practice, supply chain exclusivity could be limited. It could be argued that a decision to do business with a prospective OFTO is a commercial matter for equipment providers (who are unlicensed and unregulated parties) and that they should consequently be able to make their own decisions (subject to the requirements of competition law). Therefore it would appear necessary to require bidders to submit evidence, for example an undertaking that they had not contracted with an equipment provider on an exclusive basis. However, this could represent a relatively onerous regulatory burden and it would be important to ensure that the requirement was enforceable and couldn't be easily bypassed.

6.11. We have also considered whether these issues may necessitate a different approach to running the tender process. Under our existing proposals we expect each bidder to have dealt with an equipment provider to gain a price for its chosen design and we then expect this price to be reflected in a firm bid. An alternative would be to further streamline the bidding process and ask parties to bid on the basis of the indicative costs of equipment, gained through bilateral discussions (but avoiding a need to develop detailed specifications) with manufacturers. The successful bidder could then hold its own tender to determine the party with whom it contracted for equipment etc.

6.12. The possible appeal of this option is that it may allow for a simpler and more streamlined process; reduces the costs of participation for equipment suppliers and potentially bidders; and ensures there will be some competition (albeit competition constrained by the number of equipment suppliers). In theory it could reduce

concerns about supply chain exclusivity but may also increase risk for bidders (though the bidder best placed to manage risk would be expected to be successful).

### **Minded-to position**

6.13. The appropriateness of supply chain exclusivity is an area where we would particularly welcome respondents' views. We recognise that supply chain exclusivity could reduce the scope for effective competition but also notes that there are commercial drivers which may mean it occurs, to an extent, naturally.

6.14. We are also concerned that, were we to seek to preclude supply chain exclusivity, it may prove difficult to enforce and potentially have unintended consequences. For example, were we to place an obligation on equipment suppliers to offer terms to bidders (assuming this were possible and noting they are unregulated) this could create an onerous obligation which may reduce their incentives to engage with the offshore regime.

6.15. We would also welcome views on the practicality of the option outlined in paragraphs 6.11 and 6.12. We consider that this may represent a pragmatic approach to maintaining competitive pressures; particularly in circumstances where there are genuine concerns that the number of equipment suppliers represents a real barrier to effective competition.

## **Facilitating new entry**

### **Outline of the issue**

6.16. As outlined above, new entry can be particularly useful in driving innovation. Ofgem has therefore considered whether there is a case for including explicit provisions to facilitate new entry as part of the enduring regulatory regime for offshore electricity transmission? We note that these provisions would be over and above the creation of a regulatory framework with low barriers to participation.

### **Options considered**

6.17. We have considered the following:

- Using informational remedies to promote understanding and awareness amongst potential entrants (recognising that this has been a feature of the process used by Ofgem/DECC in developing the transitional regime).
- Guaranteeing that a proportion of OFTO licences were granted to new entrants.
- Reflecting the benefits of innovation in bid evaluation, for example by applying a premium which was reflecting of the benefits of new entry when comparing bids.

6.18. We have considered whether any international or cross-sector experience provides useful parallels in this area. We have not identified any directly relevant comparators, however, we note that:

- When third generation mobile phone licences were auctioned by Ofcom, one licence was held back specifically for award to a new entrant.
- Various policy support mechanisms, such as the EU Emissions Trading Scheme and the UK's Good Quality Combined Heat and Power programme, hold back a proportion of capacity via "New Entrant Reserves".

6.19. We note that reserving a proportion of licences for a new entrant or making an allowance for the benefits of entry in bid evaluation would provide an explicit commitment to promoting entry. However it is not clear how it would impact on bidding behaviour. On one hand, these options could be argued to reduce incentives to bid efficiently, because, in the guaranteed licence scenario, the number of bidders would effectively be reduced and, in the reflecting benefits scenario, the scale of the benefit would be factored into bidding behaviour.

6.20. We also recognise that these options raise a series of implementation questions. Firstly, how are the benefits of innovation, which are unknown and subjective quantified? Second, recognising that consortia are likely to be bidding for licences, how does one define what constitutes a new entrant? We also note that there was extensive participation in the first transitional tender round by new entrants. We also recognise the need to ensure the requirements of offshore developers are considered. Having a contest with a limited number of bidders (i.e. excluding incumbents) could lead to a less competitive outcome.

### **Minded-to position**

6.21. In developing the regulatory regime for offshore electricity transmission Ofgem/DECC have consistently sought to develop an open, transparent and non-discriminatory regime which facilitates participation. We continue to believe that this is the appropriate approach and, as such, are not minded to include any additional mechanisms to promote new entry as part of the enduring regulatory regime.

## **Facilitating future competition**

### **Outline of the issue**

6.22. Our open letter outlined the need to ensure that the regulatory regime we put in place is sufficiently flexible to adapt to future developments and that it does not constrain or limit those opportunities.

6.23. We are aware that preliminary technical studies of possible technical solutions for connecting offshore generation indicate that there are likely to be a relatively limited number of connection routes to shore. Hence, there is a possibility that a

party which controls a particular cable route may find itself in a powerful position as the future offshore network develops. Therefore we consider that the regulatory regime may need to take account of this potential first mover advantage to ensure that there is no reduction in the scope for future competition.

### **Options considered**

6.24. We have considered two issues:

- Access to capacity on offshore cables; and
- Access to land on which offshore infrastructure is installed.

6.25. In theory, an OFTO could choose not to offer terms for connection to a future entrant. However, we note that the third package<sup>13</sup> requires transmission system operators to offer non-discriminatory terms for access to the transmission system, and if OFTOs were considered to be TSO and offshore assets were to be classed as part of the transmission system, non discriminatory third party access may need to be offered. In this regard, we also note that onshore TOs currently have a requirement to offer terms for connection to their transmission system<sup>14</sup> and a requirement to operate in an efficient, economic and non discriminatory manner. A provision will also be included in the OFTO's licence to offer terms of access on a non-discriminatory basis. However, in light of concerns about the effectiveness of future competition, we would welcome views as to whether any further measures are required (e.g. a statement outlining the basis for connection).

6.26. We are also mindful that limiting access to a cable route could reduce the scope for competition in future. We have therefore considered whether an OFTO should be required to set out the terms on which they would offer access to cable routes as part of qualification process or through a similar statement to that outlined above.

### **Minded-to position**

6.27. We have not currently reached a firm view on whether specific measures to promote future competition should be included in the regulatory regime. We recognise the potential for a first-mover advantage to provide parties with some degree of market power. However, we also note that licence obligations and the provisions of competition law may be able to address these issues and, consistent with better regulation practices, we would not wish to unnecessarily duplicate

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<sup>13</sup> The third package of legislation on the internal electricity and gas markets provides a new framework for competition in the energy sector.

<sup>14</sup> following the receipt of a TO Connection Offer (TOCO) from the NETSO.

regulations. We would therefore welcome views from respondents on whether measures are required and the form that those requirements should take.

## **The NETSO's role in promoting competition**

### **Outline of the issue**

6.28. A number of responses to the open letter raised concerns about the potential impartiality of the NETSO. In particular, they noted that affiliates of the NETSO may participate in tender processes and that NGET's TO business may, potentially, have an interest in the design of offshore assets. As such, they urged us to be mindful of these issues in considering the appropriate role for the NETSO as part of the enduring regime.

