

## Offshore Electricity Transmission - A Joint Ofgem/BERR Regulatory Policy Update

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**Target audience:** Transmission Licence Holders and all with an interest in renewable energy and offshore electricity transmission.

### Overview:

Ofgem and the Department for Business and Regulatory Reform (BERR) are working together to implement a regulatory regime for offshore electricity transmission. This document sets out further updated proposals for the design of the competitive offshore transmission regime and consults on the licence and industry code changes that are appropriate for purposes connected with offshore transmission. It follows on from the Government's response to the Joint Ofgem/BERR Policy Statement (published in January), Ofgem's Regulatory Policy Update (published in January), and discussions with stakeholders.

This document is part of an on-going consultative process and represents the first consolidated consultation on the changes to the key industry documents that support this regime. The regime will be implemented by commencement of certain provisions of the Energy Act 2004 alongside any changes resulting from the Energy Bill.

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## Context

This document forms part of the joint project of BERR and Ofgem to develop and implement a regulatory regime for offshore electricity transmission. It builds upon the Government's response to the Ofgem/BERR Joint Policy Statement published on 10 January 2008 and Ofgem's Regulatory Policy Update published 14 January 2008.

Offshore electricity transmission networks will be required to transfer electricity from offshore renewable generating stations to the onshore networks. Offshore renewables are expected to make an important contribution to the achievement of the UK's share, when agreed, of the EU target of generating 20 per cent of energy from renewable sources by 2020. It is therefore important that 'fit for purpose' offshore networks are developed efficiently to ensure consumers and generators do not face unnecessarily high charges and that connections are provided at the lowest possible cost through technical innovation.

At present there is very little electricity network infrastructure installed offshore. The Government and Ofgem consider that allowing companies to compete for the right to build this infrastructure should lead to the most economic and efficient solution for both consumers and generators. This document sets out our updated policy proposals, as well as the licence and industry code changes necessary to facilitate the implementation of a competitive regulatory regime for offshore electricity transmission.

## Associated Documents

[Offshore Electricity Transmission - Regulatory policy update](#) (Ofgem ref: 4/08)

[Regulation of offshore electricity transmission – Government response to offshore electricity transmission – a joint Ofgem/BERR policy statement](#) (BERR ref: 08/546)

[Offshore electricity transmission: Ofgem/BERR joint policy statement](#) (Ofgem ref: 189/07 BERR ref: URN 07/1096)

[Offshore electricity transmission - second scoping document](#) (Ofgem ref: 58/07)

[Government response to the joint DTI/Ofgem consultation on licensing offshore electricity transmission](#) (BERR ref: 07/634)

[Licensing offshore electricity transmission - a joint Ofgem/DTI consultation](#) (Ofgem ref: 199/06 / BERR ref: 06/1952)

[Updated Regulatory Impact Assessment](#) (BERR ref: 07/633)

[A security standard for offshore transmission networks - an initial joint DTI/Ofgem consultation](#) (Ofgem Ref: 211/06)

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[Offshore electricity transmission - scoping document](#) (Ofgem Ref: 60/06)

[Regulation of offshore electricity transmission - a joint consultation by DTI/Ofgem](#)  
(Ofgem Ref: 178/05)

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## Executive Summary

The Government is putting in place a new regulatory regime for offshore electricity transmission to assist the development of offshore renewable energy generation which we expect will make a major contribution towards meeting its renewable electricity targets. Up to 8GW of offshore renewable generation capacity (principally wind) will be seeking to connect to the onshore grid over the next few years. Around three billion pounds of new investment would be needed for the transmission infrastructure to carry this energy ashore. Furthermore, the Government has announced draft plans for up to a further 25GW of offshore wind generation. The Crown Estate launched on 4 June its Round 3 for the delivery of up to 25 GW of new offshore wind farms by 2020. That additional capacity will potentially require several billion pounds of further offshore transmission network investment. BERR and Ofgem will be working closely with The Crown Estate to ensure that the two processes complement each other and deliver the most economic and efficient grid connections for Round 3 projects, in addition to those planned for Round 1 and 2 projects.

On 10 January 2008, the Government published a document entitled "Government Response to Offshore Electricity Transmission - A joint Ofgem/BERR Policy Statement (referred to hereafter as "the January 2008 Policy Statement") as a response to the joint BERR and Ofgem consultation document published in July 2007 (hereafter "the July 2007 Policy Statement"). The January 2008 Policy Statement confirmed further decisions for the design of a regulatory regime for licensing offshore electricity transmission. The key Government decisions were that:

- Ofgem would run a competitive tendering process to select an Offshore Transmission Owner (OFTO), responsible for the transmission network required to connect each offshore generator;
- the Government was seeking additional powers in the Energy Bill to enable Ofgem to recover its costs of running the tender process, and in certain circumstances, to create a property transfer scheme; and
- the new regime will Go-Active as soon as practicable after commencement of the Energy Bill provisions. The Go-Live date will be one year later so that OFTOs will be appointed before the new regime comes into effect.

Ofgem then published a Regulatory Policy Update (hereafter "Ofgem's January 2008 Policy Update") on 14 January 2008 which set out further updated policy proposals on the detailed aspects of the regime, including:

- updated proposals on the design of the regulatory regime for offshore electricity transmission;
- updated proposals on how Ofgem envisages running the competitive tender process for both the enduring regime and transitional arrangements; and
- an update on implementation of the regime, including development of the various code, licence and agreement amendments to accommodate the offshore regime.

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Ofgem received 15 written responses to its January 2008 Policy Update. A full list of respondents is at Appendix 2. One response was confidential. The other 14 responses may be viewed on the Ofgem website<sup>1</sup>. Appendix 1 of this document contains detailed analysis of the responses received to the proposals and questions presented in Ofgem's January 2008 Policy Update. Further discussions with individual parties have supplemented the written responses received. We would like to thank all those who contributed their views. All responses received, views expressed and questions raised during the consultation period have been assessed against the Government's policy aims and will be taken into account in the further development of the new regime.

A joint BERR/Ofgem consultation workshop was held on 25 January 2008. BERR, Ofgem and National Grid Electricity Transmission (NGET) in its role as GB System Operator (GSO) gave presentations on the proposed regime. The presentations were followed by Question & Answer sessions along with informal discussions. A note of the workshop is available on the BERR website<sup>2</sup>. In addition, Ofgem hosted a tender process workshop on 22 February 2008. Ofgem gave presentations on the tender process and transitional arrangements and NGET gave a presentation on the Connection Application Process. A note of this workshop is available on the Ofgem website<sup>3</sup>.

This Ofgem/BERR joint Regulatory Policy Update sets out our latest joint policy proposals and timetable for the new regime taking into account respondents' comments on Ofgem's January 2008 Policy Update and other engagement with stakeholders. We believe these proposals reflect policy positions which will create the right framework for efficient investment in offshore networks, allow scope for innovation and are flexible enough to meet the needs of future offshore generators.

We also present for consultation detailed drafting proposals for implementation of these policy positions, particularly through the various codes, agreements and licence conditions. We welcome views on these drafting proposals, including on whether they accurately reflect the policy positions contained in this document.

Arising out of the work we have undertaken in developing our latest proposals are areas for further consideration on which we are also seeking views.

The key proposals and areas for further consideration on which we are seeking views are summarised below.

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<sup>1</sup><http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=58&refer=Networks/Trans/Offshore/ConsultationDecisionsResponses>

<sup>2</sup>[http://www.ofgem.gov.uk/Networks/Trans/Offshore/GrpsWrkshops/Documents1/Note\\_ECS\\_10Aug07.pdf](http://www.ofgem.gov.uk/Networks/Trans/Offshore/GrpsWrkshops/Documents1/Note_ECS_10Aug07.pdf)

<sup>3</sup>[http://www.ofgem.gov.uk/Networks/Trans/Offshore/GrpsWrkshops/Documents1/Notes%20from%20tender%20process%20workshop\\_220308.pdf](http://www.ofgem.gov.uk/Networks/Trans/Offshore/GrpsWrkshops/Documents1/Notes%20from%20tender%20process%20workshop_220308.pdf)

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## **Design of the Regulatory Regime**

The key features of the proposed regulatory regime are:

- Licences will be issued on an open ended basis such that they will apply for not less than 20 years but may apply for longer. The licence can be revoked by the Authority at not less than 18 months notice and then only once the 19th year has been reached;
- The period of revenue stream will be 20 years with the Authority having the right to set a shorter period if the tender competition has been less than optimal;
- Should there be a demonstrable ongoing need for the assets beyond the 20 year revenue stream then the Authority will decide whether to extend the period or retender on a case by case basis;
- We are seeking further views on provisions for addressing unexpected and/or uncertain cost changes for transitional and enduring projects, including potential arrangements for provision of additional capacity;
- There will be penalty only incentives for availability/reliability and for delivery date. Targets and incentive rates may be set on a case by case basis. We are seeking views on the appropriate structure and level of performance incentives and the generator's role in defining this, and how much of an OFTO's revenue should be exposed to incentives;
- Generator affiliates will be allowed to bid for OFTO licences subject to appropriate ring-fencing and compliance with European Union requirements.

## **Tender Process including Transitional Arrangements**

- There will be a number of pre-conditions which need to be satisfied before a tender process can commence in the enduring regime. We propose that these include the signing of a CUSC bilateral connection offer and the appropriate Crown Estate lease arrangements. We are seeking views on these and any other pre-conditions;
- There will be a four stage tender process;
- Generator affiliates will be able to participate in the tender process subject to business separation requirements. Safeguards will be put in place to ensure that generator affiliates have no undue advantage in the tender process;
- There will be no OFTO of Last Resort mechanism for the enduring regime;
- There will be annual tender windows which will be kept under review as we gain experience from the transitional tender exercise;
- offshore generators will continue to be responsible for gaining the necessary consents and leases for the offshore transmission assets, which would be transferred to the successful OFTO once identified and appointed. We would



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expect the generator to be remunerated for necessary and efficiently incurred costs;

- We are seeking views on responsibility for undertaking seabed surveys and how this would fit into the tender process;
- To be eligible for transitional arrangements full financial close (or equivalent) needs to have been achieved. Developers are invited to come forward with detailed proposals of their expected status for qualifying as a transitional project by the end of July 2008;
- To provide comfort on funding to developers of transitional schemes and, in some cases, to help them reach financial close the developer will be entitled to be paid the greater of 75 per cent of the ex-ante estimate of the Regulated Asset Value (RAV) or 100 per cent of the efficient ex-post RAV from the OFTO adopting the assets;
- There will be an OFTO of Last resort mechanism under the transitional arrangements. Only the developer will be appointed as the OFTO of Last Resort and would need to ensure sufficient business separation. The Authority reserves the right not to award a licence if it is not in the interests of consumers to do so.

### **Implementation of the Regime (Industry codes, technical standards, licensing and charging)**

There are many detailed changes required to industry codes, technical standards, licences and charging arrangements in order to introduce the regime. This document provides an update on the key issues in each of these areas and sets out, where appropriate, our proposals, detailed drafting or further thinking for consultation. These are contained in Chapters 4-7 and in the appendices and annexes to this document.

### **Next Steps**

We recognise the importance of licence, code and agreement modifications, as the means for implementing the new regime and that they constitute a large volume of documentation which needs to be reviewed and revised. We have therefore added another round of consultation to the previous work programme to enable sufficient time for this to be carried out effectively.

The revised key high level milestones and currently anticipated dates are set out below:

June/July 2008	Publication of this document and impact assessment BERR/Ofgem External Communication Session
July 2008	Initial consultation on tender regulations

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September 2008	Publication of draft tender documentation and second consultation on draft licence, code and technical standards modifications
October 2008	Second consultation on tender regulations
December 2008	Final Consultation on full regime (ending February 2009)
December 2008	Anticipated adoption of powers under Energy Bill
April 2009	<p>'Go-Active' commencement of sections 90, 91 and 92 of the Energy Act 2004.</p> <p>Modifications made to licences and associated codes and technical standards.</p> <p>First tender process commences</p>
April 2010	'Go-live' commencement of sections 89 and 180 of the Energy Act 2004.

Between now and October 2008, Ofgem will also be engaging with stakeholders via a series of separate consultations and meetings on the modifications necessary to the special licence conditions of the transmission licence, for both enduring and transitional projects. This will include issues such as performance incentives and other adjustments to the OFTO revenue stream.

BERR and Ofgem will hold an external communication session on 7 July 2008 at the BERR Conference Centre, 1 Victoria Street, London, SW1H 0ET to discuss this consultation in more detail. Invitations will be issued shortly but if you would like to reserve a place please send an email to [offshore.transmission@berr.gsi.gov.uk](mailto:offshore.transmission@berr.gsi.gov.uk).

The Government and Ofgem value the significant contribution that the industry has made during the development of the regime. To ensure that this continues, in addition to the external communication session, there will be further opportunities for engagement. NGET is engaging in bi-lateral meetings with transitional projects and is also planning workshops on Codes (on 19 June) and Getting Connected (Late Summer) to help develop the regime and prepare stakeholders for its introduction.

Finally, over the coming months, Ofgem wishes to engage regularly with developers of round 1 and round 2 projects that fall under this regime, and also with potential OFTOs, to help it prepare for the tender process. Offshore generation developers that expect to be eligible for the transitional tendering process are requested to contact Ofgem by the end of July 2008 with details of their projects. Further information is in Appendix 8 of this document.

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## 1. Introduction

### Chapter Summary:

This chapter gives policy context and outlines the purpose and structure of this document.

### Policy context

1.1. The Government is introducing a new regulatory regime for offshore electricity transmission to connect significant amounts of renewable offshore generation to the onshore electricity network. The regime will ensure connection to the onshore grid in a timely and cost effective manner whilst maintaining the integrity of the system as a whole and achieving best value for electricity consumers.

1.2. In addition to more than 8 GW of offshore wind generation currently planned in UK waters, the Government announced on 10 December 2007 the commencement of a Strategic Environmental Assessment (SEA) on a draft plan which will assess the objective of achieving up to 25GW of offshore wind generation. Subject to the outcome of this SEA, further leasing rounds could be held by The Crown Estate from 2009.

1.3. The Crown Estate launched on 4 June its Round 3 for the delivery of up to 25 GW of new offshore wind farms by 2020. That additional capacity will potentially require several billion pounds of further offshore transmission network investment. The approach that The Crown Estate is taking to the development of Round 3, through Zonal Development with one Partner Company per Development Zone, should assist in the coordinated development of the offshore grid which has always been one of the objectives the Government has stated for the development of the new offshore transmission regime. BERR and Ofgem will be working closely with The Crown Estate to ensure that the two processes complement each other and ensure the delivery the most economic and efficient grid connections for Round 3 projects, in addition to those already planned for Rounds 1 and 2.

1.4. With potentially up to 33 GW of offshore wind projects now being considered in UK waters, the need to ensure efficiently planned and secure grid connections to shore will become increasingly important.

1.5. To enable these new generation projects to connect to the GB onshore grid, the Government has already decided that the principles behind the regulation of the GB onshore electricity transmission network should be extended offshore, except where the specific circumstances of offshore generation mean that changes should be made.

1.6. In practice this means:

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- That transmitting electricity offshore at 132kV and above will be a prohibited activity without a licence;
  - That the safe and secure transmission of electricity offshore will be achieved through amendments to the existing system of licences, codes and agreements that govern onshore electricity transmission;
  - NGET, as GBSO will be responsible for operating and co-ordinating both onshore and offshore grid connections;
  - That offshore generation and transmission will be separate ring fenced business activities; and
  - That the costs of building and operating the new offshore transmission assets will be recovered from generators via NGET's charging methodology.

1.7. In addition to the Government's targets for increasing the share of electricity generated from renewable sources, the Government's policy for the UK energy market is to introduce competition where possible and only regulate where necessary. Since this will be a new licensing regime offshore, with the opportunity for new market players to enter the market, the Government has also concluded that there should be a competitive tender to decide who should be the licensed OFTO to connect specific offshore transmission assets.

### **Background to the development of the new regime**

1.8. The Energy Act 2004 (EA 2004) provides powers for the Secretary of State to make changes to the codes, agreements and transmission or distribution licences for purposes connected with offshore electricity transmission and distribution.

1.9. Since taking the EA 2004 powers, the Government has been working with Ofgem to establish an offshore transmission licensing regime to regulate the conveyance of electricity along high voltage lines offshore and associated plant and equipment which connect offshore generating stations to the onshore electricity grid.

1.10. The January 2008 Policy Statement and Ofgem's January 2008 Policy Update formed part of the ongoing process by BERR and Ofgem to put in place a regulatory regime for the connection of significant amounts of renewable offshore generation to the onshore electricity network, in a timely and cost effective manner, whilst maintaining the integrity of the system as a whole and achieving best value to electricity customers.

1.11. Under the new regime Ofgem, as the regulator of the gas and electricity industries in Great Britain, will be responsible for regulating offshore transmission licensees, as it does for onshore transmission network companies.

1.12. In March 2006, the Government decided that the appropriate model for the regulation of offshore electricity transmission was through a regulated price control

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approach, extending the principles of the onshore regulated price control approach into the offshore sector.

1.13. The Government concluded then that extending the principles that govern the regulation of onshore electricity transmission offshore was the correct approach to take for licensing offshore transmission, because it would:

- Ensure consistency with the regulatory arrangements onshore;
- Provide assistance to offshore developers by recovering the costs of building offshore grid connections through NGET's charging methodology – thus spreading the costs they would pay to connect to the onshore grid over a number of years, as happens onshore;
- Mean that the responsibility for development of the offshore transmission network would not fall to generators alone and instead the risks and costs of developing offshore grid connections would be shared by the System Operator and OFTOs; and
- Ensure a co-ordinated approach to the development of the offshore network, providing an additional environmental benefit, by reducing the unnecessary duplication of transmission assets.

1.14. Post commencement of sections 89, 90, 91, 92 and 180 of the EA 2004 participation in the transmission of electricity offshore at voltages of 132kV and above will be a prohibited activity without a licence.

1.15. In developing the regime, the Government announced in August 2006 that NGET's role as GBSO would be extended offshore<sup>4</sup>. As a result NGET will be GBSO both onshore and offshore, once the relevant parts of the EA 2004 commenced and appropriate modifications made to NG's licence for those purposes. Until then NGET is acting as offshore GBSO designate and is assisting in the development of the new regime.

1.16. In November 2006 the then Department of Trade and Industry (DTI) (now BERR) published an Open Letter to industry clarifying the regulatory position of high and low voltage offshore connections<sup>5</sup>. In the same month the DTI also published a consultation document which gave notice of, and invited views on, a proposal for the

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<sup>4</sup> <http://www.berr.gov.uk/files/file32874.pdf>

<sup>5</sup> <http://www.berr.gov.uk/files/file35598.pdf>

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exemption by class of offshore electricity distributors from the requirement to hold a distribution licence<sup>6</sup>.

1.17. Also in November 2006 the DTI and Ofgem jointly published a consultation document on the options for licensing those providing the offshore transmission connections between generators located in offshore waters and onshore electricity networks<sup>7</sup>. The document invited views on two possible models for licensing OFTO activities under a price control regime. The two options were (i) multiple non-exclusive licences issued for the offshore area with competition for the right to build, own and operate offshore transmission assets ("non-exclusive approach")<sup>8</sup>, or (ii) awarding licences by competitive tender for specific areas offshore, with the OFTO responsible for connecting all projects in that area ("exclusive approach").

1.18. On 1 March 2007, the Government announced its decision to grant a class exemption for offshore electricity distributors from the requirement to hold a distribution licence<sup>9</sup>.

1.19. Later in March 2007, the Government announced its decision on the model of licensing for offshore transmission. The Government announced that it had concluded that the non-exclusive approach was the most appropriate model for licensing offshore transmission. In reaching its decision the Government concluded that this approach will deliver cheaper and timelier grid connections; encourage innovation through competition and enable new entrants to compete in the market; be more focused on generator's requirements than the onshore system or the exclusive approach; and enable generators to bid to finance and maintain their transmission assets if they wish, subject to unbundling requirements compliant with EU legislation.

1.20. The day after publication of the March Government response, Ofgem published a scoping document providing a detailed overview of how it intended, in partnership with the Government and industry, to develop and deliver an offshore regulatory regime.

1.21. The Ofgem document set out a framework to deliver the appropriate changes in accordance with the Government's aims. Essentially it set out a proposed model or "straw man" for the proposed offshore regulatory regime. That straw man was further developed through discussion with industry through workshops and a series of work groups.

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<sup>6</sup> <http://www.berr.gov.uk/files/file35593.pdf>

<sup>7</sup> <http://www.berr.gov.uk/files/file35530.pdf>

<sup>8</sup> See further the proposals of the July 2007 Policy Statement, paragraphs 1.18 and 4.2

<sup>9</sup> <http://www.berr.gov.uk/files/file38027.pdf>

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1.22. That process of discussion and development led to the publication by BERR and Ofgem of the July 2007 Policy Statement which set out initial proposals for a licensing and regulatory regime that would apply to offshore electricity transmission networks. That document included the following key proposals:

- That an OFTO would be responsible for designing, building, financing and maintaining the offshore transmission network. The OFTO would be selected by competitive tender and awarded a transmission licence. It would receive a regulated revenue stream for meeting its licence obligations over a predetermined regulated period. The OFTO would be incentivised to meet specified performance requirements during this period.
- The competitive tender process would include an annual tender application window for coordination purposes. Any person meeting the prequalification criteria could tender for an OFTO licence covering offshore transmission assets. The tender process would be triggered by a generator(s) connection application to the onshore network. Ofgem would make the key selection decisions and manage a tender process, which would result in the award of a licence to the successful OFTO.
- That there would be transitional arrangements for projects where the generator is already constructing or undertaking steps towards constructing the offshore transmission assets. The transitional arrangements would apply to projects that met certain pre-defined criteria. To assist the transition to the enduring arrangements there would be a two-stage process to enactment of the new regime. Those two stages would be (i) a 'Go-Active' date for the new regime to enable appropriate modifications to be made to licences, codes and agreements so that tenders can be held, and (ii) a 'Go-Live' date from which point unlicensed participation in the transmission of electricity offshore at voltages of 132kV and above would be a prohibited activity

1.23. BERR and Ofgem published the January 2008 Policy Statement 10 January 2008 confirming decisions as a result of the responses to the July 2007 Policy Statement and other stakeholder engagement. In particular, it set out:

- That Ofgem will be the body that runs the competitive tender process to determine who will be appointed as new licensed OFTOs;
- That the Government will seek additional powers in the Energy Bill to enable the Authority to recover its costs of running the tender process, and ensure sufficient commitment to the tender process, from parties participating in the tender (in most cases the generator and potential OFTOs);
- That the Government will also seek time-limited powers in the Energy Bill to enable the Authority, once an OFTO licence has been granted, to make a property transfer scheme in order to ensure that property is transferred from the developer to the successful OFTO in a fair, timely and effective manner. The Authority will only have the power to do so in certain circumstances (which it is envisaged will arise when commercial negotiations fail) and upon application;

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- That the new regime will Go-Active as soon as reasonably practicable after commencement of the Energy Bill provisions mentioned above. This will be as close as possible to our original intended Go-Active date of October 2008 (which we currently expect to be December 2008); and
  - If the date of Go-Active is delayed, then the date of Go-Live will also be delayed to allow one year for tenders to provide a sufficient period for developers meeting criteria for transitional projects to have comfort that relevant OFTOs will be appointed before the new regime comes into effect.