### **Options considered**

6.29. We consider that the NETSO has an important role to play in facilitating the efficient development of the offshore and onshore transmission networks, in facilitating objective evaluation by the Authority and in making information available to the market to allow co-ordinated decision making. In considering the role for the NETSO in each of these areas we have sought to be mindful of respondents' concerns.

### **Minded to position**

6.30. We note that NGET has clear licence obligations to operate in an efficient, economic and co-ordinated manner and that it is also prohibited from unduly discriminating in favour of or against any party. We further note that the potential penalties which would be available to the Authority in the event of a licence breach, and the associated reputational damage, are material.

6.31. We would expect to carefully monitor the performance of the NETSO (as it does with all market participants) to ensure that it is operating in a manner consistent with its licence obligations and would expect the NETSO to pro-actively seek to facilitate the achievement of those obligations.

## 7. Tender timings

### Chapter Summary

We recognise that the challenges faced by parties involved in the enduring regime will be different to those faced in the transitional regime; notably because of the need to design assets. As a consequence we consider that some incremental changes to the tender timescales may be required. This section discusses these issues, sets out our minded-to position and invites respondents' views.

### Questions

- ➔ Do you support, or have alternative, proposals for amending the key stages of, or otherwise stream lining, the tender process?
- ➔ Do you consider that the timings outlined will provide sufficient time for bidders to develop robust tender submissions and Ofgem to assess them?
- ➔ In order to ensure an effective and timely procurement process through the supply chain, how long should the ITT stage last?

## **Introduction**

7.1. In the open letter, we recognised that there may be a need to update and refine the stages and timings of the tender process. We noted that updates in this area may be driven by differences in scale between enduring and transitional projects (which might, for example, mean that bidders require more time to assemble bids or that the Authority needs more time to assess bids), lessons learned from operational experience of transitional tenders or, to the extent that they are applicable, any additional requirements such as those imposed by the Third Package. This chapter explores these issues.

## **Stages of the tender process**

### **Outline of the issue**

7.2. We are seeking to ensure that the tender process is as efficient and streamlined as possible and therefore need to consider whether the tender stages used in the transitional regime remain appropriate for the enduring regime. In response to stakeholder comments on the open letter, we have also considered the extent to which applicants which participated in the first transitional tender exercise need to pre-qualify for enduring tender exercise. Finally, we have considered whether business separation requirements and third package requirements need to be included in our assessment of applicants and are considering the extent to which offshore transmission may be applicable to offshore lines.



### **Options considered**

7.3. Although we could keep the tender stages the same in the enduring regime as we have used for the transitional regime, we consider that, in the light of our experience of running the transitional tender process and in order to reflect the requirements of the enduring regime, streamlining certain aspects of the process would be appropriate. As with the transitional regime, we need to ensure that all legal obligations are taken into consideration and the appropriate checks and balances are incorporated into the design of the tender process. We consider that the best way to implement this approach would be to:

- enhance the requirements of the PQ stage to ensure that all prequalification information is requested in the first stage of the process; and
- eliminate the two stage qualification process as a result, because the QTT stage would no longer be required.

### **Minded-to position**

7.4. We consider that it is appropriate to amend the key stages of the enduring tender process. In order to ensure that costs are minimised for all parties, we consider that it is necessary to identify those applicants which are best placed to participate in the ITT stage of the process, as soon as possible. In order to do this, we propose to make the PQ stage more onerous. Amongst other things, this will require enduring tender process applicants to:

- identify the projects for which they wish to bid at the ITT stage;
- demonstrate that they have the appropriate capability to design and build assets of a similar size and scope;
- demonstrate that they have sufficient financial capacity to fund the projects for which they wish to bid; and
- provide an indication of their approach to constructing and maintaining the proposed transmission asset.

7.5. We consider that making the changes set out above, would negate the need for a two stage prequalification process. It would also streamline and simplify the prequalification process as a whole.

7.6. We consider that, in order to fully satisfy the requirements for the enduring regime, applicants will need to pre-qualify for each tender exercise for which they wish to bid. They may also need to respond to questions relating to business separation and third package requirements (to the extent they are applicable) as part of the pre-qualification questionnaire.

7.7. Implementing these proposals would require us to amend the Tender Regulations to move to a single stage qualification for the enduring tender process.

## **Amendments to tender timescales**

### **Outline of the issue**

7.8. We have also considered whether a total of twelve months is sufficient to operate a fully robust enduring tender process or whether we need to make an amendment to the timings of some or all stages of the process.

### **Options considered**

7.9. We could keep timescales the same as previously undertaken for the transitional tender process. However, owing to the complexities of the design and build of transmission assets under the enduring regime, we do not consider that these timescales would be appropriate.

### **Minded to position**

7.10. As discussed previously in this chapter, we propose to enhance the requirements of the PQ stage of the tender process to make it a more onerous single stage to enable us to make the short list decision for the ITT stage. We propose that the PQ stage would require demonstration of both past experience of designing and constructing relevant assets and the presentation of initial project specific design proposals. In order to facilitate the preparation of PQ submissions, we envisage making project specific information available to applicants at the start of the PQ stage. This information would be provided by generator developers as part of the tender entry conditions to the process and applicants would need to sign a confidentiality agreement in order to access this information. We consider that applicants should be given 2 months to prepare their PQ submissions and that we will require 2 months to evaluate them.

7.11. As set in previous consultation documents regarding the enduring regime, we consider that the ITT stage for the enduring regime will require Qualifying Bidders to submit detailed design plans for the projects for which they wish to bid. The design plan will be based on the developer generator's requirements and information provided to them regarding any preconstruction works. As part of their submissions, Qualifying Bidders may need to consider a number of issues including:

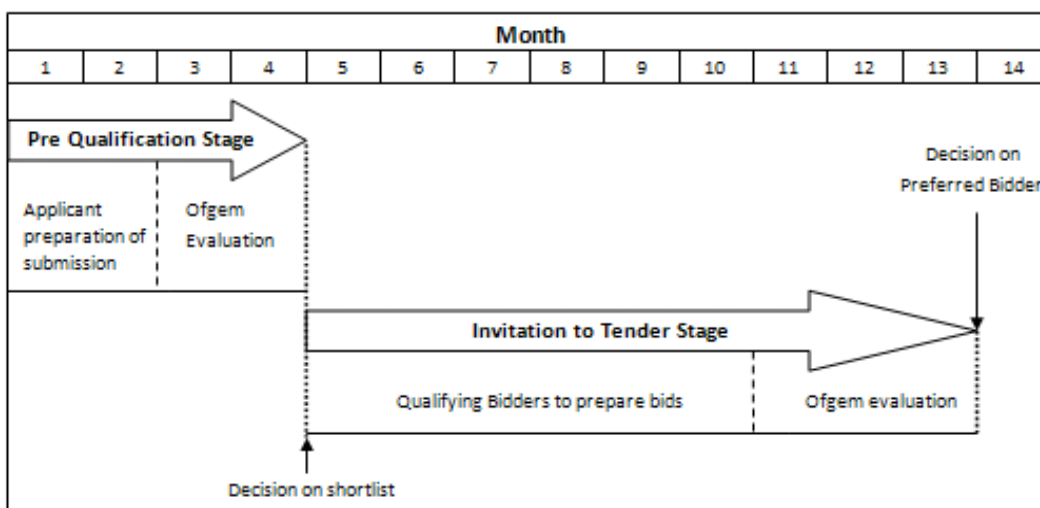
- alternative transmission asset designs;
- cable route options, appropriate AC/DC solutions;
- analysis of onshore connection points;
- ancillary services studies; and

- possible engagement with third parties such as the NETSO (in order to obtain information regarding the feasibility of proposed design plans.

7.12. Depending upon the likely volume and complexity of such work to be done during the ITT stage of the tender process, we consider it may be appropriate to extend the time for qualifying bidders to prepare their submissions by four months (to six months). Also given the additional complexity in the bid submissions, and the potential need to evaluate additional information from NETSO and the project developer, we are considering extending the time for Ofgem to evaluate the submissions by one month (to three months). This means that in total we are proposing a nine month ITT stage. We would welcome views on the timing of the ITT stage, in particular:

- the impact of an early, or late, appointment of an OFTO (given the additional complexity of the design solution that early appointment would require);
- the need for Qualifying Bidders to comply with the Utilities Regulations during the ITT stage of the process; and
- the extent to which these proposals ensure an effective and timely procurement process throughout the supply chain.

7.13. The diagram below sets out a potential timetable for the enduring tender process.



7.14. At the end of the ITT stage, we would either appoint the Preferred Bidder or carry out an optional BAFO stage. We propose to use the BAFO stage, where appropriate, on a project by project basis. The BAFO stage would require an updated

bid against a limited number of revised issues. We envisage that this stage would take one month in total. Once the Preferred Bidder is appointed, we propose that the timescales to licence award would vary on a case by case basis, dependent on project specific issues.

7.15. We will publish a detailed tender timetable in tender documentation published prior to the start of any enduring tender process and at each of the key stages within an enduring tender process.

## 8. Bid Evaluation

### Chapter Summary

Decisions on the tender specification, which were discussed earlier in this document, will influence the number and type of bids which will need to be evaluated. This section considers the extent to which variant bids should be allowed, considers the factors which should be taken into account when bids are evaluated and briefly discusses arrangements where no bidder is deemed to be successful.

### Questions

- ➔ In which areas should we allow variant bids?
- ➔ How should variants be treated in evaluation?
- ➔ Do you have a view on the factors we should consider in evaluating bids?

### **Introduction**

8.1. The Authority has legal duties<sup>15</sup> in respect of bid evaluation and is required to make a decision to grant (or not to grant) an offshore transmission licence. We therefore recognise the importance of being able to evaluate, potentially differing, bids to ensure we determine which one provides best value for consumers. We also recognise that, for the enduring regime, there is a need to adapt our assessment processes to include the evaluation of design proposals and there may be a need to ensure we gain appropriate evidence to inform our assessment.

8.2. This section considers the following:

- Whether we should allow variant bids and, if so, in which areas should variations be allowed.
- The information which the Authority will require to evaluate bids.
- The factors which the Authority will consider in evaluating bids.
- Our position if the tender does not reveal a winning bidder.

8.3. We have not reached minded-to positions in this area and would particularly welcome respondents' views.

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<sup>15</sup> As set out in primary legislation and the tender regulations.

## Variant Bids

### Outline of the issue

8.4. In order to encourage scope for innovation (in areas including design and financing structures), we have considered the extent to which variant bids should be accommodated in the enduring regime.

8.5. We note that there may be trade-offs to be made. Providing an unlimited ability for parties to submit variants might be expected to provide the maximum scope for innovation. However, it might also create considerable complexity, evaluation challenges and increase the time required to complete the appointment process. Limiting the number of bids would reduce the scale of these challenges but could also constrain innovation or fail to reveal cost savings.

### Options considered

8.6. In considering the issue of variant bids we have considered the following options:

- *Placing no limit on the number of variants* - which might be expected to maximise flexibility to the greatest extent.
- *Capping the number of variants* - while, to an extent, arbitrary, this approach would ensure that a proportionate number of bids could be submitted and may limit evaluation challenges.
- *Limiting variants to certain parameters* - this approach would constrain the scope for variations to certain parameters. It would therefore be necessary to consider where variations would be acceptable.
- *Requiring bidders to demonstrate how variants deliver benefits to consumers* - the options above could be combined with an obligation for bidders to demonstrate how the variant is in consumers' interests (which will ultimately determine the likelihood that the Authority would accept it). This might naturally check the number of bids and remove any scope for gaming, though may be more complex from a bidder perspective.

### Discussion

8.7. We do not want to artificially constrain the ability of the tender process to reveal scope for efficiencies, innovations and cost savings and therefore need to carefully consider the areas in which variants should be allowed. We illustrate the costs of failing to do this with an example. We assume that a 1000MW project is tendered and that a prospective OFTO could provide that capacity at a unit cost of £1m/MW. However we also assume that, for whatever reason, it could provide 800MW at £0.8m/MW. If we constrained the ability of the tender process to reveal this information, the generation developer would lose the option to decide whether it

wished to modify its connection offer in light of this information which could, theoretically, constrain the efficient development of the offshore network.

8.8. Hence we consider that allowing variant bids in a limited number of areas would be appropriate. However, we would expect parties to provide clear evidence as to why additional bids have been submitted (i.e. demonstrate potential benefits). We would expect benefits demonstrated in variant bids to include added value in terms of operation advantages, different risk profile or pricing benefits (onshore or offshore). We would welcome views on the areas where variants should be allowed.

## **Information to inform the Authority's assessment**

### **Outline of the issue**

8.9. We have previously signalled the likely need for the NETSO to inform Ofgem in the process to ensure that design proposals brought forward can be operated by it in line with its duties under its licence and the SO-TO Code (STC). This section briefly considers the parties which may need to provide information to inform the Authority's decision.

### **Discussion**

8.10. In order to allow as robust an evaluation of bids as practicable, we consider that the Authority should be able to request information from parties as it sees fit (recognising that these powers exist under the Tender Regulations). In particular we see a role for the generation project developer and the NETSO.

8.11. As outlined previously, we would expect the NETSO to advise on implications of bids for the onshore system, including the impact on transmission losses (which are a significant driver of carbon emissions) and constraint costs, and to identify any issues of STC compliance. We would also expect to be able to approach developers, as appropriate.

## **Comparison, evaluation and selection of the successful bidder**

### **Outline of the issue**

8.12. A robust assessment of submissions will need to consider a range of factors in order to determine the submission which offers best value. For example, we have also previously noted that we are aware that there may be other factors we need to take into account, including the way in which we take account of electrical losses in evaluating network design proposals.

## Discussion

8.13. We need to ensure that bids are assessed in the round and that we take into account a range of factors when evaluating bids. When evaluating bids we will need to assess what is in consumers' interests, so we will need to examine the holistic impact of a proposal approach (rather than just examining the offshore impact). In this regard NETSO will have a key role in informing the assessment in terms of indicating the onshore costs or benefits of any proposal. A list of factors we believe may be appropriate is below listed below. We would welcome views on these:

- Capital Cost - What the party has bid and potentially other onshore capital costs.
- Transmission Losses - the level of losses, which impacts on the amount of carbon emitted, will be influenced by the preferred route and technology choice and may need to be considered on- and offshore.
- Onshore operational costs - It may be necessary to consider whether a bid exacerbates onshore constraints or raises costs.
- Carbon consequences - Potentially one may wish to consider both the carbon embodied in the connection design and the benefit facilitated by the connection.