1.24. Ofgem's January 2008 Policy Update was published on 14 January 2008 in which it sought views by 25 February 2008 on the following:

- updated proposals on the design of the regulatory regime for offshore electricity transmission;
- updated proposals on how Ofgem envisages running the competitive tender process for both the enduring regime and transitional arrangements; and
- an update on implementation of the regime, including development of the various code, licence and agreement amendments to accommodate the offshore regime.

## **Benefits of the new regime**

1.25. When announcing its decision in March 2007 that that the non-exclusive approach was the most appropriate model for licensing offshore transmission, the Government concluded that the approach will:

- Deliver cheaper and more timely offshore grid connections;
- Encourage innovation through competition and enable new entrants to compete in the market;
- Be more focused on generators' requirements than the onshore system or the exclusive approach to licensing; and
- Enable generators to bid to own their own assets if they wish – subject to unbundling requirements compliant with EU legislation.

1.26. The Government believes that once complete the new regime being developed will provide considerable benefits to offshore generators and OFTOs. Further detail is available in the Impact Assessment accompanying this document.

1.27. Under this non-exclusive approach, in return for providing a connection to the generator and meeting performance requirements, the tender process will invite OFTOs to bid a regulated revenue stream for providing, operating and maintaining a connection for specific offshore generation projects. We believe this approach will



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mean a lighter touch regulatory regime than onshore which will help reduce costs for developers and consumers.

1.28. The regime as it is being developed will make clear the allocation of risk between the three primary stakeholders. These are the OFTOs, the offshore generator and consumers/ network users (via the GBSO). Under the enduring regime the OFTO will bear and manage design, construction, operational, maintenance, financing and decommissioning risks related to transmission assets. Under the transitional regime, generators will not have to take responsibility for operating, maintaining or financing the transmission assets after completion and transfer, since these responsibilities will be passed to OFTOs.

1.29. Once appointed, an OFTO will receive a stable and regulated income for the agreed period of the revenue stream. As a result generators will benefit in that the cost to connect to the onshore network will be spread over several years through annual transmission charges. Charges would be recovered in accordance with the agreed charging methodology in place at the time. For their part, consumers and network users (via the GBSO) will provide payment security and share the stranding risk with the offshore generator.

1.30. Appendix 9 provides a background explanation of the existing onshore and proposed offshore governance arrangements and key industry participants.

1.31. We believe this non-exclusive approach to licensing of offshore transmission networks will also provide certainty to future developers of offshore renewable generation, whether it be wind, wave or tidal technologies that are leased by the Crown Estate. In particular, offshore developers requiring a transmission connection will be able to trigger the efficient and economic transmission investment that they need. Our design of the regime has sought to recognise and accommodate future network expansion that is expected following the award of future offshore leases by the Crown Estate.

## **Purpose of this document**

1.32. This document forms part of the ongoing process adopted by the Government and Ofgem to establish an appropriate regulatory framework for offshore electricity transmission networks. It sets out key proposals from policy positions which we have taken on the design of the regulatory regime including the tender process for appointing OFTOs. It also seeks views on some policy issues and invites comments on detailed drafting of the various industry codes, licences, technical rules, etc necessary to implement the regime.

## **Structure of this document**

1.33. The document is divided into chapters, appendices and annexes.

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1.34. Each chapter in this document sets out the latest position, key proposals (where appropriate), further proposals for comment, questions seeking views from stakeholders on particular areas and how work will be taken forward. This document has 8 chapters:

- Chapter 2 sets out our updated proposals on the regulatory framework for offshore transmission and seeks views on certain implementation aspects;
- Chapter 3 sets out our updated proposals on the tender process and transitional arrangements and seeks views on certain aspects of both. It also invites developers to come forward with detailed proposals of their expected status for qualifying as a transitional project;
- Chapter 4 sets out our approach to drafting the tender regulations and what they might contain;
- Chapter 5 provides an overview to our consultation on the drafting of changes to the Electricity Transmission Licence and seeks views on the consolidated draft text at Annex 1.
- Chapter 6 provides an overview of issues and an update on the process for developing changes to technical rules and industry codes a more detailed technical description of the changes is given in Appendix 5;
- Chapter 7 provides an overview of issues and an update on the process for developing changes to transmission charging, access and compensation;
- Chapter 8 provides an overview of the remaining steps and work programme to implement the new regime.

1.35. Due to the length and complexity of some issues we have also added appendices. In particular we draw your attention to Appendix 5 (Technical Rules and Industry Codes) and Appendix 6 (Connection Application Process) which contain more details of our proposals and seek views. A list of appendices is included in the table of contents at the front of this document.

1.36. A number of documents are being published as annexes to this document (see Appendix 4 for a full list). The annexes are detailed draft documents containing amendments to industry codes, the transmission licence and technical standards necessary for implementing the new regime. We are seeking views on whether the draft legal texts accurately reflect the policy positions taken.

## **Responding to this document**

1.37. We welcome responses to this consultation; in particular we invite views from respondents on a number of specific questions set out in chapters 2-7 some of which refer to the appendices and annexes. A summary of all questions asked and details of how to respond can be found in Appendix 3.

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1.38. Responses should be sent to [OffshoreTransmission@Ofgem.gov.uk](mailto:OffshoreTransmission@Ofgem.gov.uk) by no later than 25 July 2008, although we welcome comments of a material nature by 4 July 2008.

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## 2. Design of the Regulatory Regime

### Chapter Summary:

We have consulted at length on the design of the new regulatory regime for the provision of offshore electricity transmission assets and have reached positions on the majority of the issues which reaffirm our positions set out in Ofgem's January 2008 Policy Update. However, there are a number of areas where we have refined our positions in the light of responses to that document and other engagement with stakeholders. This chapter sets out our proposals and further thinking on the design of the regulatory framework for offshore electricity transmission and highlights where we are particularly seeking views.

### Key proposals for the regulatory regime:

The key proposals are to:

- Grant licences for no less than 20 years;
- Set a 20 year default term for the OFTO revenue stream;
- Re-tender or extend revenue stream after 20 years on a case by case basis;
- Allow generator affiliates to bid for OFTO licences;
- Use asymmetric performance and delivery incentives; and
- Establish regulatory reporting and ring fencing requirements.

### Further issues for consultation:

Following consideration of responses to Ofgem's January 2008 Policy Update and other stakeholder engagement, this chapter also sets out our updated proposals, and requests views on the following issues, which will be considered further as Ofgem develops detailed tender documentation and the associated special licence conditions for both enduring and transitional projects:

- Adjustments to the regulated revenue stream;
- Incremental capacity increases;
- Structure and level of performance obligations and incentives; and
- Generator requirements and how these are reflected within the regime.

### Questions:

We would welcome views on our approach to the following issues:

- Revenue adjustments – should the regulated revenue stream be adjusted and, if so, how should this be designed?
- Incremental capacity – what are your views on our updated position?
- What are your views on the appropriate structure and level of OFTO performance incentives; including how much of the regulated revenue stream should be exposed to such incentives?
- What should be the role of the generator in defining the level and structure of performance incentives ex ante as part of their requirements?
- What actions should be taken in the event of persistent OFTO underperformance?

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## Summary of views on previous proposals

2.1. Ofgem's January 2008 Policy Update contained a number of questions and proposals at a greater level of detail than set out in previous consultations. In summary the key proposals were that:

- OFTOs will be awarded a revenue stream for a period of 20 years, although the Authority reserves the right to award a revenue stream of a shorter duration where the competitive tender process has not been fully effective;
- Where there is a demonstrable ongoing need for the assets beyond the 20 year revenue stream, Ofgem will decide on a case by case basis and, taking into account generator requirements, consider whether it is in consumers' interests to extend the revenue stream or undertake a further tendering exercise;
- The OFTO would be allowed to invest to accommodate incremental capacity increases before construction starts and after construction is completed provided that the additional costs do not exceed 20 per cent of project capital cost. If the incremental investment is greater than 20 per cent then the expectation is a new tender would be run for the provision of those assets;
- OFTOs would face performance incentives for asset delivery and quality of service; and
- There should not be pre-defined revenue adjustment mechanisms for movements in costs.

2.2. Respondents to the consultation were generally supportive of the overall approach that we were proposing to take to licensing offshore transmission. However there were a number of areas where respondents' views were mixed or they required further clarity. These views are reflected in this chapter which sets out the proposals made in Ofgem's January 2008 Policy Update, respondents' views, and our updated proposals with rationale.

## Period of regulated revenue stream

### Initial regulated revenue entitlement

2.3. Ofgem's January 2008 Policy Update sought views on the proposed a 20 year regulated revenue stream for OFTOs. The document set out the rationale for a 20 year period which we felt struck the right balance between the needs of generators, OFTOs and consumers, and provided an attractive investment opportunity.

2.4. Respondents generally welcomed the added detail provided in Ofgem's January 2008 Policy Update with more expressing support for the 20 year period than previously citing the expected asset lives, lower risk to consumers, likely duration of financing, and the possibility of extending the period. Other respondents, however,

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felt it inconsistent with onshore arrangements and Crown Estate leases; that a longer period would be a more attractive investment; and that the OFTO and generator should negotiate the period flexibly.

2.5. We continue to believe that a 20 year revenue stream remains appropriate taking into account the expected lifetime of the assets, expected financing arrangements, and the need to protect consumers' interests. **Therefore, we propose that an OFTO selected by competitive tender will receive a regulated revenue stream for 20 years, subject to the OFTO meeting its licence obligations, including performance incentives.** The 20 year revenue stream will be kept under review though to ensure that it remains appropriate, for example, with the development of technologies which may prolong the useful life of generation assets.

2.6. We do recognise, however, that in some cases it may be that competition has not been effective in the tender process and, in such an event, a shorter period may be appropriate. **We therefore propose that the Authority will be able to grant revenue streams for shorter periods in such circumstances.**

#### **End of regulated revenue stream**

2.7. Ofgem's January 2008 Policy Update proposed that at the end of the regulated revenue stream the Authority could either re-tender or allow the OFTO to extend its revenue stream for a further period. Ofgem's January 2008 Policy Update proposed that the default position would be to retender at the end of a revenue period, but also recognised that there were a number of possible scenarios at the end of a revenue period when re-tendering would be unlikely to be suitable. A number of respondents felt that the proposal to retender or extend the revenue stream on a case by case basis provided flexibility, but others felt it created uncertainty and advocated a retender as a last resort

2.8. Where there is a demonstrable ongoing need for the assets beyond the 20 year revenue stream, we propose that the Authority should take a view on the most sensible course of action (extension or retender) taking into account the needs of the generators and its statutory duties at the time. A generator would need to signal its requirements for further transmission services to the Authority well in advance of the end of the revenue stream. The Authority would then decide whether to extend the revenue period or retender on a case by case basis. This decision would be based on a number of factors but would take account of generator requirements.

2.9. Given that network licences would need to be revoked in order to undertake a further tender, and that sufficient notice must be given to revoke a licence, Ofgem's January 2008 Policy Update stated that Ofgem was minded to have a minimum 12 month notice period of licence revocation. However a number of respondents felt that more notice should be given. We agree that a minimum of 12 months may not be sufficient notice and now propose that **licences will be open ended and apply for not less than 20 years. We also propose that the licence can be revoked by the Authority at not less than 18 months notice once the 19<sup>th</sup> year of the**

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**licence has been reached.** This notice will also apply where the Authority has set a shorter period of revenue stream as set out in paragraph 2.6.

## Adjustments to the revenue stream

2.10. In implementing this regime, there are a number of potential detailed adjustments that could be made to the OFTO revenue streams to address risks faced by licensees under either the transitional or enduring regimes. These issues have been set out in previous documents and have provoked considerable interest and a variety of views from stakeholders, both in responses to publications and in other forums. Essentially, they may be represented as the treatment of:

- 'unknown unknowns' i.e. unpredictable and uncertain costs and savings that may emerge over the licence period; and
- 'known unknowns' i.e. predictable but uncertain costs and savings that may emerge over the licence period.

2.11. Given that the majority of these issues will fall under the special conditions of the OFTO licence (i.e. those conditions that are specific for each licensee), Ofgem intends to develop policy positions in further detail over the coming months in a series of separate consultations and meetings, ahead of positions becoming firm later this year for the commencement of transitional tenders. The licence special conditions will be approved by the Authority during the tender process for each new licence award. The following section sets out Ofgem's further thinking in this area.

### 'Unknown Unknowns'

2.12. Ofgem set out in its January 2008 Policy Update that it did not consider it was appropriate to provide for pre-defined mechanisms e.g. event specific re-openers, to adjust the regulated revenue stream (either up or down) for unexpected changes in costs during operation arising from exceptional events. Given the difficulties associated with developing robust pre-defined mechanisms, Ofgem proposed to deal with exceptional events on a case by case basis rather than using pre-defined adjustment mechanisms. It considered that predefined adjustment mechanisms provided additional uncertainty and might expose greater regulatory risk, which would likely lessen the effect of the competitive tender process.

2.13. While respondents have continued to express support for the inclusion of pre-defined mechanisms for unforeseen exceptional events, Ofgem notes that such risks may be insured or mitigated by licensees and remains of the view that it is appropriate to address such events, if necessary, in a manner consistent with the licence issued and our statutory duties and functions at the time.

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## **'Known Unknowns'**

2.14. These are predictable but uncertain cost factors that may impact upon revenues and may include, for example, insurance premiums, re-financing costs or savings, and inflation. There was some support among respondents and other stakeholders for having predefined adjustment mechanisms, particularly that these may provide overall confidence in the regime, albeit some respondents noted that they would be difficult to develop. Moreover, others argued that excluding some factors from the regulatory regime would lead to higher risk premiums, potentially making some projects unviable, while others argued that these would lead to higher overall costs. We acknowledge the points made in support of and against pre-defined adjustment mechanisms.

2.15. Reflecting on these comments, Ofgem now considers that there may be scope for including certain pre-defined adjustments in the regime in order to optimise the risk sharing and associated costs. However, it also considers that further analysis is needed on these issues, taking account of the appropriate balance of risk between stakeholders, including consumers, before it can confirm its position in this area. Ofgem's current view on certain pre-defined adjustments is set out below.

### *Indexation*

2.16. Some respondents to Ofgem's January 2008 Policy Update suggested that the revenues recoverable through the OFTO's price controls should have an element of inflationary indexation (such as RPI) to ensure that revenue streams were recoverable in real terms over the lifetime of the asset. Such a measure would provide more certainty for the OFTO and would protect it against inflation (and also the consumer against deflation). Without such a driver, and in the event of unexpected inflationary pressures, it was argued that there was a risk for the OFTO that costs would not be recovered in real terms. They further argued that without such a measure prospective OFTOs would instead include a risk premium in their tender bids to mitigate against this, with the premium reflecting uncertainty over future movements in prices.

2.17. Ofgem sees some merit in the arguments put forward on indexation, subject to materiality. As such, it is seeking for respondents' views on both the most appropriate indexation measure and also on what should be included. For example, it may be appropriate that ongoing operation and maintenance costs are indexed (possibly also insurance) whereas there may be less merit in indexation of capital expenditure given that the necessary investment should all be made prior to commencement of operations.

### *Other adjustments*

2.18. A pre-defined adjustment mechanism will be needed to address potential incremental capacity increases (as set out in the following section). We will also consider in detail whether it is appropriate to design pre-defined adjustment



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mechanisms (with associated risk sharing and/or incentive mechanisms) to address other known unknowns, including:

- costs that are outside the control of OFTO's e.g. rates, licence fees;
- cost changes that are triggered by known events e.g. post construction refinancing;
- potentially volatile and unpredictable costs e.g. insurance premiums.

2.19. Whilst Ofgem's view is that pre-defined adjustments should be avoided as far as possible, we would welcome any further views from respondents, particularly on the interactions between this and other parts of the regime, when considering the overall package.

#### *Incremental capacity increases*

2.20. Ofgem's January 2008 Policy Update also proposed that an appointed OFTO be allowed to undertake incremental investment up to a value of 20 per cent of the initial capital cost over the life of the offshore transmission systems without being subject to a further tender exercise. There were mixed views from respondents to this threshold. Some supported the approach while others felt the figure arbitrary and hindering future expansion. Some suggested a pragmatic flexible approach to dealing with investment increases around the 20 per cent threshold.

**2.21. We continue to believe that the 20 per cent threshold strikes the appropriate balance between allowing flexibility for the generator and OFTO, while ensuring that the most economic and efficient solutions are found in such circumstances.** Where incremental investment arises without the need for a further tender exercise, we would expect to adjust the regulated revenue stream to reflect the economic and efficient costs of the incremental investment.

2.22. Ofgem's January 2008 Policy Update considered there to be two broad scenarios where incremental investment above the level initially specified might be required. However, we now consider there to be three distinct scenarios. For each of these scenarios, different consideration would be given to the proposed capacity increase. The identified scenarios are:

- The period following the award of licence to the OFTO, but prior to construction commencing;
- During construction; and
- Post construction.

2.23. In the case of changes to investment requirements that arise prior to construction, we consider this should be addressed by requiring bidders in the tender process to quote firm prices for upside incremental works as part of their original bids. However, where the generator seeks significant levels of extra capacity (i.e. more than 20 per cent of the initial capital cost) such that the connection agreement onshore also requires renegotiation, we would consider that the original tender

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process had not properly captured the required network and would therefore look to re-tender. We note that, similarly, capacity decreases maybe required during this period. In this case, the generator should specify the requirement in project specifications such that bidders can also quote firm prices for downside incremental works.

2.24. We propose that the costs of incremental capacity increases, or other additions to cost, will not be recoverable during the construction of the assets. Our view is that at the beginning of the construction phase, all planning consents will have been granted and contractual terms between the OFTO and the generator will be firm. On this basis we can see no justification for leaving open the option for negotiation on further capital costs during the construction period. This approach provides an incentive for proper planning and research into the cost of the development, ensures contractual firmness and leaves construction risk with the OFTO.

2.25. Ofgem proposed in its January 2008 Regulatory Policy Update that where a generator requests additional capacity post-construction of the offshore connection, the existing onshore arrangements would apply. It would be possible that a requirement for additional capacity may trigger onshore reinforcement works which will be addressed through current arrangements, where the GBSO will provide a variation to the connection agreement that includes the costs of onshore reinforcements being guaranteed by the generator. This approach will also apply to incremental capacity requests offshore, unless the required capacity was sufficiently material that, for example, a new offshore transmission circuit was required offshore or that the equivalent of a new offshore generator was connecting. We would welcome respondents' views on our updated proposals.

## **Performance obligations, incentives and penalties**

2.26. The July 2007 Policy Statement proposed a range of performance obligations and incentives. It sought views on the inclusion of the following incentives:

- an energy losses incentive,
- a capacity delivery incentive, and
- an operational availability incentive.

2.27. Ofgem's January 2008 Policy Update developed the proposals in the light of responses on the balance of incentives and how they should be provided for in the regulatory framework. Ofgem requested views on:

- whether it is appropriate to set performance incentives in the areas outlined in paragraph 2.26 or any further areas, and whether the suggested levels were appropriate or whether respondents have information that would suggest different levels were appropriate;

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- whether such incentives should be asymmetrical (penalty only) or whether there is information to suggest that we should set symmetrical incentives (penalty and reward) in certain areas;
  - whether the incentives should be based on longer term performance (perhaps over a number of years) rather than short term or annual targets; and
  - whether a level of up to 2 per cent of a company's regulated revenue is appropriate to incentivise performance or whether respondents have information that suggests a different level would be appropriate.

2.28. Respondents' views and our further considerations are set out below.

### **Energy losses incentive**

2.29. There was little by way of direct comment on a losses incentive from respondents to Ofgem's January document. However, of those that did comment, there was a general view that the effectiveness of a separate losses incentive would be questionable. Taking these comments into account, and after further consideration of the issue, **we confirm that we do not consider it is appropriate to have an operational losses incentive**, as there is little that an OFTO can do to manage losses in operational timescales. Losses are, however, expected to be a relevant factor to be considered by bidders at the project design stage.

### **Capacity delivery incentives**

2.30. While it is clear that there is no advantage in an offshore network being delivered in advance of the onshore connection works, some respondents supported the timely delivery of the offshore network as an element of an incentive regime. We see that there may be harm to both the generator and consumer if the connection to the grid is delayed consequent to a failure by the OFTO to deliver the asset on time. We propose that OFTOs would be required to take all reasonable steps to deliver capacity in a timely manner. This may not be sufficiently sharp to encourage delivery of capacity to a specified time. **On this basis, we see benefit in setting a delivery incentive for the OFTO to provide the asset on schedule. However, for the reasons set out above, we propose that this incentive will be asymmetric.**

2.31. We further propose that the delivery incentive should be designed such that the length of the delay in delivery will be proportional to the level of penalty incurred by the OFTO. Any such delivery incentive would be capped in order to limit the risk to the OFTO such that in the event of a late delivery, the penalty would not be so severe that the OFTO would be unable to deliver the project. We would welcome respondents' views on the most appropriate method to link the level of the penalty to the length of the delay in delivery of the asset.

2.32. We propose to determine a default value for the level of exposure to the delivery incentive. Based on examination of other infrastructure projects, we

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consider that the default level of exposure may be set at a level up to 10 per cent of the expected annual revenue had it been delivered on time. This would be applied as an adjustment to future revenues once the capacity had been delivered. However we maintain flexibility to determine the final incentive regime, including the timing and profile of the incentive as part of the individual tender documentation, potentially taking account of the views of generators. We would welcome early views on this approach in order to assist us in our further consideration of this issue. Such consideration will feed into our consultation on the tender documentation. In particular, we would welcome views on actions to be taken in the event of persistent failure by the OFTO to deliver the required capacity. For example, we would welcome views on the appropriate length of time before Ofgem sought to revoke the OFTO licence.

### **Operational availability incentives**

2.33. Having considered consultation responses **we see benefit in setting a target level of availability for all OFTOs**, which could be varied through the tender process based on the generator's specification. Such variation would increase or decrease the OFTO's exposure to risk and so alter the average bid price for that connection.

2.34. **We propose that this incentive will be asymmetric** - only penalties will be levied where performance falls below the agreed levels - and will be applied to the OFTO's revenue stream after a one year time lag. This will allow for performance monitoring to be completed and audited.

2.35. Based on initial examination of other infrastructure projects, we consider that the default level of exposure may be set at a level up to 10 per cent of annual revenue, against a proposed default target annual availability of 97 per cent. We would welcome early views on this approach and the appropriate default targets in order to assist us in our further consideration of this issue. Such consideration will feed into our consultation on the tender documentation.

2.36. We are, however, aware that such an obligation could be difficult for OFTOs to manage over time since several major outages are likely during the lifespan of an asset. To this end, we believe that suitable instrument should be designed into the incentive to provide some opportunity for OFTOs to manage this risk. Our initial thinking is that some form of permit mechanism could be established to help to insure the OFTO against an acceptable number of major outages during the life of the asset. Such a scheme would mitigate the need for re-openers as the OFTO would be insured against expected failures. We will be considering this incentive further as part of our forthcoming consultations on tender documentation.

2.37. Again, we would welcome views on actions to be taken in the event of persistent failure by the OFTO to deliver the required operational capacity. For example, we would welcome views on the appropriate length of time before Ofgem sought to revoke the OFTO licence.

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## **Incentive parameters**

2.38. Ofgem's January 2008 Policy Update sought views on a maximum level of 2 per cent of revenue for exposure to the package of incentives. On further consideration, Ofgem considers it may be appropriate that it retains flexibility in both the level and the rate of performance incentives, and potentially adjust these on a project specific basis. This approach could allow for the different characteristics of each project to be reflected in the performance incentive arrangements and enable the offshore developer to specify its requirements in its functional specification up front. This approach will give the generator more choice over the quality of the service that it should receive, with performance incentives set out in each individual OFTO's price control. We would welcome views on whether the generator should be asked to specify these values.

2.39. Ofgem will undertake further work on this issue before confirming its approach, However, we see value in setting a default incentive levels around which such flexibility would be based.

## **Adjusting revenues to reflect incentives**

2.40. Under existing arrangements for electricity transmission companies, penalties are reflected in an adjustment to the revenues that they receive from the GBSO. Separately, any compensation due to users owing to the quality of the GBSO service falling below the levels expected are reflected in a reduction in the charges that they pay to the GBSO for use of the network.

2.41. We consider it appropriate that any penalties incurred by OFTOs should be dealt with via a downward adjustment to their regulated income, which will feed through into reduced transmission charges. In practice, the reduction in charges would be shared between all users, although as offshore generators will be paying the majority of the charges that reflect offshore transmission network usage, they will be the main beneficiaries of any such adjustment.

2.42. For any operational availability incentive, adjustments to revenue would be made at year end of the following year to allow for the performance reporting feedback loop to work through. This is akin to the arrangements onshore in the electricity distribution quality of service incentive regime. In order to enable these adjustments, we would need to adjust allowed revenues on a regular basis. We invite views on whether this should be done annually, or whether any rewards and penalties should be logged up and revenue adjusted on a less frequent basis, for example every five years.

## **Generator affiliates, financial ring fencing and regulatory reporting**

2.43. In Ofgem's January 2008 Policy Update, Ofgem set out proposals for financial ring fencing and regulatory reporting. The key elements were:

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2.44. Offshore generator affiliates would be allowed to bid for offshore transmission licences subject to compliance with relevant EU legislation. Such companies should be separate businesses and appropriate ring-fencing should be put in place to ensure generation and transmission businesses are operated separately. The OFTO should therefore be established as a separate legal entity. Moreover, we proposed that the OFTO be subject to financial ring fence licence obligations similar to those that apply to existing onshore networks.

2.45. Ofgem would establish a framework for regulatory reporting. We considered that this might be based upon the arrangements that have been developed for onshore transmission and distribution companies, where failure to report in accordance with the reporting requirements is a breach of the licence.

2.46. We recognised that annual reporting against these requirements required a significant resource commitment by Ofgem and companies alike. Given the simpler nature of OFTO businesses, we felt that imposing a similar burden of detailed annual reporting upon offshore transmission companies would not be appropriate given our longer term approach to revenues. We noted that it was important to ensure that the regulatory burden of such arrangements strike an appropriate balance between the need to monitor the regulatory regime effectively while ensuring that the reporting arrangements did not provide an onerous regulatory burden upon licensees.

2.47. Respondents were generally supportive of our proposals with no major concerns. However, the need to ensure effective separation between the GBSO, and a potential OFTO was highlighted.

**2.48. We propose to allow generator affiliates to bid for OFTO licences subject to ring-fencing and EU compliance. Also, OFTOs will need to be ring-fenced with effective separation and be established as separate legal entities.** Finally, Ofgem will establish regulatory reporting and compliance requirements that are fit for purpose.

## Changes to generator requirements

2.49. Ofgem's January 2008 Policy Update proposed that an OFTO be remunerated on the basis that the offshore transmission system will meet the generator's functional requirements and be fit for purpose. OFTOs are typically expected to build networks that reflect the minimum technical requirements set out in the Great Britain Security and Quality of Supply Standard (GBSQSS) and the System Operator - Transmission Owner Code (STC).

2.50. However, an OFTO may be asked by the GBSO (e.g. as a result of a generator application for additional transmission capacity in an area close to its existing offshore transmission system), to make available additional capacity or to provide a number of other services beyond those that it is required to provide under its licence. This might include such things as redundant capacity to guarantee access to the

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network or for the OFTO to provide the earliest possible (rather than the most efficient) connection date.

2.51. We considered that there was nothing in the nature of offshore transmission that would necessitate different arrangements to those applying onshore in dealing with such requirements. While respondents raised some detailed issues, we do not consider that they justify a different approach. **Therefore, we propose to extend existing onshore arrangements for dealing with generator requirements affecting the offshore regime.**

### **Allocation of risk**

2.52. The design of the regulatory regime needs to reflect the way that certain risks are allocated between the main stakeholders for offshore transmission i.e. the OFTO, the offshore generator, and consumers/network users (via the GBSO). We are seeking to design the regime so that the most appropriate stakeholder is responsible for bearing and managing the risks at each stage of the regime.

2.53. In Ofgem's January 2008 Policy Update, we provided a more detailed risk matrix to allow stakeholders to examine and discuss with us the details of the regime. We emphasised that the risk matrix was illustrative only, and intended to aid discussion with stakeholders as tender documentation is developed over coming months. We intend to continue to use this tool in the overall development of the regime, and expect to provide an update in due course.

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## 3. Tender Process (including Transitional Arrangements)

### Chapter Summary

This chapter and the associated Appendix 7 provide a high level overview of the tender process Ofgem will be adopting, and further detail on the associated tender documentation that will be used in the process. The following chapter provides detail on the tender regulations that will underpin the tender process.

### Key proposals

We have consulted in detail on the tender process we are adopting for the identification of offshore transmission operators and have now developed final proposals on the majority of issues for both the transitional and enduring regimes. In summary, these positions are largely as set out in the documents published in January 2008, in terms of:

- The tender process (including stages and pre-conditions);
- Annual tender windows;
- RAV assessments and comfort on funding;
- Interaction with consents and leases; and
- OFTO of last resort

### Further issues

Following further consideration of responses to Ofgem's January 2008 Regulatory Policy Update, in addition to summarising the process, this chapter also sets out our views on a small number of outstanding issues, on which we would welcome feedback. These include:

- Pre-conditions in the enduring regime
- The treatment of indicative connection offers that are referred for determination to the Authority
- Seabed surveys

### Questions

We would particularly welcome views on the following:

- The proposed pre-conditions for the enduring tender process, and in particular whether there are any other pre-conditions that it would be appropriate to consider.
- The proposed approach for treating seabed surveys in the enduring regime.
- The proposed linkage between the tender process and the connection process (as detailed in Appendix 6).
- The proposed approach for OFTOs to provide construction security.
- The proposed approach that the preferred bidder will make its offer of construction through the normal STC process.



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## Introduction

3.1. Ofgem's January 2008 Policy Update and previous consultation documents published during the development of the offshore transmission regime have set out, in increasing levels of detail, how the tender process will work in practice, both in the transitional and enduring regimes. The overall design of the process remains unchanged and proposes a four-stage process, with the result of the tender process being the award of an OFTO licence.

3.2. This chapter provides an overview of the tender process in both the transitional and enduring regimes building on feedback from stakeholders to date and further internal analysis. We set out proposals and identify a small number of outstanding open issues on which we are seeking feedback from stakeholders. We will take account of such issues in the development of the tender regulations and the detailed tender documentation during the course of this year.

3.3. In developing our proposals for both transitional and enduring tenders, we have sought to ensure that there is an effective engagement with NGET's connection process for generation. Details of the connection process are set out in Appendix 6, where we have set out our updated position in respect of changes to NGET's CUSC connection application process. In essence we consider that there should be a two stage connection application process and we have set out our detailed implementation proposals in Appendix 6, which should be read in conjunction with this chapter.

## Previous proposals

3.4. Ofgem's January 2008 Regulatory Policy Update document contained a number of questions and proposals at a greater level of detail than previous consultations on the tender process. Respondents to the consultation were generally supportive of the overall approach being taken, although there were some differences of opinion on the detail of how the process should work. In summary, our proposals were:

- There will be an annual tender process commencing at a fixed point in time;
- Ofgem would run this tender process, recovering costs from participants;
- Tenders will be undertaken over four stages;
- The tender process will be provided for in secondary legislation;
- The tender process would be supported by detailed tender documentation;
- Stakeholders such as the offshore developer and NGET would have key roles in the tender process;
- Generator affiliates would be able to bid to become OFTOs;

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- There will be an OFTO of last resort mechanism in the transitional regime, but no corresponding mechanism in the enduring regime; and
  - Developers would be offered comfort that they would be guaranteed the greater of 75 per cent of Ofgem's ex-ante RAV assessment and 100 per cent of the efficient economic costs of the offshore transmission assets.

3.5. We have discussed these proposals at length with respondents to Ofgem's January 2008 Policy Update as well as with other stakeholders on a bilateral basis and through other industry forums. Whilst there are some differences of opinion on some of the detailed issues, there is broad support for the overall direction of the process. A detailed summary of responses to Ofgem's January 2008 Policy Update is at Appendix 1.

## The tender process in the transitional regime

### Pre-conditions

3.6. Ofgem set out in its January 2008 Regulatory Policy Update that an offshore developer would need to satisfy a number of pre-conditions by the Go Active date in order to qualify for the transitional regime. **We propose that that these pre-conditions are necessary and will be a key feature of the transitional regime.** For the avoidance of doubt, the pre-conditions are that the developer has:

- secured an onshore connection offer from NGET;
- obtained all necessary property rights (e.g. consents and leases) and all environmental and planning consents for the offshore transmission assets to be constructed and maintained;
- completed construction of, or entered into, all necessary construction contracts for the construction of the offshore transmission assets;
- reached full financial close (or there is evidence of an equivalent financial commitment, such as demonstrable parent company commitment) for the construction of the offshore transmission assets;
- provided its financial model for the offshore transmission infrastructure and all other necessary financial and other data to Ofgem to enable the assessment of the efficient and economic cost of constructing the offshore transmission assets;
- agreed to populate a data room with all the relevant data necessary for a prospective OFTO to be able to bid effectively;
- committed to transfer the offshore transmission assets to the selected OFTO under the terms set out in its request for the appointment of an OFTO;

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- provided the appropriate fee to cover some of the costs of initiating the tender process; and
  - where the transitional project has been constructed ahead of Go Active, the developer has provided an independent engineering audit report on functioning and performance to Ofgem.

3.7. Where a developer cannot meet the pre-conditions by the Go Active date, Ofgem has set out in previously that it will have two options. **We can confirm that these options will also be a feature of the transitional regime.** The developer can:

- Wait until the Go Live date to apply to be considered under the second transitional tender round, provided that they meet the pre-conditions by that date; or
- They can choose to seek an OFTO under the enduring regime once the Go Active date has passed.

### **Stages in the tender process**

3.8. We have consulted on a number of occasions during the development of the offshore transmission regime on how the tender process will be operate, providing further detail in each document. Taking into account stakeholder views and concerns, **we now propose that the tender process will follow four key stages, being:**

- Expression of Interest;
- Invitation to Tender;
- Best and Final Offer; and
- Preferred bidder

3.9. These stages have been described in significant detail in previous documents and as such, this document is not revisiting these to the same extent. However, we believe it would be helpful to set out the key outcomes from each stage toward Ofgem determining a preferred bidder and ultimately the successful OFTO for each offshore project.

3.10. The stages will largely be the same in both the transitional and enduring regimes. The following section sets out the key outputs for the transitional regime, with key differences highlighted in the subsequent enduring regime section.

#### *Expression of Interest (EOI) stage*

3.11. The EOI stage of the tender process is intended to attract as wide participation as possible for the competition. Ofgem intends to place an advertisement on its website and/or in other relevant publications inviting interested parties to express interest in the project(s) identified. Alongside the advertisement, Ofgem will be

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required to publish the EOI documentation. This will be largely standard documentation and will include:

- Details of the offshore generation project;
- General information about the tender process; and
- A data room guide.

3.12. Bidders will be required to respond to the EOI within a specified timeframe. Ofgem set out in its regulatory policy update that it was considering whether to require interested parties to submit an outline proposal setting out how, if selected, the bidder would deliver the project as part of the EOI response. **Ofgem proposes to retain the flexibility within the transitional regime to enable it to require this from participants on a tender by tender basis.**

3.13. Ofgem will then assess and evaluate responses in accordance with pre-defined pre-qualification criteria. Among other things, Ofgem will consider whether applicants at this stage have demonstrated that they have the necessary technical ability and capacity and economic and financial standing to operate and maintain the assets.

3.14. The outcome of the EOI evaluation stage will be that a number of parties will be invited to come forward to tender on a firm basis, including the long term revenue stream they expect to require from the offshore transmission infrastructure. Ofgem will notify bidders explaining the outcome of this stage of the process when it has concluded.

#### *Invitation to Tender (ITT) stage*

3.15. The ITT stage of the tender process is the stage at which detailed firm tenders are presented by bidders for the financing and operation of the transmission infrastructure built by the offshore developer. The participants at the ITT stage will have been determined by the outcome of the EOI stage, and the bidders will be asked to provide detailed bids for the project. This stage will be accompanied by largely standard ITT documentation, which will include:

- Detailed instructions to bidders;
- A detailed statement of requirements (including in terms of operational and maintenance requirements); and
- Relevant commercial information.

3.16. Similar to the EOI stage, the invited bidders will be required to respond with their detailed bids within a specified timeframe, with Ofgem assessing responses in accordance with pre-defined criteria.

3.17. The outcome of the ITT stage will either be the identification of a preferred bidder or the identification of a small number of bidders who will be asked to participate in a Best and Final Offer stage.

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### *Best and Final Offer (BaFO) stage*

3.18. The BaFO stage of the tender process is an optional stage, triggered when Ofgem cannot determine the preferred bidder following evaluation of the bids at the ITT stage. This stage should be limited to a small number of bidders who are asked to provide their best and final bid, based on a limited number of parameters. We consider that this stage could add real benefit to some tenders, but should only be used where there is a need to do so.

3.19. If used, Ofgem will produce and issue BAFO documentation to the short listed bidders together with a guide to the BAFO process, including the timetable. The BAFO documentation will be designed specifically for each project as and when the decision is made to include a BAFO stage and is, therefore, likely to vary in format and content. Essentially, the BAFO documentation, in respect of any project, will identify the areas in which Ofgem expects the short listed bidders to refine their bids. Evaluation of the BAFO bids will likely be on the basis of the same evaluation criteria as set out in the ITT documentation.

### *Preferred Bidder*

3.20. Either through the ITT or BAFO stages, the tender process will reveal a preferred bidder, which Ofgem will notify to the market (as required for the transitional regime under the provisions of the Energy Bill). The preferred bidder in the transitional regime will, among other things, be required to enter into commercial arrangements with the offshore developer for the transfer of property once the offshore transmission infrastructure is built and has been signed off by an independent engineering audit. Where commercial negotiation is unsuccessful, either party will be able to apply to Ofgem to make a property transfer scheme under the provisions being sought through the Energy Bill. However, we expect this to be a scheme of last resort with parties exhausting all possibilities to negotiate commercial arrangements before applying.

3.21. The Authority will confirm the granting of the OFTO licence (including special conditions) to the preferred bidder once a number of requirements have been resolved to the satisfaction of the Authority, including the successful transfer of assets.

### **Flexibility in the tender process**

3.22. **Ofgem will retain flexibility within the tender process to adjust the stages of the tender process on a per tender basis to ensure that outcomes are optimised.** However, for clarity, the stages it will follow for each tender will be set out in advance in the relevant tender documentation.

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## Transitional tender timing

3.23. We have set out in previous documents that tenders in the transitional regime will commence as soon as possible after Go Active has been reached. **We can confirm that Ofgem will commence the first round of tenders for those transitional projects that have met the pre-conditions by the Go Active date.** In practice this will mean that as soon as possible after Go Active, Ofgem will be seeking expressions of interest from interested parties. The second round of tender will commence as soon as possible after Go Live for those transitional projects that have met the pre-conditions by the Go Live date.

3.24. **In advance of Go Active, Ofgem intends to publish information, where practicable, to assist market participants in preparing for transitional tenders.** Among other things, it is anticipated that this will include details of those projects that have met the pre-conditions at the time of publication (and therefore will be tendered during the first round), details on how the tender process will be run and key contact information. It is intended that this publication raises significant interest in the market to ensure that the competitive process is optimised.

## Regulatory Asset Value (RAV) assessments

3.25. As has been set out in previous documents, Ofgem will need to undertake an exercise to establish the initial RAV of the offshore transmission infrastructure constructed or that will be constructed ahead of it being tendered in the transitional regime.

3.26. Where the offshore transmission assets are constructed at the time of the tender process, this value will be used to facilitate the commercial arrangements for transfer of assets. For those offshore transmission assets not constructed at the time of the tender process, this value will act as a guide for participants when determining their revenue stream bids. Ofgem will undertake a further ex-post RAV assessment to determine the actual efficient cost of these once they are built and have been signed off by an independent engineering audit. This second assessment will then be used to facilitate the commercial arrangements for transfer of assets post construction.

3.27. Ofgem will use standard techniques used in reviewing network price controls to establish the appropriate RAVs for each project in the transitional regime.

3.28. Ofgem will engage with parties who expect or consider that their offshore project will fall into the transitional regime over the coming months to begin the process of establishing the initial RAVs. In order to move this process forward, **all Round 1 and Round 2 offshore developers are invited to contact Ofgem directly by the end of July 2008 providing information on their project(s). Appendix 8 sets out a non-exhaustive list of the type of information Ofgem is seeking.** Once this information has been provided, Ofgem will convene meetings with developers over the course of the summer and autumn to take this process forward.

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## Comfort on funding

3.29. In previous documents, we have set out that Ofgem will provide comfort on funding to those projects not yet constructed to the extent that offshore developers will receive the greater of 75 per cent of Ofgem's ex-ante RAV estimate and 100 per cent of the efficient economic cost incurred on an ex-post basis. Whilst this had provoked mixed reaction from stakeholders, **we maintain that this is the approach we propose to adopt in the transitional regime**. This approach is designed to achieve an appropriate balance of incentives and risk - the key incentive for the developer being that all efficiently incurred costs will be remunerated and the key risk that any inefficient expenditure (i.e. in excess of our 75 per cent ex-ante estimate) is not guaranteed to be remunerated.

## OFTO of last resort

3.30. We have proposed previously that there would not be an OFTO of last resort provision in the enduring regime, but that Ofgem would introduce a mechanism to protect against transitional developments from being stranded without an OFTO. **We propose to introduce this mechanism with appropriate safeguards**. The mechanism Ofgem will use is set out below.

3.31. If a tender process in the transitional regime does not identify an OFTO, Ofgem would seek to award the OFTO licence to the offshore developer. In doing so, Ofgem would take into account the factors as to why the competition was unsuccessful and not attractive to bidders. As Ofgem set out in its regulatory policy update, these factors could include:

- whether the developer had acted in such a way as to deter bidders from competing; and
- whether the transmission assets are of sufficient quality to be likely to allow the licensee to fulfil its obligations without the requirement for significant expenditure to maintain them

3.32. In coming to its decision in these circumstances, the Authority retains the right not to issue a licence if it does not consider it would be in the best interests of consumers to do so. It is not possible to prescribe how Ofgem will make its decision in advance given that the each case will likely have unique characteristics. As such, decisions on awarding an OFTO licence without a successful tender will be considered on a case by case basis.