8.14. We want to avoid creating an overly onerous and complex evaluation process and would welcome views on the factors which it is appropriate to consider.

## Failed Tenders and OFTO of last resort arrangements

### Outline of the issue

8.15. Several respondents to the open letter and previous consultations in respect of the regulatory regime for offshore electricity transmission, argued that an OFTO of last resort (i.e. a party which provides assets if a tender process fails to reveal a successful bidder) is a necessary feature of the enduring regime.

8.16. We recognise that there is the potential that the tender process will not result in a winning bidder being appointed (either because of an absence of bids or a lack of a competitive price) and that the consequence of this is that an offshore generator may face delays (until a successful tender can be run) or be unable (if no party is ever appointed) to go ahead with their project. We also note that an OFTO of last resort would provide certainty that infrastructure would be delivered, though may create undesirable incentives to alter bidding behaviour, reduce the effectiveness of competition and potentially lead to the construction of uneconomic connections.

8.17. We also note that we previously concluded that we did not propose to include an OFTO of last resort as part of the enduring regulatory regime in any circumstance other than the abandonment of assets (in the event of the financial failure of an OFTO) where, in order to provide continuity of service to generators, in the event of



the financial failure of an OFTO The Authority would appoint a party to undertake their functions.

### **Discussion**

8.18. As noted above, we have previously determined that there will be no OFTO of last resort arrangements within the enduring regime. Therefore, in the event that a tender does not identify a successful party, no licence will be granted. However, we will allow the asset to be retendered at a later date if appropriate. We do not therefore propose to revisit this decision.

## 9. The Revenue Stream & Incentive Mechanisms

### Chapter Summary

Following a tender process, a successful bidder will be granted an OFTO licence which will entitle them to receive a revenue stream for a period of time and oblige them to comply with a series of incentives. This chapter considers the period for which a revenue stream should be set, whether there is a case for putting in place specific mechanisms to deal with particular costs and whether the incentives proposed within the transitional regime need to be updated or flexed.

### Questions

- ➔ Do you consider that the existing incremental capacity incentives should be amended and, if so, what form should they take?
- ➔ How, if at all, should the existing availability incentive be updated for the enduring regulatory regime?
- ➔ What is your view of the inclusion of a re-financing claw back mechanism?
- ➔ Do you have evidence of insurance market volatility that suggests that an incentive would be in the interests of consumers?

## **Introduction**

9.1. This section considers issues relating to the revenue stream, risk management and incentives. It considers three issues:

- The period for which a revenue stream is in place;
- Whether there is a need to mitigate volatility in particular cost items via additional incentive mechanisms; and
- Whether the package of incentives for expanding capacity and incentivising availability which were developed as part of the transitional regime remain fit for purpose.

## **The period for which a revenue stream is received**

### **Outline of the issue and current policy**

9.2. Under the transitional regime successful bidders receive a licence which entitles them to receive a revenue stream for a twenty year period. This is also the length of revenue stream that has been previously consulted on for the enduring regime.

9.3. Several respondents to our open letter consultation suggested that the period for which revenue is received should be more closely aligned to the life of the specific offshore generation assets.

### **Firm position**

9.4. We are not minded to reconsider this policy position, as we do not consider that revisiting the period of the revenue stream would be consistent with our intention for this consultation. Nor do we see compelling reasons to suggest that it would benefit consumers or facilitate the delivery of renewable energy.

9.5. We note that earlier in this document we suggested that the enduring regime should be capable of promoting staged and phased developments of individual or multiple projects. In this instance, we would expect a revenue stream in respect of each project to be payable to the OFTO from the date at which that project is energised.

## **Incremental Capacity Incentives**

### **Outline of the issues and current policy**

9.6. Under the transitional regime parties face incentives to expand capacity, both through capital expenditure (up to a limit of circa 20% of transfer value, subject to approval by the Authority) and through innovative options which increase capacity without capital expenditure. We have considered whether there are differences between transitional and enduring projects which require these incentives to be flexed.

### **Options considered**

9.7. We have carefully considered this issue in order to determine whether some other structure or threshold would be appropriate. The existing structure of the incentive is invariant to size and, given it applies to operational assets, it is not clear why there are material differences between the transitional and enduring regimes. We consider that the 20% threshold fulfils the objective of providing some scope for the regulatory regime to adapt to unanticipated changes in a generator's requirements following the appointment of an OFTO.

### **Minded-to position**

9.8. We note that the purpose of the incremental capacity incentive is to provide scope for parties to respond to relatively minor changes in design specifications once the licence is granted (stemming from a change in a generator's requirements leading to a modification to a connection agreement) rather than to define a de-minimis threshold below which OFTOs will be able to expand capacity.

9.9. We consider that the rationale for the incremental capacity incentives continues to hold. If demands for capacity from generation project developers can be accommodated without additional capital expenditure then it is appropriate that the OFTO is appropriately remunerated. Equally, it remains likely that some elements of a design will change between the bid and the finalisation of the build and it is pragmatic to have a mechanism in place to deal with them.

9.10. We do not see a compelling rationale for amending the incremental capacity incentives which exist under the transitional regime. However, we would welcome views and evidence from market participants to further inform this position.

## **Availability Incentives**

### **Outline of the issue**

9.11. A capacity availability incentive has been included in the transitional regime and we have previously stated that a similar mechanism should be in place for the enduring regime. Under the existing mechanism 10% of the licensee's yearly base revenue is exposed to a performance incentive.

9.12. The incentive includes a monthly availability which should, on average, be 98% (having adjusted for factors beyond the OFTO's control). Hence planned and unplanned outages should occur, on average, in no more than 2% of a relevant period. A maximum penalty/ collar, currently set at 10%, determines the maximum proportion of an OFTO's revenue stream which may be exposed to the performance incentive in each period and a system of performance credits and debits incentivises the OFTO to improve performance in excess of the availability target and, without adversely impacting on financial viability, maintains incentives to restore availability once the collar has been met.

9.13. In addition to the transmission system availability incentive outlined above, from years 16 onwards parties must also comply with supplementary conditions. In order to ensure that there is no opportunity for service levels to decline, to the detriment of offshore generators, in the years approaching the end of the period for which the revenue stream is payable. In this period all parties are required to post financial securities. Parties must post financial securities, in a form acceptable to and agreed by the Authority, to a level not less than 10% of base transmission revenue in each of the final 5 years of the revenue stream.

### **Options considered**

9.14. In considering the availability incentive we have considered whether there is a need to alter the structure of the incentive under the existing regime. For example, should the performance target or cap/collar be amended for any reason or should the system of credits/debits and associated banking mechanism be updated?

## **Respondents' views regarding the transitional availability incentive**

9.15. We note that several respondents to the open letter identified concerns with the licence drafting setting out the way in which the availability incentive will operate.

9.16. We recognise respondents' comments regarding the effectiveness of the availability incentive as currently proposed and are working to address issues. We expect to issue a revised model shortly which address these concerns.

### **Minded to position**

9.17. For the enduring regime we are minded to maintain the structure of the incentive proposed for the transitional regime and do not propose to update any parameters. However we would welcome respondents' views and supporting evidence as to why this may be appropriate.