## Next steps

3.33. Whilst this document sets out final positions on many key issues, there will be further opportunity to engage on the detailed development of the regime through consultations on draft tender regulations and tender documentation when published by Ofgem later this year.

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3.34. Those offshore developers who consider that their projects will meet the pre-conditions for the transitional arrangements by the go active date are invited to contact Ofgem by the end of July 2008. Further information is provided in Appendix 8.

## The tender process in the enduring regime

3.35. The previous section provided an overview of the tender process in the transitional regime. In many ways, the process will be the same in the enduring regime. As such, this section highlights key differences in approach. In light of feedback from respondents to the January documents and other bilateral discussions, we have amended our position on a small number of issues. This section also asks for respondents' views on these issues.

### Pre-conditions

3.36. In its regulatory policy update document, Ofgem considered whether tenders in the enduring regime should be triggered by the generator's application to NGET for a connection to the onshore network or when the connection offer provided by NGET has been signed and the generator financially committed. Responses on this issue were mixed, with some stakeholders suggesting the former was preferable given that the process would be progressing alongside the connection application process whereas others considered we should only begin the tender process once there is some degree of certainty that the generation project will proceed.

3.37. On further reflection, the notion of a trigger is not that helpful, particularly in the context of tenders being initiated once each year at a fixed window. Moreover, it is more appropriate that there should be certain pre-conditions that are met before an OFTO is sought for an offshore project, similar to the transitional regime. On the basis of this, we are minded to introduce the following pre-conditions that will need to be satisfied ahead of a tender window opening in the enduring regime:

- The developer has entered into a Connection and Use of System Code (CUSC) bilateral connection agreement with NGET, and
- The developer has entered into lease arrangements with the Crown Estate<sup>10</sup>.

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<sup>10</sup> It should be noted that we are also considering whether the precondition that the developer enters into lease arrangements with the Crown Estate could be a pre-condition of the CUSC connection application form, rather than of the tender process. Such a measure should prevent offshore generators entering into a bilateral agreement with NGET substantially before the project is ready to proceed to the tender process. If this requirement were included as part of the CUSC Connection Application process then it would be removed as a tender pre-condition, since receipt of the Connection Offer from NGET would satisfy the condition.



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3.38. Where an offshore developer is in the process of seeking a CUSC bilateral connection agreement from NGET but this has not yet been entered into, Ofgem is also minded to allow these developers to enter the tender process at the next available tender window, subject to that developer providing the appropriate financial commitment to Ofgem for the costs of running that tender exercise.

3.39. Satisfaction of these pre-conditions would allow that developer to enter the next available tender round, as long as they are met at a suitable time prior to the window opening (likely one calendar month). However, we are mindful that some developers may prefer to delay initiating the tender process until a later period, for example if the onshore connection date provided by NGET is a number of years out. In these circumstances, Ofgem is minded to allow the developer to enter a future tender round, on request.

3.40. Whilst in many ways this approach is not that dissimilar to the principle of a tender trigger we have consulted on previously, our thinking has moved on in this area and therefore we would welcome views from respondents our proposal. In particular, we would welcome views on the proposal to include Crown Estate lease arrangements as a pre-condition. Our position in this regard has been informed in part by a similar requirement under the Renewables Obligation whereby generators wanting to participate in that scheme must have obtained the relevant planning consent in advance of accreditation. We also wish to avoid the grid queue problems which have developed onshore due, partly, to projects applying for connection without the necessary planning permission in place. Introducing a similar requirement to the Renewables Obligation in the offshore tender process would seem appropriate, particularly to help manage an effective tender process. We would also welcome views on whether any other pre-conditions would be appropriate.

### **Interaction with the connection determination process**

3.41. Appendix 6 sets out in detail the two-stage connection process proposed for offshore generation. This builds on the process described in previous documents, describing in detail how this will be provided for in relevant industry codes. A part of that chapter deals with connections that are referred for determination, and the interaction that these will have on the tender process. Respondents are encouraged to consider our position in that chapter alongside the pre-conditions set out above.

### **Stages in the tender process**

3.42. As with the transitional regime, **we propose that the tender process in the enduring regime follows the same four stages:**

- Expression of Interest;
- Invitation to Tender;
- Best and Final Offer; and
- Preferred bidder

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3.43. These stages will largely be the same for the enduring regime as described above for the transitional regime. However, given that the projects that are being bid for will differ significantly (with the successful bidder designing, financing, building and maintaining the offshore transmission infrastructure), there will be some key differences. These are set out below and will be reflected in the tender documentation that will accompany each tender.

3.44. The key differences between the transitional and enduring regimes with regard to the stages are:

- At the EOI stage, bidders will be required to return a detailed pre-qualification questionnaire as part of their response, covering issues such as their financial standing, technical ability, structure of the bid consortium and health and safety. Ofgem may also seek a case study as part of the EOI but is unlikely to require participants to provide an outline proposal.
- At the ITT stage, bidders will be required to submit a firm price bid for the design, financing, construction, operation and maintenance of the offshore transmission infrastructure. Documentation that they will also likely to be expected to provide include the following:
  - Details of company and any consortium structure,
  - A technical description of the connection,
  - Completed input sheets for our financial model,
  - Proposals for operation and maintenance of the connection,
  - Details of the EPC contract to construct the works,
  - Term sheet detailing financing arrangements, and
  - Insurance provisions – particularly marine insurance.
- Ofgem will notify the preferred bidder to the market in the same way as in the transitional regime. At this stage, the preferred bidder will be required to make a construction offer to NGET to enable it to issue an agreement to vary to the offshore developer in order to finalise the connection agreement. We are proposing that the preferred bidder will make its offer of construction through the normal STC process. We welcome views on this.
- The Authority will confirm and publish notice of the grant of the OFTO licence to the preferred bidder once a number of requirements have been resolved to the satisfaction of the Authority, including that the offshore developer has entered into the final connection agreement with NGET.

### **Construction security**

3.45. Given that in the enduring regime, the OFTO will be responsible for constructing the offshore transmission infrastructure, it will be important that the OFTO provides sufficient security to cover the costs of the construction works. This security would be drawn down in the event that construction could not be completed by the OFTO.

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3.46. We have proposed a mechanism for providing this security through the STC, and further detail is set out in Appendix 5. We would welcome views on the appropriate level of this security, for example on whether it should be set at a default rate of 100 per cent of the construction cost or whether a lower level would be sufficient.

### **Tender windows**

3.47. Ofgem's January 2008 Policy Update proposed that Ofgem would initiate the tender process in the enduring regime at a fixed point (or window) each year. Whilst some respondents suggested that this approach could introduce delays to the connection of offshore generation, we do not believe that this will be the case because the date when the window will be open each year would be publicly available information, thus allowing developers to factor this into their management of obtaining a connection agreement from NGET. **We intend to maintain this proposal and believe that it will help facilitate an orderly process and provide significant coordination benefits to stakeholders.**

3.48. As set out in paragraph 3.23, Ofgem intends to initiate tenders in the transitional regime at the same point in time (i.e. as soon as possible after Go Active). We believe that this provides an appropriate test of the effectiveness of the windowing approach, particularly in terms of effects on resourcing for Ofgem and for participants in the tender process. Based on the experience of this approach, Ofgem will review the use of a fixed tender window over the longer term.

3.49. If we conclude that Ofgem will continue using tender windows following this review, **Ofgem proposes to retain the flexibility to commence tenders at a different point where necessary.** This flexibility is important in instances where, for example, market information (such as connection applications to NGET) indicates that there will only be one tender exercise required in a tender round. In this instance, commencing the tender earlier than the tender window is likely to benefit all parties, although Ofgem would expect only to exercise this approach if all parties were in agreement. If there is any deviation from the normal tender window, Ofgem will ensure that this is communicated effectively to the market in advance.

### **Consents, leases and seabed surveys**

#### *Consents and leases*

3.50. Ofgem's January 2008 Policy Update set out the expectation that developers would continue to obtain the necessary consents and leases for the offshore transmission assets. These would then be transferred to the successful OFTO when identified, with the developer remunerated by the successful OFTO for the necessary and efficiently incurred costs in obtaining these. We have considered this further in light of responses to the January documents and have discussed further with relevant departments responsible for issuing consents and leases.

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3.51. Following on from these discussions, **we propose that the approach described above is consistent with the current consenting regime, which assesses the impact of an entire project (i.e. both generation and transmission)**. We expect developers to put the consents and leases (and the efficient costs incurred in gaining them) into the data room at the outset of a tender process. Bidders would commit to remunerate the developer for the efficient incurred costs in the event that they are successful as a condition for entering the tender. The successful OFTO, once identified, would remunerate the developer and agree the transfer of consents and leases with the developer and relevant issuing authority.

#### *Seabed surveys*

3.52. A number of stakeholders have requested further clarity on seabed surveys, and where responsibility of this should reside. We are minded to take a flexible position with regard to this, with options for the survey to be undertaken by the offshore developer or by bidders in the tender process.

3.53. Ultimately, bidders will need the information from the seabed survey given that it will be a requirement to submit a firm bid at the ITT stage. If it is left to the tender process, a suggestion has been put forward that bidders act together to instruct one detailed seabed survey, with the successful bidder reimbursing the proportion of costs to the unsuccessful bidders once the process has concluded. This would have the key benefit of minimising total costs, although there may be drawbacks in terms of commercial confidentiality. If the offshore developer undertakes the detailed seabed survey, it would place this in the data room at the outset of the tender process, with bidders undertaking their own necessary due diligence. We would welcome further feedback from stakeholders on this issue, but it should be noted that Ofgem is minded to retain flexibility on this issue to enable the approach to be determined on a per tender basis.

### **Tender documentation**

3.54. Ofgem provided in its January 2008 Regulatory Policy Update document an outline of the tender documentation that it intended to use for both the transitional and enduring regimes. As far as is possible, this documentation would be standardised across all tenders, except for the project specific information, but would differ necessarily between the regimes.

3.55. Ofgem is currently developing this documentation with the law firm Herbert Smith. Whilst it intends to publish this later this year, Appendix 7 provides the detailed contents lists for the EOI and ITT documents that Ofgem is developing.

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## 4. Tender Regulations

### Chapter Summary

The tender process described in the previous chapter will be largely set out in tender regulations. This chapter sets out the legal framework for the regulations, their remit and the process for making them.

### Introduction

4.1. The tender process outlined in the previous chapter and described in previous documents will be formalised in tender regulations ("regulations"). The regulations will set out the competitive tender process for determining who will be awarded offshore transmission licences. They are likely to be accompanied by detailed guidance published by Ofgem.

### Legal framework

4.2. The regulations will be made in accordance with section 6C of the Electricity Act which shall be inserted into the Electricity Act by section 92 of the Energy Act. Section 6C enables the Authority to make regulations which are appropriate for facilitating the making of a determination on a competitive basis of the person to whom an offshore transmission licence is to be granted. The regulations will not be subject to specific parliamentary procedure. However, the approval of the Secretary of State is required under Section 6C of the Electricity Act for making the regulations.

### Remit of tender regulations

4.3. The regulations will set out the tender process for both the transitional and enduring regimes. Ofgem intends to consult on the detail of the regulations. Ofgem expects the regulations, in summary, to include the following:

- Specify the pre-conditions for entry into a tender process;
- Set out a requirement for tenders to be run from a tender window;
- Detail the tender process, particularly in terms of:
  - A requirement on Ofgem to publish certain information and tender documentation;
  - A requirement on bidders to respond within specified timeframes; and
  - A requirement on Ofgem to assess bids in accordance with pre-determined criteria;

- 
- Set out the process for finalising to whom an offshore electricity transmission licence will be granted once a preferred bidder has been identified; and
  - Require Ofgem to put in place appropriate internal procedures to manage an effective tender process.

4.4. In addition to the tender process, the regulations will also specify how Ofgem will recover its costs of running the tender process from participants. The primary power that enables Ofgem to do this is expected to be provided under the Energy Bill, which supplements the provisions of section 6C of the Electricity Act. The Energy Bill is currently in the House of Lords stage of the Parliamentary process. Subject to this process being successful, we anticipate the relevant powers in the Energy Bill to receive Royal Assent in October 2008 and be commenced two months later.

4.5. Ofgem's January 2008 Policy Update set out in detail how Ofgem anticipated using the cost recovery powers set out in the Energy Bill. To recap, Ofgem expects the regulations to set out the processes for:

- Securing deposits or other financial security from developers;
- Securing bidder payments;
- Making refunds; and
- Obtaining funds to cover the costs for undertaking RAV assessments in the transitional regime.

### **Process for making the tender regulations**

4.6. Before the regulations are made, Ofgem will consult on draft forms throughout the remainder of this year. It expects to publish the first draft for consultation shortly. As Ofgem views necessary, further drafts will be made available during the course of 2008. This will provide an appropriate opportunity for stakeholders to be involved in their development and to interact further on the detail of the tender process.

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## 5. Licence Drafting

### Chapter Summary

This chapter provides an update on our progress on developing the necessary amendments to the Electricity Transmission Licence and presents initial drafting of a number of the standard conditions. It also sets out our updated position in respect of the differences needed in the transmission licence as part of the offshore transmission arrangements.

### Questions

- ➔ Does the licence drafting reflect our policy positions?
- ➔ Are there any other issues that should be addressed through licence changes?

## Introduction

5.1. Section 90 of the Energy Act 2004, allows the Secretary of State, amongst other things, to make modifications to transmission and distribution standard licence conditions (SLCs), which he considers appropriate for purposes connected with offshore electricity transmission (or offshore electricity distribution). This chapter of the document sets out ongoing work that is being undertaken in order for the Secretary of State to exercise this power in the context of the offshore transmission regime.

5.2. Amendment of the transmission licence conditions is necessary to facilitate the new offshore transmission regime - change of the existing licence conditions is required to tailor it for offshore activities as well as existing onshore activities.

5.3. In February 2008 Ofgem and BERR published a consultation document "Modification of Electricity Transmission Standard Licence Conditions - Way Forward Document" which set out the proposed way forward in regard to developing and implementing the necessary changes to the licence. This chapter gives a high level overview of this approach and updates stakeholders on progress in developing the necessary changes to the licence.

## Previous Consultation

5.4. The July 2007 Policy Statement set out that:

- A new section (section E) would be added to the transmission SLCs; and
- Any party holding an offshore transmission licence should be a separate legal entity from any company holding an existing transmission licence.

5.5. The February consultation document set out in detail the approach to amending the Electricity Transmission Licence in order to deliver our policy proposals. We refer

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readers back to that document for the detail of the proposal, the document is available online:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=93&refer=Networks/Trans/Offshore/ConsultationDecisionsResponses>

5.6. At a high level, we outlined that Ofgem would approach making the relevant changes with the following in mind:

- That any modifications should reflect policy proposals that have been clearly consulted upon and should not be a vehicle for making policy decisions in themselves;
- That any modifications should be as limited as possible in their impact on the licences of existing Transmission Owner licensees;
- That changes to the GBSO's licence (including Section C conditions) will be minimised as far as possible;
- That consequential changes to other licences will be minimised where possible; and
- That new conditions for Section E will be based as far as possible on existing conditions of the transmission licence, or other types of licence (such as the electricity distribution licence) if applicable.

We invited views from industry on the proposed approach outlined in the February document. Ofgem received 4 responses, all of which are now published on the Ofgem website<sup>11</sup>.

## Progress and Industry Review

5.7. Following the February consultation, Ofgem has set up an industry working group to assist in developing licence drafting. This group consists of the existing transmission licensees (NGET, Scottish Power Transmission Ltd (SPT), Scottish Hydro Electric Transmission Ltd (SHETL), representatives of offshore developers and Distribution Network Operators (DNOs). The group is chaired by Ofgem.

5.8. Whilst the working group have not yet formally met, Ofgem has started to develop licence drafting for the standard licence conditions. This drafting has already undergone a 'mini-consultation', as it has been reviewed by the industry working group.

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<sup>11</sup><http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=93&refer=Networks/Trans/Offshore/ConsultationDecisionsResponses>



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5.9. Having considered the feedback of the working group, we now invite comment on the consolidated Electricity Transmission Licence, which is in separate Annex 1. The licence includes the addition of section E, as well as amendments to sections A, B and C. We would welcome feedback on these draft conditions.

5.10. In addition to the changes that are identified in the attached draft amendments to the standard conditions of the transmission licence, we have also identified a number of other issues that need to be considered. These are set out below, although are also dealt with in other parts of this document. We would welcome views from industry on other issues that may be appropriately addressed through licence changes.

## Transmission Licence Obligations

### Licence Issues

5.11. Having outlined the process for managing the development of new licence drafting and given stakeholders the opportunity to comment on our initial drafting of the standard conditions, we now set out our updated position in respect of the certain differences we believe are needed in the transmission licence as part of the offshore transmission arrangements, but are not yet reflected in our licence drafting. We welcome views on these particular issues.

#### *Seven Year Statement (SYS)*

5.12. BERR proposes to publish information as part of its Strategic Environmental Assessment (SEA) process. We consider that NGET is able to provide information as part of its Seven Year System (SYS) that would allow an offshore developer and potential OFTOs to understand opportunities for offshore power station development and grid networks. We consider that it should be possible for links to SEA information relevant to the deployment of offshore renewables to be established within the SYS.

5.13. Unlike onshore, extensive offshore transmission systems have not yet been developed. However, there are other types of information that is available (e.g. possible line routes onshore and offshore) that could be usefully included in or referenced by NGET's SYS publication. We are minded to amend NGET's licence condition C to include in its SYS publication, network information that would assist an offshore developer.

#### *Connection offers*

5.14. We note that NGET Construction Applications are the trigger under the STC for a TO to assess a user's request for connection to the GB transmission system and provide NGET with an offer of construction services. We recognise that NGET Construction Applications consist of specified data from the User's CUSC application and planning assumptions provided by NGET.

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5.15. We consider that requiring NGET to, as a minimum, provide the same scope of information to the tender process as provided to TOs under the STC, will better facilitate consistent treatment of OFTOs (and prospective OFTOs) compared with TOs who are designing extensions to the onshore transmission system. We are minded to introduce a licence obligation for NGET to provide Ofgem with an NGET Construction Application once an offshore generator has entered into a bilateral connection agreement.

#### *Performance Incentives*

5.16. We consider that the OFTO should be incentivised in respect of the availability of the offshore transmission system as this will provide protection for the offshore generator(s) connected to that offshore transmission system, and also in terms of capacity delivery (see section 2 for further detail).

5.17. Performance incentives sit in the special conditions of the OFTO licence.

#### *Overlay of licence areas*

5.18. We acknowledge that there is a need for the interface point between an offshore transmission system and the onshore system to have a clearly defined and separable ownership boundary. We note that typically this would be at a substation. Practically, such a substation would need to be located onshore and within one of the onshore transmission licence areas. We are minded to allow the offshore transmission licence areas up to the point of connection with an onshore system to overlay the licence areas of onshore transmission licensees.

#### *Relationship between NGET and OFTO subsidiaries*

5.19. We note that the CUSC arrangements permit NGET to share information with its subsidiary companies that it is prevented from disclosing to third parties. We consider that sharing of such information could provide a subsidiary OFTO company with an unfair advantage. We are minded to introduce a prohibition on NGET forming OFTO subsidiary companies.

### **Next Steps**

5.20. We will develop change proposals for the transmission licence, **for both standard licences and special licences**, in conjunction with the industry.

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## 6. Technical Rules and Industry Codes

### Chapter Summary

- This chapter provides an overview of proposals for changes to Technical Rules and other Industry Codes and the Transmission System Security Standard to implement the proposed offshore transmission arrangements.
- Given the volume of text on these issues we have placed further detail of the proposals and our positions in Appendix 5.
- These change proposals have been developed with the assistance of NGET, industry working groups and the respective owners of the codes.

### Questions:

- Does the drafting in the annexed codes accurately reflect the policy positions set out in this document?

## Introduction

6.1. In developing proposals for the offshore transmission arrangements we have sought, wherever possible, to extend the current transmission and distribution arrangements (as required for the connection of an offshore transmission system to a distribution system) that are defined in the industry codes and technical standards onshore. Implementation of the proposed offshore transmission regime will involve changes to the industry codes and transmission system security standard via licence conditions (the 'Relevant Documents') under section 90 of the Energy Act 2004.

6.2. With the assistance and drafting resource made available to us by the owner(s) of each Relevant Document and in light of the recommendations made by the working groups that we have established, we have carried out a detailed review of the current onshore arrangements. This process has identified areas in both the arrangements for offshore generators and the arrangements between transmission licensees, where we do not consider that it is possible to directly apply the current onshore arrangements offshore. Where this is the case, we are proposing changes to the Relevant Documents to cater for differences that we consider to be needed as a result of the proposed offshore transmission arrangements.

6.3. The changes that we are proposing to the Relevant Documents are published in parallel to this document as a series of annexes. Each separate document contains:

- an overview of the changes that are proposed to the Relevant Document; and
- the proposed amendments to the Relevant Documents, marked up on a defined baseline version of the Relevant Document

6.4. The table below summaries the Relevant Documents to which changes are proposed, the owner(s) of each document and gives an annex number to that document.

Relevant Document	Document Owner	Reference
BSC	Elxon	Separate Annex 2
CUSC	NGET	Separate Annex 3
DCUSA	DCUSA Limited	Separate Annex 4
Distribution Code	Distribution Licensees	Separate Annex 5
Grid Code	NGET	Separate Annex 6
STC	NGET, SPT and SHETL	Separate Annex 7
GBSQSS	NGET, SPT and SHETL	Separate Annex 8

## Interaction with Changes under Normal Governance Arrangements

6.5. As explained above, the owner(s) of each of the Relevant Documents were asked to prepare drafting for code change proposals that would meet our drafting instructions. In each case the changes proposed for offshore transmission are marked against baseline text for the Relevant Document that was current when the drafting was prepared.

6.6. Subsequent to development of the Relevant Document change proposals, changes have been made to some of the Relevant Documents as a result of the normal governance arrangements.