## **The treatment of re-financing and insurance**

### **Outline of the issue**

9.18. During the course of developing the regulatory framework for offshore electricity transmission, several parties noted the scope for OFTOs to make windfall gains in areas such as refinancing and insurance in the event that they were able to negotiate more favourable terms part way through the period for which they receive a revenue stream.

9.19. Parties noted parallels with early PFI deals and highlighted reports of significant windfall gains being achieved due to factors such as improvements in underlying lending conditions and the use of more highly geared financial structures. We note that there are now mechanisms in place for PFI deals under which gains from refinancing, for example, must be shared between investors and taxpayers.

### **Options considered**

9.20. Ofgem has considered the case for implementing mechanisms to mitigate concerns over OFTOs potentially making windfall gains. Broadly, we have considered two approaches to addressing the issue:

- Introducing an adjustment mechanism, either in the form of an ex-post correction factor or by linking costs to an external benchmark; or
- Having no specific mechanism in place.

9.21. The introduction of an adjustment mechanism may weaken the incentive for OFTOs to be innovative in their financing or insurance arrangements.

9.22. Furthermore, it is not clear that Ofgem would have the same powers to require OFTOs to share the details of their refinancing or reinsurance arrangements as does Her Majesty's Treasury under the rules for PFI deals.

9.23. Finally, and in the case of refinancing gains in particular, we are not convinced that there is currently the same scope for windfall gains as there was in the first wave of PFI deals. This is due, in part, to current market conditions and also developments in financing of large infrastructure projects. We note that with regard to OFTO insurance premiums the likelihood of them moving in any particular direction is not asymmetric.

### **Minded-to position**

9.24. We have previously said that no such mechanism would be introduced for the transitional arrangements and this remains our position.

9.25. Given the importance of this issue for stakeholders, we would particularly welcome evidence from respondents about the likelihood of windfall gains being realised and suggestions for a mitigation measure which would avoid the undesirable consequences outlined above.

## **Insurance cost volatility**

### **Outline of the issue**

9.26. In responding to the open letter and in other engagements with interested parties we have been made aware of concerns about volatility in insurance costs. In particular parties have suggested that the insurance market is relatively immature, difficult to hedge against and that unforeseen circumstances (such a cable failure on the other side of the world) could impact on premiums paid by owners of offshore infrastructure. In some cases, parties have suggested that this volatility should be mitigated via a specific incentive mechanism to prevent risk premium being built into bids.

### **Options considered**

9.27. We have carefully considered whether this particular issue should be addressed via an incentive or adjustment mechanism. We have also considered the precedent it could create and the need to ensure that clear criteria were in place to deal with similar requests in respect of other costs.

9.28. Clearly putting a mechanism in place would reduce risk. However, it would also require a greater level of regulatory oversight, for example to gain the

information to assess costs and make necessary adjustment, and represent a departure from the spirit and intent of the competitive tender process. We are also concerned that providing comfort could reduce incentives to incur these costs efficiently and could constrain incentives to look for more innovative solutions, such as self-insurance.

### **Minded to position**

9.29. On balance, we are not minded to introduce a mechanism to deal with insurance costs. While we acknowledge that costs may be volatile, we consider that there may be scope for parties to take different approaches to managing them and to compete more effectively on that basis. We also have reservations about approaches which move away from the intention of the regulatory regime (i.e. to allow a competitive tender to reveal costs and then to put in place a "light-touch" regime. However we would welcome evidence from market participants.

## 10. Responding to Future Developments

### Chapter Summary

Our open letter recognised the need to consider short, medium and longer-term issues in designing the enduring regulatory regime for offshore electricity transmission. It recognised the need for the regime to be sufficiently flexible to respond to future developments and noted that it would be likely that there would be some issues which would need to be addressed as the nature of future developments became clearer. However, recognising the need to provide as much certainty about the enduring regulatory regime as practicable, this section discusses options for dealing with future offshore developments. We do not include minded-to positions at this stage and would particularly welcome respondents' views.

### Questions

- ➔ Do you have comments on the practicality of the potential options for dealing with the future developments outlined?
- ➔ Do you have alternative options for addressing the issues raised?
- ➔ Are there other issues regarding future offshore developments which you consider need to be addressed?

### **Introduction**

10.1. In the open letter we set out our view that, to the extent practicable, the enduring regulatory regime for offshore electricity transmission should be capable of promoting the efficient development of infrastructure to connect Round 2 offshore wind generation and Round 3 offshore wind generation and that, while recognising that it will be important to ensure there is scope for the regime to adapt to future challenges, it should also be capable of facilitating potential future development offshore. As such, we recognised the need to assess the extent to which issues needed to be dealt with in the short term, so as to give certainty for immediate investment, or in the longer term, such that our decisions on issues (which may or may not arise in future as technologies develop) are taken at the most suitable point.

10.2. This section focuses on issues which the regulatory regime may need to deal with in future. As such, they are not issues which are necessarily as time critical as those discussed in the rest of the document. However, we would welcome respondents' views and recognise that these are issues which bidders will be keen to understand. We consider two issues:

- Arrangements at the point when the twenty year revenue stream ends; and
- How future requests to upgrade or expand capacity are dealt with.



## The end of a revenue stream

10.3. As outlined earlier in the document, it is our intention to grant revenue streams to OFTOs for a twenty year period. However, we recognise that it will not necessarily be the case that at the end of the twenty year period the offshore asset or the developers' generation assets will be at the end of their useful life. Hence we have set out our considerations in previous consultation documents on what happens at this point under various scenarios, including:

- Generation assets have closed but the offshore cable remains usable;
- The existing generator's assets are still functional as is the offshore cable;
- An OFTO no longer wishes to continue operating an asset; and
- Generation assets remain but the offshore transmission infrastructure needs work.

10.4. We need to think about how, in each of these scenarios, options can be put in place which provide certainty to the developers and the OFTO, allow efficient costs to be funded, facilitate the efficient use of assets and protect consumers. Possible options include:

- Tendering – it may be appropriate to appoint a new party to provide that capacity for a period of time consistent with developers' demands for capacity. However, this could be disproportionate for relatively short extensions and, given the position of the incumbent as owner of an existing asset, this approach would appear to offer little scope for effective competition (unless there were a significant increase in capacity). Were another party appointed, it is not clear that an incumbent would want to sell the existing asset.
- Extending the revenue stream - one could extend the period of the revenue stream, perhaps following a case by case assessment of costs and a consideration of demands for capacity. This could lead to additional complexity in the regulatory regime and would involve much more Authority input, as the regime would appear to begin to assume price control characteristics.
- Bilateral solutions - in which parties could strike contracts to reflect their own need. For example, a generator could fund an OFTO to keep a cable operational for a period of time.

10.5. We can see advantages and disadvantages to each of the issues outlined above. They require trade-offs between certainty, complexity and transparency and we would welcome respondents' views.

## Requests to upgrade or expand capacity

### Outline of the issue

10.6. A related issue to what happens when a revenue stream comes to an end is how requests to expand or upgrade capacity part way through a revenue stream period are dealt with.

10.7. The regulatory regime clearly needs to ensure that efficient technical and economic solutions can develop. We have therefore considered how, in circumstances where an OFTO needs to incur additional costs in expanding its capacity, those costs are recovered. This situation is complex due to a likely mismatch between the depreciable or useful economic life of the upgraded asset and the remaining period of the OFTO's revenue stream.