6.7. As part of our further development of the code change proposals for the implementation of the proposed offshore transmission arrangements, we will continue to assess these recent and future changes to Relevant Documents.

## Drafting Approach

### Extension of Current Onshore Arrangements

6.8. Where we considered that it was appropriate to extend the current onshore arrangements offshore, drafting has been developed:

- Extending the use of the term Great Britain within the Relevant Document, to include relevant offshore areas;
- Extending existing obligations offshore; and/or
- Defining the GB Transmission System or the Total System to include all licensed transmission systems (i.e. onshore and offshore).

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6.9. We intend that, where possible, a consistent drafting approach should be adopted across the Relevant Documents, which aligns with the drafting approach used for transmission licences.

6.10. We will progress the drafting work to address consistency points in conjunction with the drafting resource that has been made available by the owner(s) of each of the Relevant Documents. Such further drafting developments will be reflected in our next consultation on change proposals for the Relevant Documents. We anticipate that the second consultation on the codes will be published in August 2008.

### **Differences Considered Necessary for Offshore Transmission**

6.11. In certain cases we consider that, there is a need to introduce differences in requirements that apply offshore compared to the current onshore arrangements.

6.12. Further detail of the different considerations necessary for offshore transmission are set out in Appendices 5 and 6. Each appendix includes minded to positions for further consideration and sets out proposals, in regard to:

#### ***Grid Code***

- Classification of Offshore power stations
- Power Park Module
- Fault ride through
- Reactive Power
- Implementation proposals

#### ***GB Security and Quality of Supply Standard (SQSS)***

- Offshore Generation Connection Criteria- extension of scope and review of previous proposal
- Offshore Power Station Demand Connection Criteria- requirement to provide stand by supplies on the offshore platform

#### ***Balancing and Settlement Code (BSC)***

- Implementation proposals

#### ***Connection and Use of System Code (CUSC)***

- Early decommissioning of offshore transmission system assets
- Two stage connection application process
- Offshore Transmission Access (also discussed in chapter 7)
- Implementation proposals

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### ***System Operator Transmission Owner Code (STC)***

- Extend STC governance arrangements
- Offshore Transmission System Control
- Investment Planning
- Construction application process
- Standardised agreements between OFTO and NGET
- Mechanism for NGET to administer OFTO security payments
- Funding of OFTO works required as a consequence of another transmission licensee's investment plan
- Define offshore transmission capability requirements at the interface between an offshore transmission system and an onshore system
- Implementation proposals

### ***Distribution Connection and Use of System Agreement (DCUSA)***

- Extend existing customer group (IDNO) to include NGET as an operator of an offshore transmission system.
- Implementation proposals

### ***Distribution Code***

- Extend definition of embedded generator to include NGET as an operator of an offshore transmission system.
- Implementation proposals

**6.13. We welcome comment on the code drafting in the attached appendices.**

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## 7. Transmission charging, access and compensation

### Chapter Summary:

This chapter provides a further update on the proposals which were set out in the January 2008 regulatory policy update and sets out areas where we consider that a different approach is needed from the current onshore regime and where it is appropriate for NGET to undertake further analysis and consultation.

### Questions:

We seek views on our proposals that:

- ➔ The mechanism for compensation arrangements for offshore generators should be defined in the CUSC.
- ➔ The mechanism for the OFTO funding of any compensation payable in respect of availability of the offshore transmission system, to the offshore generator should be set out in the STC.
- ➔ The performance incentive (performance targets and penalty payments) should be set out in the offshore electricity transmission licence.

### Overview

7.1. Ofgem's January 2008 Regulatory Policy Update provided an update on the developments of Ofgem's key policy proposals in the areas of offshore transmission charging arrangements, access products for offshore generators and compensation arrangements in the case of access restriction. This chapter provides a further update on these policy proposals and sets out areas where we consider that a different approach is needed from the current onshore regime and where it is appropriate for NGET to undertake further analysis and consultation.

7.2. The key requirements for **transmission charging** proposals were:

- NGET, as onshore GBSO and offshore GBSO designate, would develop offshore transmission charging arrangements, using the current GB charging methodology as a basis; and
- the development of offshore transmission charging arrangements should not constrain the ongoing development of the onshore market (e.g. Scottish islands).

7.3. The key points to note from the previous update on transmission charging were:

- the vast majority of respondents were supportive of our proposed approach for developing offshore transmission charging proposals; and
- that changes needed for offshore transmission can be incorporated within the existing charging methodologies and where possible, offshore requirements should align with current onshore requirements.

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7.4. The key proposals for **access** were:

- the existing access product, Transmission Entry Capacity (TEC), will be assessed and adapted as necessary for offshore; and
- any further access products that are required to reflect features of intermittent generation will be progressed under normal governance arrangements.

7.5. The key proposals for **compensation** were:

- compensation arrangements will be aligned with the level of transmission infrastructure required to be available, using the principles of cost reflectivity. Changes from onshore arrangements will be minimal; and
- a penalty payment is proposed to be included in the offshore regime in order to incentivise OFTOs to maximise the availability of offshore transmission networks for use by offshore generators.

7.6. The key points to note from the previous update on access and compensation were:

- all respondents were supportive of our proposals for NGET to extend and develop offshore access products that are consistent with onshore arrangements;
- there was broad support for the proposal that compensation for access restrictions should be proportionate to the type of connection; and
- there was broad support for the principle of an OFTO incentive mechanism.

## **Respondents' view**

7.7. We received two responses to the transmission charging, access and compensation policy update provided in Ofgem's January 2008 Regulatory Policy Update.

7.8. Both respondents commented on the need for clarity and noted that the regime should mirror onshore where possible. These respondents noted reservations about NGET's offshore charging proposal to apply the full Locational Security Factor in the derivation of the locational element of the Transmission Network Use of System (TNUoS) charge. Both supported the derivation of offshore TNUoS charges based upon a lower security factor than that employed onshore to reflect the lower minimum offshore level of security relative to onshore.

7.9. One respondent advocated adopting a principle of wherever access is restricted, appropriate compensation should be made. Another respondent considered that for offshore users who opt and pay for the higher level of redundancy associated with



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the onshore standard for their connection, then appropriate compensation as per existing onshore arrangements should be paid.

7.10. One respondent considered that if offshore charging arrangements intend to reflect 100 per cent of the OFTO's revenue stream straight back to the offshore generator concerned, then it is likely that offshore generators may conclude that they are better off retaining ownership of the cables to shore as extensions of their power station and seek connection from the GBSO at an onshore connection point of their specification.

7.11. We note that NGET is currently consulting on proposals for the development of offshore charging arrangements and the application of a charging modification to develop arrangements for "local" generator assets. We note that NGET has stated that the proposed local charge was generally agreed to be cost reflective and appropriate for offshore connections. **We fully expect NGET to develop these proposals and their interaction with the offshore regime in the coming months.**

7.12. In terms of compensation arrangements in the case of access restriction, we consider that the treatment of offshore generators should be consistent with the onshore arrangements. Further detail on the compensation principles to apply offshore and the interaction with the proposed OFTO performance incentive mechanism is set out below.

## Updated position - Charging

7.13. We consider that the offshore transmission charging arrangements can be incorporated within NGET's charging methodologies. We remain of the view that the changes should be developed by NGET under normal governance arrangements and should be presented to the Authority for decisions in line with the offshore transmission project's timetable.

7.14. This approach was reflected in NGET's December 2007 consultation on its proposals to modify its TNUoS methodology to incorporate charging arrangements for users of offshore transmission systems. We note that the key features of this NGET modification proposal were that:

- The charging arrangements should provide for any offshore transmission/generation asset boundary up to the low voltage busbar at the offshore substation (consistent with the current onshore boundary arrangements)<sup>12</sup>.

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<sup>12</sup> The CUSC defines a default arrangement (HV side of the transformer) but permits other arrangements by agreement. Applying the principle offshore, we have developed the Grid

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- Each OFTO revenue stream should be recovered through the locational and residual (non-locational) elements of the TNUoS charges. Together the locational and residual elements of the TNUoS charge would collect the total OFTO revenue stream.
  - The costs of the offshore transmission cable circuits should be recovered from the relevant offshore generator(s), through a locational TNUoS tariff. NGET proposes that this locational tariff should be based on OFTO Specific Expansion Factors (“SEFs”) that form part of NGET’s transport model and that the SEFs would be derived by NGET from information supplied through the tender process.
  - Other costs associated with the offshore transmission system should be recovered through the residual element of the TNUoS charge.

7.15. In their consultation process for the proposed modification to the TNUoS charging methodology, NGET highlighted two significant issues:

- NGET's need for information about the offshore transmission system to properly allocate OFTO revenues between locational and residual elements of TNUoS charges; and
- The possible perverse incentives for an OFTO to incorrectly allocate locational costs.

7.16. A related feature of NGET's current proposal is that an additional process will be required to calculate connection charges to recover the cost of site specific single-use connection assets on the offshore platform<sup>13</sup> that form part of an offshore transmission system.

7.17. NGET questioned whether these issues could be addressed as part of Ofgem's tender process.

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Code to cater for both LV and HV ownership boundaries. Similarly, the offshore security standard has been developed so that it can extend up to the LV side of the offshore substation platform. The offshore ownership boundary is therefore consistent with the onshore regulatory framework.

<sup>13</sup> The CUSC drafting reflects NGET’s “normal” boundary expectation, i.e. a “standard” BCA will reflect a boundary at the HV busbar. Exceptions to this will be captured in bilateral arrangements to a “non-standard” BCA. Other boundary arrangements are permitted “by agreement”. Other arrangements are permitted “by agreement”, i.e. moving the ownership boundary closer to the generation station. For example, SHETL apply a “super-shallow” connection regime with the point of connection at the wind farm site.

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7.18. We anticipated that a conclusions report setting out NGET's proposed modification to the TNUoS charging methodology would be submitted to the Authority for approval in early 2008. This has been delayed due to ongoing discussion between NGET and Ofgem on the above issues.

### **Issues to be addressed**

7.19. We consider that NGET has developed a reasonably detailed modification proposal for its TNUoS charging methodology to extend current arrangements for offshore users of the transmission system. We note NGET's obligations that proposed modifications to the TNUoS charging methodology must meet NGET's primary objectives (as set out in Condition C5 of the transmission licence) and address issues that have been raised as part of the discussion and consultation process.

7.20. We have two main concerns about the basis of and justification for NGET's modification proposals. Our concerns relate to:

- NGET's assumptions about the information that will be collected as part of Ofgem's tender process; and
- The basis (definition of and justification for) of the split between locational and residual charging elements in respect of offshore transmission systems.

### **Way forward**

7.21. We consider that further work is needed to investigate our concerns about NGET's proposals for modifying the TNUoS charging methodology. On 30 May 2008, Ofgem sent a formal letter to NGET to request that it undertake further analysis and initiate a supplementary consultative process with industry to address the main concerns<sup>14</sup>.

7.22. The letter explains that this further analysis should expand the assessment already undertaken by NGET to also consider charging options for offshore generators that may contain elements that diverge from the existing onshore charging approach. The results of this further analysis should better enable NGET to demonstrate that it has performed a robust analysis of all the options available. We acknowledge that this further analysis may not identify a need for any changes to NGET's current TNUoS charging methodology proposals. However we consider that the further work will provide a fuller understanding of the implications of introducing

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<sup>14</sup> Available to download from NGET's website:  
<http://www.nationalgrid.com/uk/Electricity/Charges/modifications/uscmc/>

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charging arrangements for offshore generators as part of an integrated charging regime and allow the Authority to make an informed decision.

7.23. Given the importance of the issue, particularly to the economics of offshore generation projects, and to help keep the momentum of the work, we expect NGET to set out a more detailed timetable for progressing the offshore charging modification proposal as part of its next consultation document.

7.24. However, we would expect NGET to develop a charging modification proposal to introduce charging arrangements associated with offshore transmission networks in the coming months for submission to the Authority for approval in December 2008 and no later than 1 January 2009. This will allow the Authority to make a decision before 1 April 2009. We acknowledge that the approval of a modification to introduce offshore charging arrangements would have no practical effect as there would be no licensed offshore transmission systems until the offshore regime reaches "go live". However, we do not believe that it is prudent for NGET to delay the development of an enduring solution to coincide with the "go live" date and should strive to submit a proposal for approval as soon as practicable in order to realise the wider benefits from greater clarity on the charges offshore users will face (most notably to the tender process).

## **Update - Transmission access and compensation**

7.25. NGET has been developing proposals for access and compensation arrangements for offshore generators connected to an offshore transmission system that are based on existing access products.

7.26. NGET published a document outlining its conclusions for offshore access and compensation arrangements in March 2008<sup>15</sup> that was used to form the basis of NGET's drafting for the CUSC to apply under the offshore electricity transmission regime. These conclusions were informed by the views presented at the offshore workshop, convened by NGET on 3 December 2007, on the rights and obligations associated with access to offshore generators and responses to the questions posed in the published notes of this workshop.

7.27. In terms of offshore access, NGET's main conclusions and recommendations were as follows:

- The arrangements applied onshore when connections are not fully compliant with the SQSS have comparable levels of redundancy to the minimum security

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<sup>15</sup> Document published on 20 March 2008. Available from National Grid's website: <http://www.nationalgrid.com/NR/rdonlyres/9A9C1C08-8801-46FF-97C5-8DF4E733AAB1/24366/OffshoreElectricityTransmissionAccessandCompensati.pdf>

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standard proposed for offshore connections and hence should set a precedent for offshore arrangements;

- The principles applied to customer requested design variations should be extended to offshore connections; and
- If a restricted capacity has to be shared between parties, entitlements should be set by pro-rating the different parties' capacities.

7.28. In terms of compensation arrangements for access restrictions, NGET's main conclusions and recommendations were as follows:

- Offshore transmission users should be compensated for a loss of access due to a problem on the onshore component of the transmission system on the same basis as onshore users;
- The compensation arrangements applied onshore when connections are not fully compliant with the SQSS set the best precedent for offshore arrangements;
- 'CAP048' style compensation payments will only be available to offshore users who have a connection standard equivalent to the minimum standard specified in the SQSS for onshore users. Should a connection not have full redundancy, no compensation for loss of access ("CAP048 compensation") will be provided if a fault occurs in the non-compliant section of circuit;
- Any 'CAP048' compensation should cover the onshore component of charges as well as the offshore component; and
- However, NGET also continues to consider that compensation from an OFTO incentive scheme may be appropriate, given that the OFTO would have influence over offshore network reliability. A possible source of compensation to offshore users in the event of an offshore access restriction could be the OFTO under an Incentive Framework. This framework could be included in the OFTO's licence which is currently being developed by Ofgem.

7.29. In terms of NGET's offshore access conclusions we note that the minimum offshore transmission system connection requirements (to meet the minimum security requirements defined in the offshore SQSS) for offshore generators allow for a connection by a single offshore transmission circuit (i.e. there is no alternative connection if that transmission circuit is out of service). This reflects the high cost of offshore transmission system infrastructure. Offshore generators do not need to incur the costs associated with having fully firm transmission access rights in respect of the offshore transmission system.

7.30. In terms of the firmness of access rights, we note NGET's conclusion that the access rights should be firm in respect of the onshore transmission system (unless the customer has specifically requested a connection to a standard lower than the minimum requirements defined in the onshore SQSS) and not firm in respect of the

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offshore transmission system (unless the customer has requested a higher level of security than the minimum requirements defined in the offshore SQSS).

7.31. We also note that the firmness of transmission access rights offered by NGET reflects the level of redundancy on the transmission system. Onshore, the SQSS requires a connection to a generator to have full redundancy (i.e. requires there to be an alternative connection that can accommodate the full, contracted level of export from the generator if one circuit is out of service) as a minimum standard. Offshore the SQSS will not require an offshore transmission system providing a connection to an offshore power station to have full network redundancy. The standard CUSC compensation arrangements that currently form part of the access arrangements are based on the fact that normally, onshore the generator's contracted output can be exported should a single transmission circuit be out of service. There are many examples onshore where a generator has requested and agreed to exceptions to these standard CUSC arrangements when seeking a connection of a lower level of security for a power station<sup>16</sup>.

7.32. We consider that the treatment of offshore generators should be consistent with the onshore arrangements. We have previously stated that the current compensation arrangements defined in the CUSC, should not apply directly for outages on an offshore transmission system.

7.33. We note that concerns have been raised about the impact on offshore generators of not being entitled to compensation for constraints due to the unavailability of an offshore transmission system.

7.34. We also appreciate the wider concerns about the possible impact of prolonged outages of an offshore transmission system. We have also recognised the need to develop OFTO performance incentives in respect of the availability of an offshore transmission system (i.e. to provide incentives for an OFTO to ensure that an offshore transmission system is returned to service in a timely manner following a planned or unplanned outage). We propose to carry out further analysis and develop an annual performance target in respect of offshore transmission system availability for inclusion in the OFTO's transmission licence.

7.35. We consider that an offshore generator should be entitled to compensation for lack of access if an OFTO fails to meet its annual performance target. We consider that this compensation should be no greater than the penalty imposed on the OFTO. We consider that the current CUSC compensation arrangements could be developed to introduce a mechanism for providing compensation to an offshore generator if the OFTO has failed to meet its annual performance target. We consider that it would be

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<sup>16</sup> The GBSQSS permits a transmission licensee to design a connection which does not align with the minimum security levels subject to specified conditions. One of these conditions is that the generator has requested a design variation.

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appropriate to base such a mechanism on the current CUSC compensation arrangements so that compensation was only payable if the offshore generator would otherwise have been able to use its transmission access rights. The compensation payment would be made by the GBSO but funded from the OFTO penalty.

7.36. We are minded to develop arrangements that provide a mechanism for providing compensation for an offshore generator for lack of offshore transmission system availability when an OFTO has failed to meet its performance incentive. We propose that these offshore generator compensation arrangements should be defined in the CUSC and that the mechanism for OFTO funding of any compensation payable to the offshore generator should be defined in the STC.

7.37. We note that the current CUSC arrangements allow for the scope of compensation arrangements to be amended to exclude outage conditions defined in the bilateral agreement between the generator and NGET. This is often used to deal with customer choice design variations onshore. We consider that if the offshore generator chooses (and pays for) redundancy in the offshore part of its transmission connection, then the CUSC arrangements should allow for the scope of the compensation arrangements to be amended to include any offshore transmission system outage conditions that are defined in the bilateral agreement between the generator and NGET. We further note that should there be redundancy in the design of an offshore transmission system when not requested by the offshore generator, then we would expect the offshore generator to benefit in a similar way through defined compensation arrangements.

7.38. In terms of NGET's offshore compensation conclusions we note NGET's recommendation that in the event of an access restriction that is caused by a fault outage onshore then the generator will get a "CAP48" rebate of the onshore and the offshore TNUoS charge. We consider that further work is required to investigate whether it is appropriate for the OFTO to pay the offshore TNUoS element of compensation and the allocation of risk between the offshore generator and the OFTO. We propose that NGET carry out further analysis on the "CAP48" rebate of the onshore and the offshore TNUoS charge and consider how such an approach would be factored into the competitive tender bid process.

**7.39. We are minded that the CUSC should define arrangements that enable an offshore generator to benefit from an enhanced transmission access product (e.g. provides for compensation to be paid in respect of defined offshore transmission system outage conditions), if the offshore generator has requested and paid for full or partial redundancy in its offshore transmission system connection.**

7.40. We recommend that a "minded to" position in respect of our proposal that offshore generators should be eligible to receive compensation for lack of access to the transmission system, if the availability of the offshore transmission system does not meet an annual availability target performance level should be presented in our next consultation. We will also consult on our proposals that:

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- The mechanism for compensation arrangements for offshore generators should be defined in the CUSC.
  - The mechanism for the OFTO funding of any compensation payable in respect of availability of the offshore transmission system, to the offshore generator should be set out in the STC.
  - The performance incentive (performance targets and penalty payments) should be set out in the offshore electricity transmission licence.



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## 8. Implementation Summary

### Chapter Summary

This chapter explains how we intend to implement the proposals we have outlined in this document. It also provides an outline of our timetable for delivering these proposals.

### High level milestones

8.1. We anticipate the key high-level milestones and dates to be as follows:

June/July 2008	Publication of this document and Impact Assessment; BERR/Ofgem External Communication Session
July 2008	Initial consultation on tender regulations
September 2008	Publication of draft tender documentation and second consultation on draft licence, code and technical standards modifications
October 2008	Second consultation on tender regulations
December 2008	Final Consultation on full regime (ending February 2009)
December 2008	Anticipated adoption of powers under Energy Bill
April 2009	'Go-Active' commencement of sections 90, 91 and 92 of the Energy Act 2004.  Modifications made to licences and associated codes and technical standards  First tender process commences
April 2010	'Go-live' commencement of sections 89 and 180 of the Energy Act 2004.

### Implementation of changes to licences and codes

8.2. The Government will implement those changes to the standard licence conditions and industry codes that it considers necessary to implement the offshore transmission regime by commencing section 90 of the Energy Act 2004. Before implementing those licence changes, we expect to adopt an ongoing process of pre-consultation on draft licence conditions and code changes, and a formal consultation of up to 90 days on final legal text for licence and code changes.

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8.3. The Government may then commence section 90 of the Energy Act 2004 to enable the Secretary of State to make the appropriate modifications to the existing standard licence conditions of transmission and distribution companies and amend the industry codes.

### **Extension of the GBSO role offshore**

8.4. The Government will extend the role of the GBSO offshore by making appropriate modifications under section 91 of the Energy Act 2004. This will require some consultation on amendments to the GBSO licence.

### **Implementation of the tender regulations**

8.5. The Government will introduce the powers to the Authority by commencing section 92 of the Energy Act 2004, alongside any changes resulting from the Energy Bill. This will allow the Authority (subject to Secretary of State approval) to make tender regulations to implement the tender process for the award of offshore transmission licences. Before implementing the tender process, we expect to adopt the following process:

- An ongoing process of pre-consultation on draft tender regulations;
- The commencement of section 92 of the Energy Act 2004;
- Tender Regulations being submitted to the Secretary of State for approval;
- Implementation of the tender process once the regulations take effect.
- Ofgem will be engaging with transitional projects to help ensure that tender exercises can begin as close as possible to the Go-active date.
- Ofgem will be organising resources for tender teams and developing internal governance procedures to ensure that they are fully prepared for Go-active.