10.8. We recognise that, at various, currently unknown, points in the future, parties may wish to use existing offshore transmission assets to facilitate the connection of new offshore generation (or, potentially, to facilitate connections to other countries). As such, we have considered, at a relatively high-level, how assets which are constructed or upgraded part way through the period for which an OFTO receives a revenue stream should be treated.

10.9. Additional capital expenditure could be required for a number of reasons:

- Existing generation capacity is expanded; or
- Existing assets need to be upgraded to facilitate the connection of a new generation development.

### Options considered

10.10. We have carefully considered the following options for addressing these concerns:

- *Recovering the costs of new investment over the remaining term of the revenue stream.* That is, effectively accelerating depreciation of the asset. For example, if midway through the revenue stream an additional £500m is invested in the asset this would be recovered over the remaining 10 years of the revenue stream. The concern here is that the asset's investment cost would be fully recovered leaving it with a book value of zero but with a positive economic value, that is the asset can still be used so is of some value.
- *Recovering investment costs over the useful economic life of the asset.* That is, the asset would be depreciated as normal. Two revenue streams would run in parallel but there is a question as to how maintenance costs for the original asset would be covered.

- *Allowing investment costs to be dealt with under contracts.* In which case any timing mismatch between generation and investment cost recovery would be dealt with contractually between the developer and the OFTO.

10.11. Having considered these options, it is clear that all create questions and complexities. Accelerated depreciation creates a fully paid for asset raising questions over future pricing of the asset. Making it free (or rather only charging the variable cost) would be market and investment distorting, whilst charging for its use would over-compensate the investor.

10.12. Depreciating the asset as normal raises the prospect of creating a stranded asset if the investment cost is not fully recovered at the end of the revenue stream. The primary appeal of the contractual based options is that it avoids these issues by placing the risks in the hands of those best able to manage them, providing flexibility for parties to strike contracts which are mutually beneficial and allow for a relatively less complex regulatory regime. We recognise, however, that it does create concerns about how to ensure that terms for use of the transmission asset are offered on a fair and equitable basis and the potential for reduced transparency if a series of contracts govern the operation of offshore assets.

10.13. We recognise that this issue, whilst significant, is not as pressing as others presented in this document. For that reason are yet to reach a minded to position on this and welcome stakeholder views on the discussion above.

## Offshore charging

### Outline of the issue

10.14. We are conscious that various respondents have raised concerns about the application of NGET's charging methodology offshore. In particular, we note the following:

- Parties have noted that the charging methodology could create perverse incentives to site onshore connections in a certain way or to design offshore connections in certain ways due to the way in which 'local' assets are defined.
- It has been suggested that the charging methodology as drafted does not enable the costs/benefits of unavailability to be targeted to a generator because the adjustment flows into the general charging pot as opposed to the residual charge.

### Discussion

10.15. We are conscious that transmission charging is a matter for NGET. We also note that the charging methodology must comply with a series of objectives (which flow from NGET's licence conditions). These include ensuring charges, as far as reasonable practicable, reflect costs, ensuring charges facilitate competition in the generation and supply of electricity and reflecting developments in the transmission

business. In light of these obligations we would expect NGET to work with transmission network users to ensure that they are fulfilled to the greatest extent possible.

## **European Interconnection**

10.16. We note that several respondents highlighted the need for the enduring regulatory regime to be capable of facilitating the development of infrastructure to connect a variety of projects, including wind projects connected by a single cable, projects which may be connected to each other and, potentially, projects which could be connected to more than one member state.

10.17. Ofgem recognises the potential benefits that greater levels of interconnection could deliver. In particular we note the potential for interconnection to: increase diversity of supply and reduce the impact of intermittent; provide incremental benefits to security of supply; and, in theory, reduce price volatility.

10.18. Operating an interconnector in the UK is a licensable activity, with the Secretary of State responsible for issuing licences. We are aware that there are some differences between the regulatory regime for offshore electricity transmission and the interconnector licensing regime. As the likelihood and specific circumstances of interconnected projects becomes clearer, we would expect to work with DECC (and our European counterparts as required) to use the flexibility within the offshore regime to ensure that we facilitate the development of efficient projects.

## 11. Responses and Next Steps

### Chapter Summary

This section outlines our proposed next steps and provides details for responding to the document.

### **Responding to this document**

11.1. We recognise that this document covers a considerable number of issues and that interested parties will wish to consider it carefully. We would welcome responses on the individual issues set out in this document and the way they combine to create an overall regulatory regime.

11.2. Responses should be received no later than 12 February 2010. All responses should be sent to:

Sam Cope  
Policy Manager - Regulatory Regime Development Transmission  
Ofgem, 9 Millbank  
London  
SW1P 3GE  
Tel: 020 7901 7239

Email: [sam.cope@ofgem.gov.uk](mailto:sam.cope@ofgem.gov.uk)

### **Next Steps**

11.3. We recognise that the development of the regulatory regime is a collaborative process and would welcome views from interested parties. To the extent practicable we would encourage parties to provide evidence to support their views and, where they disagree with a particular element of our proposals, to outline potential alternative approaches; recognising the legal framework within which Ofgem works and our principle duty to protect the interests of consumers.

11.4. We would be pleased to engage with parties on a bilateral basis to understand views during the consultation period. Following the receipt of responses, we also propose to hold a seminar to provide an opportunity for parties to discuss next steps.

11.5. This document will be followed by a consultation on the Tender Regulations in February 2010. The Tender Regulations consultation will cover drafting changes to the Tender Regulations based on proposals in this enduring regulatory regime consultation document, including the changes outlined at Appendix 2. That document will also highlight any changes for the second transitional round.

## Appendix 1 - Consultation Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document. In particular we would like to hear from parties interested becoming an OFTO as well as developers of offshore generators that are likely to fall under the enduring regime.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by 12 February 2010 and should be sent to:

Sam Cope  
Manager, Offshore Transmission  
Ofgem 9 Millbank  
London  
SW1P 3GE  
Tel: 020 7901 7239

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. Any questions on this document should, in the first instance, be directed to Sam Cope.

### CHAPTER 4: TRIGGERING THE TENDER

- ➔ Do you agree with the proposed approach to initiating the tender process?
- ➔ Should there be an earliest or latest point (relative to the connection agreement held by the generator) at which the generator should be required to request an OFTO appointment and when should that be?
- ➔ Do you agree with the proposed amendments to the qualifying project pre-conditions and tender entry conditions for the enduring regime?

- Do you have views on the time of year at which a tender window should be held?
- Do you have views on the best method of dealing with contingency costs?
- What is your view on the capping of the contingency and any associated incentives?
- Which items do you consider should be defined as pre-construction costs (and why)?
- Do you consider that an Ofgem defined, standard pre-construction works transfer agreement is the appropriate vehicle for managing the transfer and payment of pre-construction costs?

#### CHAPTER 5 : THE SCOPE OF THE TENDER

- Do you agree that the tender specification should be based on the connection application, with information also being provided relating to any pre-construction works undertaken?
- Do you agree that bidders should be given flexibility to respond to this specification as they see fit?
- Do you agree with our suggestion not to incorporate capacity oversizing into the enduring regime (unless financial commitment is provided for that capacity)?