### **National Grid**

8.6. NG in its role as GBSO is engaging with potential transitional projects and plans to hold workshops on Codes (19 June) and Getting Connected (Late Summer) to help develop the regime and prepare stakeholders for its introduction.

### **Other issues**

8.7. In addition to modifications made by the Secretary of State under the Energy Act of 2004 some aspects of the regime may be implemented through other mechanisms, for example, some elements of the regulatory regime may be implemented through the insertion of special conditions into the licences of each

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OFTO. Ofgem intends to publish and consult upon model special conditions as a guide to the form that these might take. The implementation of relevant business systems for running the tender process will be undertaken by Ofgem and, where appropriate, NG as GBSO.

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## Appendices

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## Appendix 1 - Detailed analysis of responses to Ofgem January 2008 Regulatory Policy Update

### Appendix Summary:

This appendix provides more detail on the responses received to Ofgem's January 2008 Regulatory Policy Update. It follows the same structure as the questions asked in that document. We have also included comments made not in direct response to a question. The Chapter also contains responses to a number of individual points or cross-references to other parts of this document. However, in a number of instances, responses were in respect of issues being taken forward in the consultation where we have yet to form a view. In these instances we have provided an indication of how these matters are being taken forward.

### Design of the regulatory regime

Question 2.1: Do you agree with our proposals for the design of the regulatory framework as outlined in this chapter?

*Views on our proposal that the period of the regulatory revenue stream should be 20 years*

Eleven respondents commented on the 20 year revenue stream. Four respondents agreed that 20 years is appropriate with Energywatch suggesting that a longer period would place unnecessary risk on consumers. Others welcomed the greater clarity on the rationale for the 20 year period proposal, but noted that it was inconsistent with onshore arrangements, crown estate leases and work on the GBSQSS. Other views included that a longer period was a more attractive investment and that the OFTO and generator should negotiate the period flexibly. This issue is covered in Chapter 2 of this document.

*Views on our proposed approach for dealing with the end of the regulated revenue stream*

Eleven respondents commented on arrangements at the end of the revenue stream. EDF suggested that a retender would be the most efficient solution, but others felt an extension of the licence to be more appropriate. For example, NGET suggested that the opportunity to extend the licence would incentivise the OFTO to maintain the assets. Energywatch agreed with a flexible approach, but Warwick suggested that it introduced uncertainty. British Energy and E.ON noted that retendering would be extreme if the generation asset's expected lifetime was only a few more years. Scottish Power (SP) Generation suggested that the OFTO should be allowed to offer a new revenue stream, with the Authority deciding if it was acceptable. Three respondents noted that adequate notice should be given before the licence is revoked. This issue is covered in Chapter 2 of this document.

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*Views on our proposed policies for dealing with potential adjustments to the revenue stream*

Twelve respondents commented on adjustments to the revenue stream, with E.ON and SP (Generation and Network) supporting the 20 per cent threshold. NGET felt the proposed approach was pragmatic as it enabled flexibility. However, SP Networks stated that there needed to be clarity on borderline cases, with NGET suggesting some flexibility on the trigger point. Centrica suggested that the 20 per cent cap did not promote innovation of future expansion and DONG felt the proposed cap was arbitrary and impractical.

There was some support for not having predefined adjustment mechanisms, with NGET noting that they are difficult to develop. However, SP Generation argued that excluding them would lead to higher risk premiums, potentially making some projects unviable. Airtricity stated that to maintain investor confidence, the OFTO should not have original agreements compromised by re-opening. This issue is covered in Chapter 2 of this document.

*Views on our proposed policy on performance obligations, incentives and penalties;*

Of the thirteen responses, most supported the use of performance obligations, incentives and penalties, with British Energy suggesting it would encourage efficiency. However, various concerns were voiced regarding the details. Of those that specified, two respondents supported symmetric incentives (as above target performance would benefit generators and their customers) and two supported asymmetric incentives (as it would incentivise quick and efficient repairs). NG (GBSO) noted that the availability incentive should not discourage effective maintenance. Warwick suggested that 97 per cent availability was an arbitrary figure, with RWE suggesting 98.5 per cent as a more appropriate level. Three respondents suggested that the OFTO had little control over ongoing losses, and that the incentive should be built into the pre-construction plans. Two respondents supported an annual review, but RWE argued that a multi-year review may be more appropriate. This issue is covered in Chapter 2 of this document.

*Views on our proposals for reporting arrangements*

Eight respondents commented on our proposals for reporting arrangements. They were generally content with the proposals, with no major concerns. Centrica and SP Networks supported infrequent reporting. DONG suggested that it should be on an annual basis. Centrica noted that sufficient discussion with the OFTOs should occur during the initial stages. GBSO felt it reasonable to base arrangements on onshore principles. SP Networks questioned the feasibility of not having interim reviews during a 20 year regime. This issue is covered in Chapter 2 of this document.

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*Views our proposed policy for addressing generator requirements in particular any information from respondents that suggests there is justification for different arrangements to apply*

We received six responses concerning generator requirements. DONG agreed with the proposed approach and GBSO supported the extension of onshore arrangements. NG requested clarification on the details of additional network services requested by GBSO from the generator. Siemens raised various technical issues, and their potential to affect the success of the tender process. SP Generation and Centrica commented on changes to initial specifications, noting that the generator should benefit from the cost or benefit of any changes. This issue is covered in Chapter 2 of this document.

*Question 2.2: Do you feel that there is any aspect of the design of the regulatory regime that we have not considered sufficiently?*

Scottish and Southern Electricity (SSE) argued for the inclusion of Distribution Network Owners on the risk matrix, as without their inclusion there was potential for sub-optimal risk assessment and allocation. SSE also argued that ring-fencing requirements were complex and bureaucratic.

There were some comments on risk, with SP Generation noting that the risk with the decommissioning phase had not been covered. Although not explicitly included in the January documents, decommissioning proposals were included in the July 2007 Policy Statement.

DONG expressed concerns about the potential loss of material economic benefit with the ending of the exemption from licensing for existing projects that connect at 132kV.

## **The competitive tender process**

*Question 3.1: Do you agree with our proposals for the design of the tender process as outlined in this chapter?*

*Views on the point at which we propose the enduring tender exercise be triggered, including for those generators that already have a connection agreement in place;*

Of seven responses, five supported the tender process being triggered by the request for a connection, with NG noting that no further information would be available when the connection offer was made. However, British Energy and Centrica argued for a trigger upon acceptance of the connection offer, as it would provide more certainty of generator commitment before a tender exercise commenced. NG (GBSO) noted that the connection application was confidential until the offer was accepted and therefore, licence obligations on confidentiality might need to be reviewed together

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with relevant code provisions. This issue is covered further in Chapter 3 of this document.

*Views on the roles and responsibilities of participants in the tender process*

There were six responses on this issue. Some respondents requested further consideration of the roles and responsibilities (including on surveys, leases, and consents). Two respondents suggested the generator should be involved in assessing and selecting the revenue stream. Other respondents argued that it was important for the bidder and developer to be fully engaged during the tender process.

*Views on the financial commitments required from the preferred bidder*

Of the three responses on financial commitments none explicitly opposed the need for such commitments, but there were suggestions on how they should function. NG argued that it might be impractical to seek full investment commitment from the preferred bidder in advance of the final OFTO licensing decision. SP Generation argued that the level of commitment should be reflective of costs incurred by GBSO in running the process and should be recovered from developer and those tendering for the OFTO licence.

*Views on whether the connection application and tender processes could be streamlined further*

We received seven responses on streamlining the tender process. Three of these were on the pre-qualification process, with a suggestion of making it a one-off process. RWE suggested initiating the EOI one month prior to the tender window, once all qualifying projects were known. E.ON suggested that the best offer should be produced from the outset, as the BaFO stage could undermine efficiency. SP Generation felt that the BaFO stage should be optional. Centrica suggested keeping the period for receiving competent bids to three months. NG thought that as complexity was unavoidable, streamlining could only take place once experience is gained. DONG argued that the developer should construct the connection, with the tender process taking place post construction.

*Question 3.2: Do you feel that there is any aspect of the tender process that we have not considered sufficiently?*

Four respondents argued against annual tender windows, but EDF felt the arguments for them were well founded. This issue is covered further in Chapter 3 of this document.

Three respondents put forward arguments for having an OFTO of Last Resort in the enduring regime.

Warwick suggested that suitable ring-fencing is needed at Ofgem, and SP Generation noted that Ofgem should demonstrate that they are adequately resourced to run the tender. Ofgem is developing its internal governance and resource requirements presently.



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Siemens highlighted the possibility of EU Public Procurement rules applying to OFTOs in their sub-contracts and that this might have an impact, for example, on consortia bidding.

## Transitional arrangements

*Question 4.1: Do you agree with our proposals for dealing with generators that will be subject to the transitional arrangements as outlined in this chapter? In particular, we would welcome your views on:*

*Views on our policy proposals for the OFTO of last resort provisions*

The majority of the ten responses supported the proposals for an OFTO of Last Resort for transitional projects. However, British Energy and RWE argued that the developers may lack the relevant skills to be an operator. British Energy thought it was more logical to appoint an existing transmission licensee as the OFTO of Last Resort. Centrica commented on the costs of ring fencing. Put alongside the potential risk of unbundling under EU rules, this may deter a generator from becoming an OFTO of Last Resort. Warwick argued that the developer shouldn't have to bid if no one else bids, but EDF stressed that the Authority needs to be confident that in becoming the OFTO of Last Resort the developer hasn't deterred other bidders. SP Generation argued that there should be an OFTO of Last Resort in the event of insolvency or licence revocation. This issue is covered in Chapter 3 of this document.

*Views on our proposals for providing ex ante comfort on funding of capital costs*

Of the seven responses on comfort and funding, only EDF stated that the guarantee was reasonable. Three respondents requested clarity on the determination of efficient costs. E.ON questioned the likelihood of getting greater than 75 per cent, and they stated that the comfort is of limited benefit. Warwick felt the proposals added risk of a loss on the assets and suggested that it is unclear how costs would be allocated between locational and non-location projects. They argued that the best measure of actual costs is the cost incurred, with SP Generation noting that the contract prices represented the best prices achievable in the market. This issue is covered in Chapter 3 of this document.

*Views on our proposals for applying our anticipated powers for the transfer of assets*

We received four responses regarding the transfer of assets. Most of the comments were positive and respondents were reassured by our explanation of the powers. SP Generation suggested that parties should have time to negotiate a commercial arrangement before the exercise of powers under the energy bill to enforce a transfer. SP Generation also noted that these powers should be a last resort. We can confirm that these powers are a last resort and Ofgem would need to be invited to make a transfer scheme either by the asset owner or the OFTO. We would normally expect parties to reach a commercial agreement for transfer without the need for a scheme.

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*Question 4.2: Do you feel that there is any aspect of the transitional arrangements that we have not considered sufficiently?*

E.ON questioned the need of a parent company guarantee. Centrica noted that they operate on a balance sheet basis and will not experience financial close as detailed in policy statement. We recognise that the notion of full financial close might not be appropriate in all circumstances.

RWE noted that there is uncertainty concerning interaction of tender process and connection process. This document (Chapter 3 and Appendix 6) and future consultation on the tender process will help clarify the interaction.

## **Cost recovery**

*Do you agree with our proposed approach for using the powers the Government is seeking through the Energy Bill?*

Of the ten responses on the Energy Bill, four agreed with our proposals. Various comments were made around who will bear what costs. SP Generation stated that there should be an indicative schedule of payments at the EOI stage with a full explanation of any escalation from the figures provided. RWE were concerned that using the Energy Bill may introduce a delay in implementing the regime. They would also welcome information on what the likely level of costs will be. RWE also commented on Ofgem's competence and the potential conflict with Ofgem hearing appeals. Ofgem are developing their governance procedures for the tender process and are also seeking to streamline the tender process which would have a positive impact on the cost of running tenders.

## **Technical rules**

There were five responses to this chapter. E.ON noted that the security requirement within the STC seemed appropriate, and EDF was largely positive regarding the STC work. Warwick requested an indication of when a decision will be reached regarding the three options for control within the STC. Warwick also raised some issues concerning the GBSQSS in relation to the offshore platform transformers, busbars and switchgear and raised concerns with the definition of connection conditions. These issues will feed into the development of technical rules.

## **Charging, access and compensation**

There were three responses to this chapter. Airtricity and SSE commented on the need for clarity. They were concerned about the pace of development and the potential for offshore generators to be discriminated against. Airtricity and SSE noted that the regime should mirror onshore where possible. They were concerned about developments with National Grid in relation to TNUoS charges for the GBSQSS. SSE discussed TNUoS charging arrangements and the possibility that a generator may

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conclude that they are better off retaining ownership of the cables to shore as extensions of their power station and thus seeking connection from the GBSO at an onshore connection point of their specification. These issues will be covered in the appropriate consultation work streams.

## **Connection via distribution networks**

GBSO outlined the work they have been doing and plan to do in this area.

## **Implementation issues**

*Do you agree with the proposed approach for developing changes to the licences and industry codes?*

Of the eight responses to this chapter, five respondents noted that the timetable was challenging or ambitious. There were comments about adequate time being required to consider the changes and to respond. Three respondents requested they are kept informed of changes – with British Energy and EON requesting advance notice. As set out in this document we have now added a further consultation cycle to allow more time to consult with stakeholders.

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## Appendix 2 - Full list of respondents to Ofgem January 2008 Regulatory Policy Update

1.1. BERR and Ofgem would like to thank the following for their responses to Ofgem's January 2008 Regulatory Policy Update.

Airtricity  
British Energy  
Centrica  
DONG Energy  
EDF Energy  
Energywatch  
E.ON UK  
National Grid (TO)  
National Grid (GBSO)  
RWE npower  
Scottish and Southern Energy  
Scottish Government  
Scottish Power Generation  
Scottish Power Networks  
Siemens  
Warwick Energy

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## Appendix 3 - Consultation Response and Questions

1.1. BERR and Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document.

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 25 July 2008 and should be sent to:

Offshore Transmission Team  
OFGEM,  
9 Milbank,  
London,  
SW1P 3GE

Or by email to: [offshoretransmission@ofgem.gov.uk](mailto:offshoretransmission@ofgem.gov.uk)

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. BERR/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:

Mr Sam Cope,  
OFGEM,  
9 Milbank,  
London,  
SW1P 3GE  
020 7901 7239  
[Sam.Cope@ofgem.gov.uk](mailto:Sam.Cope@ofgem.gov.uk)

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### Questions - Chapter 2

We would welcome views on our approach to the following issues:

- ➔ Revenue adjustments – should the regulated revenue stream be adjusted and, if so, how should this be designed?
- ➔ Incremental capacity – what are your views on our updated position?
- ➔ What are your views on the appropriate structure and level of OFTO performance incentives; including how much of the regulated revenue stream should be exposed to such incentives?
- ➔ What should be the role of the generator in defining the level and structure of performance incentives ex ante as part of their requirements?
- ➔ What actions should be taken in the event of persistent OFTO underperformance?

### Questions - Chapter 3

We would particularly welcome views on the following:

- ➔ The proposed pre-conditions for the enduring tender process, and in particular whether there are any other pre-conditions that it would be appropriate to consider.
- ➔ The proposed approach for treating seabed surveys in the enduring regime.
- ➔ The proposed linkage between the tender process and the connection process.
- ➔ The proposed approach for OFTOs to provide construction security.
- ➔ The proposed approach that the preferred bidder will make its offer of construction through the normal STC process.

### Questions - Chapter 5

- ➔ Does the licence drafting reflect our policy positions?
- ➔ Are there any other issues that should be addressed through licence changes?

### Questions - Chapter 6

- ➔ Does the drafting in the annexed codes accurately reflect the policy positions set out in this document?

### Questions - Chapter 7

We seek views on our proposals that:

- ➔ The mechanism for compensation arrangements for offshore generators should be defined in the CUSC.
- ➔ The mechanism for the OFTO funding of any compensation payable in respect of availability of the offshore transmission system, to the offshore generator should be set out in the STC.
- ➔ The performance incentive (performance targets and penalty payments) should be set out in the offshore electricity transmission licence.

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## Appendix 4 – List of other consultation documents

1.1. As described in the main body of this document, we are consulting on a range of amendments to industry codes, the transmission licence and the GBSSQSS. The drafts of these documents are published in parallel to this document as a series of Annexes. The table below lists the relevant documentation.

<b>Document</b>	<b>Separate Annex No.</b>
<b>Consolidated Transmission Licence</b>	<b>1</b>
<b>BSC</b>	<b>2</b>
<b>CUSC</b>	<b>3</b>
<b>DCUSA</b>	<b>4</b>
<b>Distribution Code</b>	<b>5</b>
<b>Grid Code</b>	<b>6</b>
<b>STC</b>	<b>7</b>
<b>GBSSQSS</b>	<b>8</b>

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## Appendix 5 - Detail of Technical Rules and Industry Codes

1.1. This annex sets out our proposals on the issues outlined in Chapter 5.

1.2. In certain cases we consider that, in some areas, there is a need to introduce differences in requirements that apply offshore compared to the current onshore arrangements.

1.3. ***Further details of the different considerations necessary for Offshore transmission are set out below.*** For clarity, we have grouped the Relevant Documents into four main areas where we consider that different treatment is required offshore. These groups consist of the:

- **'Technical Rules'** - The technical requirements for parties providing or using parts of the GB transmission system;
- **'User Facing Relevant Documents'** - Arrangements (other than technical rules) between the GBSO and a generator connected to an offshore transmission system;
- **Transmission Licensee Relevant Documents** - Arrangements (other than technical rules) between transmission licensees; and
- **Transmission Licence Obligations** - Arrangements (other than technical rules) set out in the transmission licence. ***These are set out in chapter 5.***

1.4. We are considering whether the current definition of Force Majeure in the Relevant Documents is appropriate for offshore. In particular we have reservations about the relevance of "storms" as a Force Majeure circumstance in the offshore environment. ***We would welcome views on this point and evidence from other offshore arrangements that can be provided.***

### Technical Rules

1.5. We consider that the Technical Rules are defined in the **Grid Code, GBSQSS, Distribution Code and parts of the STC.**

1.6. We now set out our views on the nature of the proposed differences and the need to introduce differences from the onshore arrangements as part of the offshore transmission arrangements for each of the Grid Code and the GBSQSS in this section. We have presented our consideration on an issue by issue basis.

1.7. Our views in respect of changes to all aspects of the STC are set out in the Transmission Licensees Relevant Document section. Our views in respect of changes to the Distribution Code are set out in the Connection Application Process chapter.



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## Grid Code

### *Summary of Previous Policy Proposals*

1.8. We have previously proposed and consulted on the need for different treatment of a generation plant connected to an offshore transmission system in respect of:

- The classification of Offshore Power Stations (through the definition of Large Power Station and Small Power Station);
- The configuration of a generating plant within an offshore wind farm that a generator may register as a Power Park Module;
- Reactive power capability; and
- Fault ride through capability.

### *Updated Policy Position*

1.9. In this section we set out our updated position in respect of the differences needed in the Grid Code as part of the offshore transmission arrangements. We explain our positions and our proposals for implementation by changes to the Grid Code.

1.10. Our views on changes to the Grid Code needed to introduce the proposed offshore transmission regime, have been informed by the recommendations made by the Grid Code sub group, issues identified during the drafting process and responses to our previous consultation. ***We invite views on the drafting presented by NGET.***

1.11. We have previously decided that the current Grid Code obligations should be extended as part of the offshore transmission arrangement unless there is justification for different treatment. As set out below, we have now decided to endorse two of the recommendations provided by the Grid Code sub group, and have set out minded to positions on other issues. We also propose that other recommendations for different treatment of offshore generators, provided by the Grid Code sub group, should be endorsed.

### *Power Park module*

1.12. The Grid Code sub group recommended that offshore generators should be able to register more than one string of wind turbines connected to a single busbar section as a single Power Park Module (and therefore as a single trading unit). We note that there are differences between the design of an offshore wind farm compared with an onshore wind farm. We also note that the current definition of Power Park Module allows the generator to register an onshore wind farm as a single Power Park Module but would not allow a generator to register a similar (in terms of impact on the transmission system) offshore wind farm as a single Power Park Module.

1.13. We do not consider that there is justification to apply the current onshore restrictions directly to offshore generators. We consider that the relaxation recommended by the Grid Code sub group will facilitate equivalent treatment of

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offshore and onshore wind farms by applying technical compliance requirements and energy trading arrangements on a consistent basis.

1.14. We propose to relax the restrictions (defined in the Grid Code) on the generating plant that a generator may choose to register as a Power Park Module.

#### *Fault ride through*

1.15. We note that there is a general requirement defined in the Grid Code for generators to be capable of remaining operational and connected to the transmission system during faults on other parts of the GB transmission system. The Grid Code sub group recommended that offshore generators should be able to choose whether to comply with the fault ride through capability requirements (as defined for onshore generators) or to comply with a generic fault ride through capability requirement defined at the offshore connection point between an offshore power station and an offshore transmission system.

1.16. We acknowledge that at the initial connection offer stage, the offshore generator may not have sufficient firm information about the design of the offshore transmission system, to properly interpret the current fault ride through capability requirements defined in the Grid Code. We note that NGET considers that it is possible to define a generic requirement in the Grid Code, based on its interpretation of assumptions about likely offshore transmission system configuration and data from generating plant manufacturers, that would be equivalent to the current requirement and therefore not introduce additional system operation risks. We also note that generator representatives on the Grid Code sub group were keen for the generator to be able to choose the fault ride through capability requirements that the offshore power station would need to comply with.

1.17. We propose to allow an offshore generator to choose whether to comply with the fault ride through capability requirements as defined for onshore generators or to comply with a generic fault ride through capability requirement defined at the offshore connection point between an offshore power station and an offshore transmission system.