#### CHAPTER 6: FACILITATING COMPETITION

- Do you consider that supply chain exclusivity should be permissible under the enduring regime? If not, do you have proposals for enforceable measures for precluding it?
- Do you consider that the option of bidding on the basis of indicative costs and tendering after appointment has merit?
- Do you support our minded to position that explicit steps to facilitate new entry should not be included in the enduring regulatory regime?
- Should we include provisions in the enduring regime to ensure that access to offshore cable capacity and to offshore cable routes is made available? If so, what form should those provisions take?

**CHAPTER 7: TENDER TIMINGS**

- ➔ Do you support, or have alternative, proposals for amending the key stages of, or otherwise stream lining, the tender process?
- ➔ Do you consider that the timings outlined will provide sufficient time for bidders to develop robust tender submissions and Ofgem to assess them?
- ➔ In order to ensure an effective and timely procurement process through the supply chain, how long should the ITT stage last?

**CHAPTER 8 : BID EVALUATION**

- ➔ In which areas should we allow variant bids?
- ➔ How should variants be treated in evaluation?
- ➔ Do you have a view on the factors we should consider in evaluating bids?

**CHAPTER 9: THE REVENUE STREAM & INCENTIVE MECHANISMS**

- ➔ Do you consider that the existing incremental capacity incentives should be amended and, if so, what form should they take?
- ➔ How, if at all, should the existing availability incentive be updated for the enduring regulatory regime?
- ➔ What is your view of the inclusion of a re-financing claw back mechanism?
- ➔ Do you have evidence of insurance market volatility that suggests that an incentive would be in the interests of consumers?

**CHAPTER 10: RESPONDING TO FUTURE DEVELOPMENTS**

- ➔ Do you have comments on the practicality of the potential options for dealing with the future developments outlined?
- ➔ Do you have alternative options for addressing the issues raised?
- ➔ Are there other issues regarding future offshore developments which you consider need to be addressed?



## Appendix 2 – Amendments to Tender Regulations

1.1. This Appendix sets out a detailed list of proposed amendments to the Tender Regulations. It is provided to give stakeholders advanced notice of the proposed changes. For the transitional regime, these changes are largely administrative. However, there are also some proposed changes to the offshore regime as a whole which will affect both the transitional and the enduring regimes and a number of proposed changes to the enduring regime. These policy changes are discussed in detail in this document and this Appendix demonstrates how they may be implemented into secondary legislation.

1.2. We will be consulting on draft Tender Regulations in the early part of next year. Note that this is not an exhaustive list and further details will be provided in the consultation on the draft Tender Regulations in February 2010.

### Amendments for transitional regime

Regulation	Proposed change	Rationale
3 – Calculation of costs	Amend calculation of costs incurred in connection with transmission assets for a transitional tender exercise.	To more clearly reflect how cost estimate is carried out in practice.
11 – Qualification to tender	Insert clause requiring publication of the QTT and Confidentiality Agreement	To accurately reflect how the tender process will be run
Schedule 2 paragraph 2(c) - Entry Conditions	Amend paragraph to require a stronger undertaking from the developer to complete the transfer agreement to the Authority's satisfaction.	To facilitate the smooth running of the tender process.
Schedule 2- Entry conditions, paragraph 2	Insert new paragraph requiring an undertaking from developers to provide Ofgem with regular information so cost estimate can be updated	To provide more accurate cost estimate information to bidders and developers during the tender process
Schedule 2 – Entry conditions, paragraph 2(d)	Delete "on payment of the sum..."	Remove link to payment. This is not necessary and the amendment would simplify the process.
Schedule 3 - Qualification	Amend to reflect that PQ will be released first and then QTT and CA	To accurately reflect how the tender process will be run
Schedule 3 - Qualification , paragraph 1(f)	Delete paragraph	This information is not required because it is provided in the Preliminary Information Memorandum, released at PQ

Schedule 6 – Events of cancellation	To make developer not meeting requirements under paragraph 2(b) or (c) of Schedule 1 a cancellation event.	It should be a cancellation event where a project deemed to qualify using the reasonable endeavours test fails to use its reasonable endeavours to meet paragraph 2(b) or (c)
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### Amendments to Offshore regulatory regime as a whole

Regulation	Proposed change	Rationale
7 – Commencement of a tender exercise	Amend regulation to allow Ofgem more flexibility as to when it publishes its commencement notice.	This change will enable us to give more notice to interested parties and developers.
8 – Entry conditions in respect of qualifying projects	Amend sequencing of preparatory steps to enable Ofgem to send entry conditions letter before tender commencement notice.	To facilitate developer engagement and the tender process more generally.
9(2) – Pre-qualification	Change "qualification documentation" to "pre-qualification documentation"	The QTT doc may be released at a later stage in the transitional regime and may no longer be required for the enduring regime.
16(4) – Notification of preferred bidder and reserve bidder	Add additional requirements which the preferred bidder needs to resolve before they become the successful bidder.	To provide further clarity to both transitional round 2 and the enduring regime.
17(3) – Withdrawal	Change "may not" to "may in the Authority's discretion"	Removes uncertainty of interpretation of "may not"
17(3) – Withdrawal	Delete "or any other" in the final sentence	Where a Preferred Bidder, Reserve Bidder or Successful Bidder withdraws from participating in the tender for a particular qualifying project, it may remain in the tender process for a different project at the Authority's discretion. This change accurately reflects the Authority's intention and removes ambiguity.
20(1) – Disqualification	Clarify whether disqualification is from whole tender exercise or just from the tender exercise in respect of a particular qualifying	Where a Preferred Bidder, Reserve Bidder or Successful Bidder is disqualified from participating in the tender for a particular qualifying

	project	project, it is not permitted to remain in the tender process for that or any other project. This change accurately reflects the Authority's intention and removes ambiguity.
20(4) - Disqualification	Change "in respect of that qualifying project" to "in respect of a particular qualifying project"	Change required to remove ambiguity
22 - Information in respect of successful bidder	Review standstill provisions	Change required to reflect best practice in drafting legislation. No change to effect of the provision.
Schedule 7 Events of disqualification paragraph 1(a)	Minor drafting amendments envisaged	To provide clarity
Schedule 7, Events of disqualification paragraph (2)	To make developer breach of any warranties or undertaking provided in accordance with Schedule 2 a disqualification event	This is implied elsewhere in the regulations this change is envisaged to provide clarity
Schedule 7 - Events of disqualification, paragraph 3(g)	Change "the tender exercise in question" to a tender exercise in respect of a particular qualifying project	Change required for clarity

### Amendments for enduring regime

Regulation	Proposed change	Rationale
Regulation 3	Insert new regulation to prescribe cost recovery for developer pre construction works	To implement policy proposal to allow developers to recover efficient costs.
Regulation 11 - Qualification to tender	Remove QTT stage from process	In line with other changes discussed in chapter 7 to make process more efficient and streamline certain aspects of the process.

Schedule 1, paragraph and Schedule 2, paragraph 1	Merge qualifying project and tender entry conditions	To simplify tender entry process for developers
Schedule 1, paragraph and Schedule 2, paragraph 1	Insert new paragraph to require developers to enter into an undertaking to agree to transfer preconstruction works in accordance with standard transfer terms prior to licence grant.	This change will facilitate the smooth running of the tender process.
Schedule 1, paragraph and Schedule 2, paragraph 1	Add requirement for developers to provide an undertaking to provide information to the Authority during the evaluation process.	This change will facilitate the smooth running of the tender process.
Schedule 1, paragraph and Schedule 2, paragraph 1	Possible requirement that project is X number of years prior to energisation	To provide comfort to applicants that developers are sufficiently committed to the project

## Appendix 3 – Responses to the open letter

1.1. This Appendix summarises responses in respect of each of the issues set out in the open letter. Full copies of all non-confidential responses are available from the Ofgem E-Serve website. In each case, the issue raised in the open letter is shown in italics before a brief summary of non-confidential responses is provided.

1.2. *The timing of OFTO appointment* – eight respondents commented on this issue. One respondent requested that a full range of timings, from “very early” to “very late” be considered. Three respondents saw benefits to a “late” OFTO appointment. One party did not believe that early appointment would be in the interests of competition. Two respondents saw merit in an early appointment, but they also felt that there were benefits to a late appointment as more complete information is available.

1.3. *Very late OFTO appointment* – three generator developers suggested a “very late” appointment, which would either extend the transitional regime or allow an enduring process that involved developer design and construction. One respondent said that with a “very late” appointment, the enduring regime would lose some of the prospective benefits of the enduring regime, including facilitating innovation.

1.4. *Zonal appointment* – two respondents saw some merit in reconsidering the option to appoint a zonal OFTO, which would have responsibility for all present and future connections in a geographic area.

1.5. *Pre-construction costs* – seven replies addressed this issue, and all agreed that economic pre-construction works should be recoverable by the developer. Most parties also requested a clear definition of the items to be included in the envelope of pre-construction costs.

1.6. *Risk management, refinancing and incentives* – we received seven responses on this issue. One response agreed that the current approach to risk allocation is correct, but noted that there will be new risks under the enduring regime that will need to be addressed. One stated that OFTOs should be rewarded for innovative approaches, so should not be subjected to claw back mechanisms. Several generator developers, on the other hand, felt that there should be appropriate sharing of refinancing gains.

1.7. *Role of the NETSO* – eight responses addressed the role of the NETSO in ensuring that offshore transmission is optimised under the enduring regime and all parties agreed that this issue requires further consideration. One respondent expressed concern that the NETSO is incentivised to favour designs that minimise the OFTO's role, and noted the need to carefully consider the NETSO's role.

1.8. *Pre-conditions and tender entry criteria* – three respondents commented on this issue. One party noted that the consultation should address the form and timing of user commitment for large, phased projects.

1.9. *Stages and timing of the tender process* – we received six responses in this area. All respondents agreed that the nature of the enduring regime may necessitate changes to the stages and timing of the tender process. Four respondents said that the tender process should be longer than the current 12 months, with an extension of timescales necessary to reflect the design stage. One respondent said that more time should be allowed for the ITT stage, with less time allocated to the qualification stages.

1.10. *Assessment of the Tender Process* – seven replies commented on assessment of the tender process. All of these respondents felt that NETSO and developers should be involved in the tender process as interested parties. However, one respondent felt that NETSO's role should be minimised and Ofgem should engage with a third party technical consultant with NETSO sign off due to potential conflicts of interest. All respondents agreed that there should be proportionate involvement from the developer.

1.11. *Supply chain and competition* – three respondents welcomed consultation on supply chain issues, while one felt that the question of exclusivity does not need to be addressed. Two had concerns that the shortage of manufacturers of High Voltage cables and equipment may limit the effectiveness of the competitive process, and suggested measures should be put in place to ensure that main equipment suppliers should be obliged to be non-exclusive.

1.12. *Future capacity increase* – all respondents welcomed consultation on this issue, and most were supportive of a need to explore the issue further. Two respondents felt that oversizing of assets should not be at the OFTO's risk, with one suggesting that the risk should be borne by the generator, as the party that ultimately stands to benefit.

## Appendix 4 – The Authority’s Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority (“the Authority”), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.<sup>16</sup>

1.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly<sup>17</sup>.

1.4. The Authority’s principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of existing and future consumers, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

1.5. The Authority must when carrying out those functions have regard to:

- the need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- the need to secure that all reasonable demands for electricity are met;
- the need to secure that licence holders are able to finance the activities which are the subject of obligations on them<sup>18</sup>;
- the need to contribute to the achievement of sustainable development; and
- the interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.<sup>19</sup>

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<sup>16</sup> entitled “Gas Supply” and “Electricity Supply” respectively.

<sup>17</sup> However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

<sup>18</sup> under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

<sup>19</sup> The Authority may have regard to other descriptions of consumers.

1.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

- promote efficiency and economy on the part of those licensed<sup>20</sup> under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity; and
- secure a diverse and viable long-term energy supply.

1.7. In carrying out the functions referred to, the Authority must also have regard, to:

- the effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation<sup>21</sup> and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

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<sup>20</sup> or persons authorised by exemptions to carry on any activity.

<sup>21</sup> Council Regulation (EC) 1/2003



## Appendix 5 - Glossary

→ This section provides a glossary of terms used in the document.

Glossary

### **A**

[Authority](#)

The Gas and Electricity Markets Authority

### **B**

[BERR](#)

Department for Business Enterprise and Regulatory Reform

[BETTA](#)

British Electricity Trading and Transmission Arrangements

[BSC](#)

Balancing and Settlement Code

### **C**

[CUSC](#)

Connection and Use of System Code

### **D**

[DECC](#)

Department of Energy and Climate Change

[DC](#)

Direct Current

[DCUSA](#)

Distribution Connection and Use of System Agreement

[DNO](#)

Distribution Network Operator

[DTI](#)

Department of Trade and Industry

**F**

[FSL](#)

Final Sums Liabilities

**G**

[GBSO](#)

Great Britain System Operator

[GBSQSS](#)

Great Britain Security and Quality of Supply Standard

[GCRP](#)

Grid Code Review Panel

[GW](#)

Gigawatt

**H**

[HV](#)

High Voltage

[HVDC](#)

High Voltage Direct Current

**I**

[IFA](#)

Interconnexion France Angleterre

IGUC

Interim Generic User Commitment

[ITT](#)

Invitation to tender

**K**

kV

Kilo Volt

**L**

LV

Low Voltage

**M**

MITS

Main Interconnected Transmission System

MW

Megawatt

**N**

NETSO

National Electricity Transmission System Operator

NETS SQSS

National Electricity Transmission System Security and Quality of Supply Standards

NGET

National Grid Electricity Transmission plc

**O**

Ofgem

Office of Gas and Electricity Markets

OFTO

Offshore Transmission Owner

**P**

[PQQ](#)

Pre-Qualification Questionnaire

**Q**

[QTT](#)

Qualification to Tender

**R**

[RAV](#)

Regulatory Asset Value

[RES](#)

Renewable Energy Strategy

[RPI](#)

Retail Price Index

**S**

[SEA](#)

Strategic Environmental Assessment

[SHETL](#)

Scottish Hydro Electric Transmission Ltd

[SLC](#)

Standard Licence Conditions

[SPT](#)

Scottish Power Transmission Ltd

[SQSS](#)

Security and Quality of Supply Standard

[STC](#)

System Operator - Transmission Owner Code

**SYS**

Seven Year Statement

**T**

**TAR**

Transmission Access Review

**TCMF**

Transmission Charging Methodologies Forum

**TEC**

Transmission Entry Capacity

**TO**

Transmission Asset Owner

**TOCA**

Transmission Owner Construction Agreement

**TNUoS**

Transmission Network Use of System

## Appendix 6 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

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