#### *Definition of power station*

1.18. The Grid Code sub group recommended that the definition of Large Power Station should be amended to include power stations of 10MW or above that are connected to an offshore transmission system and that the definition of Small Power Station should be amended to include power stations of less than 10MW that are connected to an offshore transmission system.

1.19. A concern was raised in response to our last update document about the justification for classing offshore power stations of 10MW or above as Large Power Stations. We asked NGET for further information to inform BERR's IA. NGET advised that the 10MW threshold was selected because it would:

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- Prevent generators from registering a large offshore wind farm as a number of Small Power Stations that would be exempt from technical requirements;
  - Match the offshore arrangements with the existing threshold that applies in the SHETL area, as offshore networks are radial with very little interconnection and so are comparable to the Scottish transmission network; and
  - Facilitate development of small scale<sup>17</sup>, prototype generation technologies.

1.20. NGET noted potential issues associated with large volumes of generating plant that are not required to have the minimum technical capability defined in the Grid Code. NGET explained that it was not able to quantify the impact of large volumes of generating plant being unable to either maintain a minimum active power output profile as system frequency falls although this would result in an increase in system operating costs, or being unable to remain connected and operating during system disturbances although this would increase the risk of a system shutdown. NGET has estimated transmission system investment costs of about £55 million would be needed to make up for a shortfall in generating plant reactive power capability and additional frequency response costs of £50m per annum should offshore generators be able to avoid frequency response capability requirements.

**1.21. We are minded to change the Grid Code definitions of Large Power Station and Small Power Station in line with the Grid Code sub group's recommendation.**

*Reactive Power*

1.22. The Grid Code sub group recommended that offshore generators should not be required to provide reactive power capability at the offshore Grid Entry Point but that the OFTO should be required to provide reactive power capability at the interface point between the offshore transmission system and the onshore system (transmission or distribution). Drafting of a change to the STC for the proposed equivalent OFTO requirement has been developed and is included as part of the STC change proposals.

1.23. We acknowledge that reactive power is not easily transported, particularly over long lengths of underground cable, therefore we agree that it would not be efficient to use the offshore transmission cable to transfer reactive power from the offshore connection point to the onshore system.

1.24. We consider that the OFTO costs of meeting the reactive range capability requirements at the interface point with the onshore system should be recovered through the offshore generator's charges (and not recovered on a non-locational basis as other transmission licensee owned reactive compensation plant). We

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<sup>17</sup> Less than 10MW.

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consider that such an arrangement will ensure that offshore and onshore generators are liable for similar costs for the provision of reactive power capability. We note that the proposals for changes to the transmission charging methodologies that are being developed by NGET will take account of the allocation of OFTO costs associated with the proposed STC reactive power range capability requirements.

**1.25. We are minded to define reactive power capability requirements for offshore generators in line with the Grid Code sub group's recommendation.**

*Implementation Proposals*

1.26. We asked NGET to reflect all of our positions and our proposals to endorse Grid Code sub group recommendations when preparing the draft Grid Code change proposals. The Grid Code change proposal is included as separate Annex 6.

1.27. We previously consulted on the recommendation from the Grid Code sub group in respect of the amendments needed to the safety co-ordination arrangements defined within Operating Code ('OC') 8 of the Grid Code. This issue related to the alignment of safety coordination to Scottish standards for those generators connecting to the Scottish transmission system or to England and Wales standards for those connecting to the England and Wales transmission system.

1.28. We note that the Grid Code sub group recommended that OC8A (Operating Code No. 8 Appendix 1 - Safety Co-ordination in England and Wales) and OC8B (Operating Code No. 8 Appendix 2 – Safety Co-ordination in Scotland) should both be amended with identical changes to extend to interfaces with an offshore transmission system.

1.29. During the drafting process, NGET reported concerns that it was proving difficult to propose changes to OC8A and OC8B without introducing confusion in the definition of the safest co-ordination roles. NGET has presented change proposals for OC8 in a different format, which it considers achieves the Grid Code sub group's recommendation in a different manner.

1.30. NGET has proposed that two further appendices are added to OC8 to set out the arrangements for safety co-ordination for generators connected to an offshore transmission system that connects (directly or via an embedded connection) to NGET's transmission system and for safety co-ordination for generators connected to an offshore transmission system that connects (directly or via an embedded connection) to the SPT or SHETL transmission system. NGET has proposed that these two new appendices would be based on the two existing appendices.

1.31. We have consulted with HSE about the proposal to introduce additional appendices in OC8. We share HSE's concerns about the possible safety risks associated with the proposed introduction of these additional appendices. We do not consider it to be impossible to amend OC8A and OC8B as recommended by the Grid Code sub group in a clear fashion, however, in the time available it has not been

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possible to develop this drafting. We seek views on the proposed changes to OC8 and our proposal to develop amendment proposals for OC8 drafted by NGET and our proposal to develop changes to OC8 that remove the need to create two additional appendices.

## **GBSQSS**

### *Summary of Previous Policy Proposals*

1.32. We provided an update in our January 2008 Policy Update about the work that we had asked NGET to carry out to develop GBSQSS change proposals that would implement the basis for the offshore security standard set out in the previous decision document. We have previously decided that the GBSQSS should be extended as part of the offshore transmission arrangements and defined the appropriate basis for the offshore security standard.

### *Updated Policy Position*

1.33. In this section we set out our updated position in respect of the development of the GBSQSS needed as part of the offshore transmission arrangements. We explain our proposals for further development works and our proposals for implementation of a security standard for offshore transmission systems by changes to the GBSQSS.

1.34. Our views on the further development work and the changes needed to the GBSQSS have been informed by NGET, issues identified during the drafting process and responses to NGET's targeted consultation during the drafting process.

1.35. We note that further analysis work (by The Centre for Sustainable Electricity and Distributed Generation (SEDG) and NGET) has informed a recommendation from NGET on security criteria for offshore transmission systems that were not covered by the original decision. The additional requirements include minimum requirements for the substation at the interface point between an offshore transmission system and the onshore transmission system and the minimum security criteria for overhead line sections of the onshore part of an offshore transmission system.

1.36. As previously noted, this further analysis also revealed an omission in previous analysis work that informed the Government's decision. Additional analysis work was carried out and the revised results have informed a recommendation from NGET for a change to part of the previous decision in respect of security requirements at the offshore transmission substation. Based on the results from the revised analysis, NGET recommended that redundancy should be required for connections to power stations of 90MW or above (and not limited to 120MW and above as previously concluded).

1.37. NGET carried out a targeted consultation with participants of the GBSQSS sub group. Some respondents to NGET's consultation have questioned the basis for a 90MW threshold in particular challenging the assumptions made about the offshore platform costs.

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1.38. We consider that this further analysis work should be undertaken by NGET (with assistance from SEDG and interested industry participants) to assess the sensitivity of the recommendation to amend the previous decision to assumptions about offshore platform costs. **This further analysis is needed before we are able to decide on NGET's recommendations in respect of the Offshore Generation Connection Criteria.**

1.39. We note that the scope of the proposed offshore security standard was limited to wind farms of 1500MW located 100km from the connection point to the onshore system. We recognise that this limit was due to the lack of information available at the time the analysis was carried out about possible connection design configurations and costs for such larger and/or more remote offshore wind farms. We recognise that the changes being developed to the GBSQSS will be similarly limited. We are concerned about the possible implications of such a limit in the scope of the GBSQSS. In particular we note that this would mean that the GBSQSS would not be applicable (without further review) to the design of transmission connections for Round 3 offshore generation projects.

1.40. We consider that this further analysis work should be undertaken by NGET (with assistance from SEDG and interested industry participants) to analyse and define the basis for an offshore security standard that can cater for generation projects of the size and location of R3 projects. **The GBSQSS Offshore Generation Connection Criteria require further development to define requirements for connection of wind farms larger than 1500MW and more than 100km from the shore.**

1.41. We note that NGET has recommended that the security criteria for offshore power stations are aligned with the requirements with the onshore security requirements for demands up to 12MW. We note that generators have raised concerns about the proposed minimum security requirements for offshore power station demand. We note that these concerns relate particularly to the proposal for demand levels of less than 1MW, that the standard would only require the offshore transmission system to be restored within repair time (which could be months) following an unplanned outage. We also note that generators have advised that if supplies are not available to a wind turbine for an extended duration, the turbine may become inoperable and do not consider that this was assessed as part of the development of NGET's recommendation for the offshore power station demand connection criteria. **We are minded to define Offshore Power Station Demand Connection Criteria in the GBSQSS as a part of the offshore transmission arrangements.**

1.42. We are concerned that the security requirements for offshore power station demand are more onerous than the generation connection criteria and may drive the need for additional transmission system investment (e.g. require redundancy in the cable circuits). We note that alternative supply facilities for offshore power station demand could be provided by a generating plant (e.g. diesel standby generating unit) located on the offshore platform. We understand that such an arrangement has been used for other types of offshore installations.

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1.43. We are minded to introduce a requirement within the CUSC for an offshore generator to provide back-up supplies for the offshore platform (that are available for use by the offshore generator and OFTO) unless the design of the offshore transmission system (to meet the Generation Connection Criteria) provides redundancy.

#### *Implementation Proposals*

1.44. We asked NGET to reflect our decisions, as amended by NGET's recommendations, when preparing the GBSQSS change proposal. The GBSQSS change proposal is attached as separate annex 8. ***We invite views on the drafting presented by NGET.***

## **User Facing Relevant Documents**

1.45. We consider that these include the BSC, CUSC and DCUSA.

1.46. We set out views on the nature of the proposed differences and the need to introduce differences from the onshore arrangements for the BSC in this section. We set out our views on the nature of the proposed differences and the need to introduce differences from the onshore arrangements for the CUSC in this section, the Charging, Access and Compensation chapter and Appendix 7. Our views in respect of changes to the DCUSA are set out in Appendix 7.

## ***Balancing and Settlement Code (BSC)***

### *Summary of Previous Policy Proposals*

1.47. We previously advised that Elexon had agreed to provide us with assistance in developing change proposals for the BSC. We noted that we would ask Elexon to consider changes which may be required to extend the BSC to apply to offshore generators.

### *Updated Policy Position*

1.48. We have reviewed the draft change proposals provided by Elexon. The most significant changes are proposed to accommodate the new relationship that is required between NGET and a distribution licensee in respect of connection of an offshore transmission system to a distribution system. We note that Elexon considered whether the metering requirements defined in the BSC are appropriate for offshore BM Units. Elexon did not identify a need to change the BSC in light of the current metering disputes process that is managed by the BSC Panel (defined in section L3.4 of the BSC).

1.49. We agree with Elexon that it is not clear that there is any justification for different metering requirements to apply offshore. We also agree with Elexon that any differences required for an offshore BM Unit, due to site specific circumstances, could be assessed by the current metering dispensation process. As such, our view is

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that only limited changes to the BSC are needed to implement the proposed offshore transmission regime.

#### *Implementation Proposals*

1.50. Elexon provided us with drafting for the changes to the BSC that it considered are required. This drafting is included as separate annex 2. As the number of changes to the BSC that have been identified as part of the offshore transmission arrangements are not substantial, only the relevant sections of the BSC are provided. ***We invite views on the drafting presented by Elexon.***

#### ***Connection and Use of System Code (CUSC)***

##### *Summary of Previous Policy Position*

1.51. We have previously advised that the CUSC arrangements should be extended for offshore generators. We have also consulted on policy proposals relating to transmission access, compensation and the connection application process that would need to be implemented by changes to the CUSC.

##### *Updated Policy Position*

1.52. We asked NGET to consider changes, which may be required, to extend the CUSC to apply to offshore generators and to implement our policy proposals to introduce different arrangements for offshore generators in respect of transmission access arrangements (including compensation arrangements) and the connection application process (including the option of connecting an offshore transmission system via a distribution system).

1.53. We have also reviewed other parts of the CUSC framework to establish if there are any other areas where different treatment is needed in respect of offshore generators.

##### *Decommissioning of transmission assets*

1.54. We consider that OFTOs should have defined rights to maintain offshore transmission assets on a User owner offshore platform that may extend after the User's bilateral agreement with NGET has been terminated.

1.55. We note that unlike the onshore arrangements, the OFTO will have a fixed income stream over a defined time period for its offshore transmission system. We also note that the OFTO would have a transmission licence that provides specific permission in respect of an offshore transmission system which has a tightly defined scope. This transmission licence will define arrangements that reflect an assumption that the offshore transmission system assets will remain in place for the duration of the price control period.

1.56. We consider that the User's rights under the CUSC to require transmission assets to be removed from land owned by a User within six months of a notice to disconnect should not be extended offshore. We consider that an OFTO should be



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able to rely on its leasing agreement with the owner of the offshore platform, which could set out the arrangements in the event of a User decision to issue a notice to disconnect under the CUSC.

1.57. We consider that arrangements need to be defined for the decommissioning of assets when an offshore transmission system is no longer required. This situation could arise if the offshore generator decides to cease operation of the generation assets. Such a generator decision could arise during, at the end of or after the fixed price control period.

1.58. We recognise that there is a need to balance the value of retaining an offshore transmission system (e.g. for use by another offshore generator) against the cost of retaining potentially permanently redundant offshore transmission assets. We propose that the work to investigate the appropriate balance is progressed as part of the transmission licence development work.

**1.59. We are not minded to extend CUSC arrangements that enable a generator to trigger early and rapid decommissioning of transmission assets to offshore generators.** This aspect did not form part of our work request to NGET and is not included in the draft CUSC change proposals separate annex 3.

#### *Implementation Proposals*

1.60. We asked NGET to reflect our proposals as amended by NGET's recommendations when preparing the CUSC change proposal.

## **Transmission Licensee Relevant Documents**

1.61. We consider that these arrangements are defined in the **STC**.

1.62. We set out our views on the nature of the proposed differences and the need to introduce differences from the onshore arrangements as part of the offshore transmission arrangements for the STC in this section.

#### *Summary of Previous Policy Proposals*

1.63. We provided an update in our January 2008 document about the recommendations made by the STC working group that we had established to assist us to develop proposals. We also referred to work that we had asked NGET to carry out to provide information about the current STC arrangements to inform the STC working group. We advised of our intention to reconvene the STC working group.

#### *Updated Policy Position*

1.64. We reconvened the STC working group in February 2008 to assist us in developing proposals for extending the STC arrangements to accommodate offshore transmission licensees. The STC working group concluded its review in March 2008 and made the following recommendations:

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- The existing STC framework (including the STC, STC Schedules, bilateral Transmission Owner Construction Agreements and STC Procedures) should be extended for the proposed offshore transmission regime.
  - The STC framework should be applied offshore unless there was a specific reason for different treatment (e.g. different arrangements needed for OFTO and different arrangements defined in the CUSC for offshore generators that need to be reflected in the STC).
  - The STC should require each OFTO to use plant and apparatus that meets generic standards (e.g. International Electrotechnical Commission - IEC) which is fit for use in the marine environment. The STC working group did not consider that there was sufficient experience of offshore transmission developments to date, to inform the specification of other generic technical requirements. The STC working group recommends that the OFTO should be required to specify detailed equipment requirements at the interface points between the offshore transmission system and the offshore power station and onshore system in the OFTOCA that it offers to NGET.
  - Proposed requirement for an offshore transmission system to meet reactive power requirements and for the OFTO to facilitate offshore generators (e.g. by providing data signals) should be defined in the STC.
  - Mechanisms for any payment of new charges and securities needed for offshore transmission should be incorporated in STC Section E.
  - STC Governance should be developed to allow for accession to the STC of prospective OFTOs as soon as possible after being confirmed through the proposed Tender Process as a Preferred Bidder and to introduce new voting and STC Committee representation arrangements for STC Parties.
  - STC should allow an OFTO the option to contract with NGET for operational switching services on its offshore transmission system. This recommendation was not fully supported and an alternative recommendation (also not fully supported) was presented that further review work should be carried out to define a single operational switching model for offshore transmission.

1.65. We have considered the recommendation made by the STC working group when developing our change proposals for the STC framework. Our views on the changes needed to the STC for the proposed offshore transmission regime have been informed by the recommendations made by the STC working group, issues identified during drafting and the responses to our previous consultations.

1.66. We agree with the STC working group that changes are needed to the STC framework to implement the proposed offshore transmission regime. **We propose that the STC should be developed to define the new relationships required between transmission licensees as part of the proposed offshore transmission regime.**

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### *STC Governance*

1.67. We observe that the current STC governance arrangements were designed to administer a code with only three parties. We consider that there would be logistical difficulties in using current STC governance arrangements (e.g. all STC Parties can have up to two representatives on the STC Committee). We are also concerned by the possible consequences on the admission of new STC Parties (i.e. a barrier to entry) as the current arrangements require that each STC Party must agree to the admission of a new entrant.

1.68. We generally agree with the recommendations made by the STC working group in respect of the development of the STC governance arrangements and consider that:

- STC Committee representation should be extended to introduce a new membership category for OFTO representatives;
- Prospective OFTOs should be able to accede to the STC when confirmed as a preferred bidder. STC arrangements should also allow for withdrawal of an OFTO party that acceded as a preferred bidder if a transmission licence is not awarded or refused;
- STC Party voting arrangements (substantially based on DCUSA voting arrangements) should be introduced to allow the STC Committee to seek views from all STC Parties; and
- The time allowed to develop STC Amendment Proposals (increase of one month to allow time for STC Committee to consult with the OFTOs).

1.69. We are minded to extend the STC Governance Arrangements to accommodate any number of New OFTOs.

### *System Control*

1.70. We have some reservations about whether the proposed STC Committee membership categories and associated numbers of representatives will facilitate a sufficiently independent STC Committee. We would particularly welcome views on this.

1.71. We note that the current STC arrangements were developed on the basis that each transmission licensee already had established transmission system control facilities. We are concerned that a requirement to set up and maintain a manned, transmission system control room could be a barrier to new OFTO entrants and be a disproportionate requirement for a radial connection to the onshore transmission network.

1.72. The STC working group recommended that an OFTO should be able to contract with NGET to directly control its offshore transmission system.

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1.73. We recognise that the STC permits any STC Party to sub contract in respect of any of its STC obligations. We also note that there may be parties other than NGET, with whom an OFTO may choose to sub-contract for offshore transmission system control services. However in light of our review of the STC, we consider that there is also a need for further changes to the STC to ensure that arrangements do not preclude an OFTO being able to sub contract with NGET for offshore transmission system control services.

**1.74. We are minded to remove any barriers in the STC that would restrict an OFTO from sub contracting with NGET in respect of the control of its offshore transmission system.**

#### *Investment Planning*

1.75. We consider that OFTOs should not routinely be required under the STC to have or maintain transmission investment plans or to participate in joint planning meetings. We note that each OFTO will be providing assets which reflect specific customer(s) requirements and will have a revenue stream from a fixed price control based on the design of the offshore transmission at the pre-construction stage.

1.76. We note that under the STC, information about proposed transmission system development is provided to NGET and may be shared by NGET with any other affected STC Parties. We consider that OFTOs should receive relevant information from other transmission licensees' investment plans and be able to raise any issues (e.g. that plans would require consequential works on an offshore transmission system) before planned works are progressed. We acknowledge that it is possible that works on another transmission system may trigger works on an offshore transmission system and such impacts should be considered at the planning stage.

1.77. We are minded to dis-apply requirements for active OFTO involvement in joint investment planning processes unless a specific need has been identified by the OFTO or any other STC Party.

#### *Construction application process*

1.78. We note that the STC Construction Application process was designed to provide NGET with an offer of TO construction services (other than in England and Wales where NGET owns the transmission assets) that will enable NGET to offer terms for connection under the CUSC. The current arrangements require NGET to enter into a TO Construction Agreement with the relevant onshore transmission owner(s) when the User signs the CUSC agreement. We observe that the STC does not define arrangements for NGET to seek a variation to a TO Construction Agreement.

1.79. We are proposing a two stage connection offer process for offshore generators should be defined in the CUSC (currently covered by bilateral arrangements). We also propose that a consequential change is needed to the STC Construction Application process to enable NGET to:

- Obtain a TO Construction Offer from an OFTO (at the Preferred Bidder stage);

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- Request a review of a TO Construction Agreement (entered into at the initial stage of the process with an onshore TO (if any)); and
  - Agree a variation (if required) to a TO Construction Agreement (that was entered into at the initial stage) between an onshore TO and the GBSO.

1.80. We are minded to introduce a two stage STC Construction Application Process that is consistent with the proposed two stage CUSC Connection Application Process for offshore generators.

#### *Agreements between OFTO and NGET*

1.81. The STC working group recommended that a standardised form of a Transmission Owner Construction Agreement (“TOCA”) should be developed and included in the STC framework. The STC working group also recommended that OFTOs’ should be required to make offers to NGET substantially in the form of the STC TOCA.

1.82. We also note that NGET is required to offer terms to its customers substantially in the form set out in the CUSC. We also recognise that offshore, NGET will be dealing with a number of parties who are (or will be) providing it with offshore transmission services that it needs to enter into a CUSC agreement with an offshore generator.

1.83. We consider there would be efficiency benefits for NGET if information transfer requirements are standardised where possible. We also consider that a pre-defined proforma will be of benefit to new entrants as it would clearly define the required elements for an offer of transmission services.

1.84. We are also considering whether there is merit in defining a default ownership boundary between an offshore transmission system and an onshore transmission system. We have not identified an obvious default boundary due to the dependency on the point of connection with the existing transmission system. Our initial view is that NGET should be obliged to define the default ownership boundary for each connection request as part of the NGET Construction Application. We would particularly welcome views on this point.

**1.85. We are minded to define standard arrangements for the bilateral agreements between OFTO and NGET that should apply in respect of the interface between each OFTO and the GBSO.**

#### *OFTO Construction security*

1.86. We have proposed that during construction of an offshore transmission system, the OFTO should provide securities to NGET. We consider that the mechanism for NGET to administer such securities should be defined in the STC and allow for options similar to those defined in the CUSC.

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**1.87. We are minded to define arrangements for NGET's administration of securities from an OFTO during the construction of an offshore transmission system.**

*Changes arising from onshore network*

1.88. We note that under the current arrangements onshore, transmission licensees are able to seek recovery for costs that would be incurred as a consequence of other transmission licensee system development works as part of a regular price control review process. We observe that an OFTO will have a fixed price control without regular review opportunities and therefore consider that there is a need to define arrangements for OFTO cost recovery.

1.89. We note that under the CUSC the User is responsible for the costs of any consequential works associated with its application (connection or modification) and that this extends to transmission licensee costs as well as costs of any other connected Users that are affected. We recognise that extending the onshore arrangements would mean that if additional OFTO works are triggered by a User application then the User would be responsible for funding the works on the offshore transmission system.

1.90. We are considering options for OFTO cost recovery for works on an offshore transmission system that are triggered by onshore transmission system development works.

1.91. Our initial view is that a process could be defined in the STC that requires the OFTO and onshore transmission licensee(s) to negotiate in respect of work requirement (negotiations could be initiated as part of the discussion of the investment plan proposals) and reach agreement in respect of the appropriate mechanism for recovery of costs. We also consider that the STC process could provide for any failures to agree in respect of cost recovery, to be referable to the Authority for resolution. This aspect did not form part of our work request to NGET and is not included in the draft STC change proposals in separate annex 7.

1.92. We are minded to introduce a mechanism for transmission licensees to negotiate and agree arrangements for funding of works on an offshore transmission system that are required as a consequence of an onshore transmission licensee's investment plan.

*Technical requirements at interface*

1.93. We have proposed that different arrangements for offshore, in respect of technical capability requirements applicable to generators, should be defined in the Grid Code. We also propose that a change is made to the STC as the Grid Code proposal relies on there being an OFTO requirement to provide equivalent technical capability at the interface point between the offshore transmission system and the onshore transmission system.

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1.94. We are minded to define technical requirements for the interface between an offshore transmission system and an onshore system (consequential to Grid Code proposals in respect of offshore generator capability requirements).

*Implementation Proposals*

1.95. We asked NGET to reflect our policy proposals and our proposals to endorse the recommendations made by the STC working group when preparing the draft STC change proposals.

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## Appendix 6 - The Connection Application Process

### Summary of Previous Policy Proposals

1.1. We have previously proposed to define a two stage process for applications under the CUSC for connection of an offshore power stations. We also sought views on the need for pre-conditions in the CUSC connection application process, for an offshore generator's CUSC application.

### Updated Policy Position

1.2. In this section we set out our updated position in respect of changes to NGET's CUSC connection application process that are needed as part of the offshore transmission arrangements. We explain positions that have been taken made and our proposals for implementing these changes.

1.3. Our views on the changes needed to NGET's connection application process have been informed by work carried out by NGET, issues identified during the drafting process and responses to our previous consultation.

#### *The two stage process*

1.4. We consider that the connection application process should be split into the following two stages:

- Within three months of the submission of a competent CUSC application for connection, NGET would provide an offer setting out the works needed on the onshore transmission system and assumptions regarding the offshore transmission works that would be required, to the offshore generator. If the offshore generator accepts this offer and signs a bilateral agreement with NGET, then the project will be assessed as part of the next tender process (unless the generator requested that it should be considered at a future tender round); and
- Once a Preferred Bidder is identified as part of the offshore transmission tender process, NGET would propose an "agreement to vary" to the bilateral agreement it has with the offshore generator, that included contractual terms based on the TO Construction Offer provided to NGET under the STC, by that Preferred Bidder.

1.5. The offshore transmission system will not be known when the CUSC connection application is made, but will be identified by the proposed offshore transmission tender process. We have proposed that one pre-condition for an offshore generator project being considered as part of the offshore transmission tender process is that the offshore generator has entered into a CUSC bilateral agreement with NGET.

1.6. We recognise that NGET will not be able to make a comprehensive offer of connection to the offshore generator until it has detailed information about the



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design of the offshore transmission system required to provide a connection at the point specified in the connection application. However, we consider that NGET is able to make sufficiently robust assumptions about the likely design of the offshore transmission system requirements 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 consider 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.

1.7. We propose that the suggested two stage connection application process will be standard for offshore generators and consider that both of the key stages should be defined in the CUSC and complementary back off arrangements defined in the STC Construction application process.

**1.8. Ofgem is minded to require an offshore generator to satisfy certain pre-conditions for entry to the tender process. The proposed pre-conditions are set out in the Tender Process chapter (chapter 3).**

*Pre-conditions for a connection offer*

1.9. We consider that it is appropriate for NGET to specify pre-conditions in its CUSC Connection Application form that align with the tender process pre-conditions so that any projects that would not be able to meet the tender process pre-conditions are identified at the earliest opportunity. This measure should prevent offshore generators entering into a bilateral agreement with NGET substantially before the project is ready to proceed to the tender process.

1.10. We also consider that it would be of benefit to both parties (GBSO and offshore generator) if the CUSC application form highlighted the pre-conditions for a project entering the tender process.

1.11. We do not consider that an offshore generator should be required to request (and pay for) a feasibility study before submitting a CUSC connection application. We appreciate that each offshore generator would assess its own information requirements when developing offshore project proposals.

**1.12. We are minded to introduce pre-conditions for the CUSC connection application process that an offshore generator must meet before NGET will progress the connection application.**

*Interaction between NGET and the Preferred Bidder*

1.13. We have proposed that if agreement is reached on NGET's initial stage offer (and subject to other pre-conditions associated with the offshore transmission tender process), then the offshore generator's project could enter into the tender process. We anticipate that during the tender process there will be a need for information

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exchange between NGET and us. We also recognise that depending on the location of the offshore generation project, there may be a need for NGET to seek information from other transmission licensees.

1.14. We have proposed that NGET should directly interface with any preferred bidder identified as part of the offshore transmission tender process. At this stage the Preferred Bidder will be obliged to accede to the STC. In line with the recommendations from the STC working group, we propose that such interface requirements should be consistent with current STC processes for NGET Construction Applications. We are minded to introduce the following steps in the Construction Application defined in the STC:

- NGET should submit an NGET Construction Application to the Preferred Bidder for the offshore transmission works three business days after the Preferred Bidder has acceded to the STC;
- NGET should submit an NGET Modification Application to any onshore transmission licensees who are already contracted to provide construction services to meet the offshore generator's connection request (if required e.g. if design of the offshore transmission system varies considerably from NGET's assumptions at the initial stage);
- The Preferred Bidder should provide a TO Construction Offer for the offshore transmission works to NGET within a defined timescale; and
- The onshore TO should offer revised terms under any relevant TO Construction Agreement in response to an NGET Modification Application.

1.15. We consider that the proposed STC changes would provide a process that enables NGET to offer an "agreement to vary" to the offshore generator (under the CUSC) to amend the bilateral agreement entered into at the initial stage of the connection application process.

**1.16. We are minded to develop the STC to define the arrangements for the interaction between NGET and each preferred bidder.**

*Right to dispute - Determination by the Authority*

1.17. We note that under the current arrangements any party has the right to refer an offer of connection from NGET to the Authority for determination, if that party is unable to reach agreement with NGET. On receipt of an offer from NGET, the party seeking connection to the GB transmission system normally has up to three months to decide whether to accept, not accept (offer will expire) or refer NGET's offer for determination. We consider that it is appropriate that rights to refer disputes to the Authority for determination should be extended offshore.

1.18. Consistent with the current arrangements where transmission access rights are not reserved for a generator that has referred an offer from NGET for determination,

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if the offshore generator refers its initial offer from NGET to the Authority for determination, then the offshore generator's project would not normally be eligible for the tender process, as there would not be a signed connection agreement. Depending on the timing of the CUSC application, the Authority could be assessing an offer as part of our determination process after the deadline for entry to the next offshore transmission tender window. We recognise that missing the deadline for the next offshore transmission tender window could result in a year's delay to an offshore generator's project.

1.19. We consider that it is important for us to ensure that a customer's existing rights to dispute an offer from NGET are protected. However, we do not consider that it would be appropriate for a possible interaction between the Authority's existing determination process and the proposed offshore transmission tender process, to be the sole driver for change to the Authority's determination process. We propose that the rules for entry to the tender process should be sufficiently flexible to allow for a project that has been referred to the Authority for determination to proceed in certain circumstances. Our initial view is that the proposed circumstances should be that the:

- Offshore generator underwrites the costs of the tender process until it enters into a CUSC bilateral connection agreement with NGET, and
- The issue that has been referred for determination would not have a material impact on the design of the changes required to the onshore transmission system (e.g. the assumed landing point for the offshore transmission system is not disputed) that informed the works defined in the offer made by NGET.

1.20. We note that under the proposed connection application process, an offshore generator would also have rights to refer the offer of an agreement to vary (made by NGET at the second stage of the connection application process). We note that such referrals would be limited to the content set out in the "agreement to vary". We consider that if an "agreement to vary" was referred to us for determination then we would have to delay confirmation in respect of the price control arrangements for the new OFTO.

1.21. We will take account of the possibility of determination referrals at the second stage of the proposed connection application process, when developing our detailed price control arrangements for offshore transmission licensees.

1.22. Ofgem considers that making allowances for connection offers that have been referred for determination on this basis should mean that there are not undue delays to the connection of offshore generation. There are many issues that may be referred to the Authority for determination, Ofgem is minded to consider each referral on a case by case basis. We would welcome feedback from respondents on this approach.

1.23. We recognise the potential impact on all parties seeking connection to and/or use of the GB Transmission System of any party that has secured transmission access rights for a project that does not proceed in a timely way. We are concerned

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that the proposed 2 stage connection application process should not provide any party with an opportunity to delay making a decision on the agreement to vary offered by NGET. **Our initial view is that NGET should have the right to terminate a bilateral connection agreement with an offshore generator, if the offshore generator does not accept or refer for determination, the agreement to vary offered by NGET within reasonable timescales. We would particularly welcome views on this proposal.**

## Implementation Proposals

1.24. We asked NGET to reflect all our positions and our further proposals, when preparing the draft CUSC and STC change proposals. NGET has provided draft change proposals for both the CUSC and the STC that formally set out:

- The offshore generator's rights to receive an "agreement to vary" its bilateral agreement with NGET once the preferred bidder has been identified and the assumptions regarding the offshore transmission works can be updated with more detailed planning information;
- NGET's rights to submit NGET Construction Applications(s) to relevant transmission licensee(s) and the preferred bidder, to enable it to develop its "agreement to vary" offer to the offshore generator;
- NGET rights to terminate a bilateral agreement if the offshore generator does not comply with requirements of the offshore transmission tender process;
- A template for an offshore transmission TO Construction Agreement.

1.25. Proposed drafting of CUSC change proposals is included in the separate annex 3 and proposed drafting of STC change proposals is included in the separate annex 7. We invite views on drafting provided.

## Connection via Distribution Systems

### Summary of Previous Policy Proposals

1.26. We have previously stated that we considered that a mechanism was needed as part of the new offshore transmission arrangements that enabled NGET to request an offshore transmission connection option for an offshore power station, via an onshore distribution system. We set out our initial view that the arrangements for offshore transmission system connections to distribution systems should be consistent with the current arrangements for large embedded power stations.

### Updated Policy Position

1.27. We established a working group (the Offshore Transmission Embedded Transmission working group 'OTETWG') to assist us in developing proposals for connecting offshore transmission systems via distribution systems. OTETWG

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considered how the current framework for large embedded power station could be developed to facilitate NGET seeking connection to and use of a distribution system for an offshore transmission system. OTETWG concluded its review in February 2008 and made the following recommendations:

- Commercial drivers for generators to seek pre-application information and disclose relevant information as part of a formal connection application should be reviewed and where feasible developed. The CUSC connection application proforma should be reviewed and developed to identify any further information which is required from offshore generators. EU procurement rules should be reviewed to identify any restrictions that are relevant to the GBSO when seeking distribution services.
- DCUSA, Distribution Code and distribution licensee Condition 4B statements should be reviewed to identify changes that are needed (if any) to recognise that the GBSO may be seeking distribution services. A process model where embedded transmission connection options are not considered by the GBSO at the initial application stage, but are investigated by the GBSO in parallel with Ofgem's tender process, should be investigated. Further consideration should be given to whether there is a need to introduce a requirement for the GBSO, OFTO and distribution licensee to develop a combined work programme.
- Metering requirements for an offshore transmission system (defined in the BSC) should be assessed in light of the changes proposed to the Grid Code for offshore (in respect of what may be registered as a BMU offshore).
- Arrangements in DCUSA and BSC should be developed to define responsibilities for installing metering at the connection point between an offshore transmission system and a distribution system that are consistent with requirements that apply to other types of distribution system users.
- Arrangements based on the option of notifying all parties (GBSO, OFTO and the generator) of voltage requirements at the point of connection, relevant networks and associated access restrictions should be developed.
- Existing Grid Code OC2 arrangements should be extended to enable coordination of offshore generator outage plans with relevant transmission and distribution system outages.
- CUSC and Grid Code arrangements should be reviewed to maintain the exclusion of distribution system constraints from the GBSO administered compensation arrangements.
- The basis of a distribution licensee offer should be changed if distribution licensees are required to make an offer to the GBSO at the initial offer stage.

*Requirement to investigate Distribution connection options*

1.28. With OTETWG's assistance, we considered a range of models that could be developed from the existing arrangements for NGET to seek, for a proposed offshore

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transmission system, connection to and use of a distribution system. We note that the default arrangement is for a distribution licence to apply across GB. We therefore recognise that there could be more than one distribution services provider that is able to make an offer to NGET for the provision of a distribution system connection for an offshore transmission system.

1.29. In line with OTETWG's recommendation, we have sought information about how the requirements arising from EU procurement rules work. Noting that NGET would be required to advertise any distribution services requirements (that it is seeking for an offshore transmission system), we have subsequently evaluated each model with particular attention to the CUSC confidentiality restrictions.

1.30. We do not consider that it would be appropriate (or indeed possible) for NGET to advertise for distribution services during the period when NGET is obliged to treat the CUSC application as confidential (i.e. before the applicant has entered into a contractual agreement with NGET). We therefore propose that NGET should only investigate options for connection of an offshore transmission system to a distribution system (e.g. as an alternative to extending the onshore transmission system) once the offshore generator has entered into a bilateral agreement under the CUSC.

**1.31. We are not minded to require NGET, during the initial stage of the CUSC application process, to investigate options for connecting an offshore transmission system to a distribution system.**

1.32. We also note that the compensation arrangements for generators that form part of the onshore transmission arrangements, do not apply in respect of distribution system unavailability. We consider that connection of an offshore transmission system via a distribution system could have a material impact on the offshore generator's charges and associated access rights. We therefore consider that it would be reasonable that NGET should only investigate distribution system connection options for an offshore transmission system if specifically requested by the offshore generator.

**1.33. We are minded to only require NGET to seek distribution system connection options for an offshore transmission system if specifically requested by the offshore generator.**

#### *Definition of Requirements*

1.34. We consider that there is merit in defining standard arrangements under the DCUSA and Distribution Code that would apply should NGET choose to seek a connection option for an offshore transmission system via a distribution system. We also consider that there is a need to define arrangements should NGET contract with a distribution licensee for connection to and use of a distribution system in respect of an offshore transmission system. Noting that many of the requirements for the interface between NGET and distribution licensees (in respect of infeeds requested by a distribution licensee) are defined in the CUSC and Grid Code, we agree with the

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OTETWG recommendations that both CUSC and Grid Code should also be extended to cater for embedded transmission connections.

**1.35. We are minded to define standard arrangements that would apply should NGET choose to seek a connection option for an offshore transmission system via a distribution system.**

### **Implementation Proposals**

1.36. We asked the Chair of the DCUSA Panel to consider changes which may be required to extend the DCUSA to apply to connections of an offshore transmission system to a distribution system. The Chair of the DCUSA Panel provided us with drafting for the changes that it considered are required. This drafting is included as an annex to this document.

1.37. We consider that the most significant proposed change to the DCUSA is to introduce a definition for the Offshore Transmission System Operator (OTSO) and to treat the OTSO consistently with other parties in the IDNO Party Category defined in the DCUSA. We also note that the DCUSA change proposal in respect of the responsibility for boundary metering at the interface between an offshore transmission system and an onshore distribution system, is consistent with the BSC change proposal.

1.38. We also asked the Chair of the Distribution Code Review Panel to consider changes which may be required to extend the Distribution Code to apply to connections of an offshore transmission system to a distribution system. The Chair of the Distribution Code Review Panel provided us with drafting for the changes that it considered are required. This drafting is included as an annex to this document.

1.39. We consider that the most significant proposed change to the Distribution Code is to introduce a definition for OFTO and to include this party in the definition of both Embedded Generator and User. Therefore, requirements on Embedded Generators also become a requirement on the OFTO in respect of the embedded offshore transmission connection.

1.40. We asked NGET to reflect our proposals when preparing the draft CUSC and Grid Code change proposals and invite views on Grid Code, CUSC, DCUSA and Distribution Code drafting.

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## Appendix 7 - Tender Documentation

1.1. We set out in Section 3 of that Ofgem is currently developing the detailed tender documentation with the law firm Herbert Smith. This documentation will be integral to the tender process both in the transitional and enduring regimes, and will be published as part of each tender process.

1.2. Ofgem published a high level contents list of what the documentation might include in its regulatory policy update in January 2008. Building on that, set out below are detailed contents lists for the EOI and ITT documentation, presented for information at this stage. These are working contents lists, but set out current thinking in terms of what the documentation will include.

1.3. When complete, these documents will be published in draft form later in the year for consultation with interested parties ahead of them being finalised before the first tenders commence.

### EOI CONTENTS LIST

#### **1. IMPORTANT NOTICE**

- 1.1. *Purpose*
- 1.2. *Confidentiality*
- 1.3. *Copyright*
- 1.4. *Canvassing, Collusion and Conduct*
- 1.5. *Publicity*
- 1.6. *Bidder's Responsibility to Inform Sub-contractors of EOI Rules and Confidentiality Obligations*
- 1.7. *Ofgem's Right to Amend EOI and Associated Process for Doing So*
- 1.8. *Ofgem's Copyright Over and Ownership of IP in EOI*
- 1.9. *No Obligation to Accept Lowest/Any Bid*
- 1.10. *[Bidders' Responsibility to Obtain all Information Necessary to Support Their Bid]*
- 1.11. *No Representations or Warranties as to the Accuracy/Completeness of the Information Provided and Exclusion of Liability in Relation Thereto*
- 1.12. *No Legal Partnership to be Created*
- 1.13. *Bidders Participate in the Tender Process at their Own Risk and Cost*



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1.14. *Participation in the EOI/Bid Process Assumes Acceptance of EOI Terms and Conditions*

1.15. *No Ofgem Liability to Reimburse Bid Costs to Unsuccessful Bidders*

## **2. INTRODUCTION TO THE PROJECT AND TENDER PROCESS**

2.1. *Framework*

2.1.1. *Legislation and Tender Regulations*

2.1.2. *Licences*

2.1.3. *Industry Codes and Contracts*

2.2. *Roles*

2.2.1. *Ofgem*

2.2.2. *GBSO*

2.2.3. *Offshore Generator*

2.2.4. *OFTO*

2.3. *Overview of Project*

2.3.1. *The Offshore Generation Project(s)*

2.3.2. *Offshore Generator(s)' Requirements for Offshore Transmission*

2.3.3. *Progress With Onshore Connection Process*

2.3.4. *[Progress With Construction of Transmission Assets – transitional projects only]*

2.3.5. *[Assets To Be Transferred To OFTO - transitional projects only]*

2.3.6. *Summary of Offshore Transmission Licence Requirements*

2.3.7. *Summary of GBSO's Requirements Under [STC]*

2.3.8. *Summary of BERR's Decommissioning Requirements*

2.4. *Overview of Tender Process*

2.4.1. *The EOI Stage*

2.4.2. *ITT and Responses*

2.4.3. *Optional BAFO*

2.4.4. *Preferred Bidder*

- 
- 2.4.5. *Financial Close*
  - 2.4.6. *Responsibility for Meeting Costs of Tender Process*
  - 2.4.7. *Timetable*

### **3. INSTRUCTIONS TO APPLICANTS**

- 3.1. *[Preliminary Requirements – will depend on whether a data room is required at EOI stage]*
  - 3.1.1. *Confidentiality Agreement*
  - 3.1.2. *Data Room Contents and Rules]*
- 3.2. *EOI Submission*
  - 3.2.1. *Deadline and Address for Submission*
  - 3.2.2. *Detailed Instructions on Form and Contents of Response*
    - 3.2.2.1. *Pre-Qualification Questionnaire*
    - 3.2.2.2. *[Fees]*
- 3.3. *EOI Evaluation*
  - 3.3.1. *Ofgem's Right to Seek Clarification/Further Information from Bidders*
  - 3.3.2. *Evaluation Process*
    - 3.3.2.1. *Evaluation Criteria and Weighting*
    - 3.3.2.2. *Identification of Compliant EOIs*
    - 3.3.2.3. *Evaluation Methodology*
  - 3.3.3. *Shortlisting of Bidders to Receive ITT*
- 3.4. *Exclusion/Unsuccessful EOIs*
  - 3.4.1. *Circumstances for Excluding Bidders from Tender Process*
  - 3.4.2. *Consequences of Exclusion/an Unsuccessful EOI [e.g. refund of application fee]*
- 3.5. *Confidentiality and the Freedom of Information Act 2000*
  - 3.5.1. *Confidentiality of the EOI and the Project*
  - 3.5.2. *[Confidentiality Agreement]*
  - 3.5.3. *Potential Application of the Freedom of Information Act 2000 to Information Provided by Bidders*

### **4. APPENDICES**

- 4.1. *Glossary/Definitions*
- 4.2. *Pre-Qualification Questionnaire*
  - 4.2.1. *Legal Disclaimer*

- 
- 4.2.2. *General Information about Bidder and Bidder's Structure*
  - 4.2.3. *Technical Capacity and Ability*
  - 4.2.4. *Experience of Working on Similar or Relevant Projects*
  - 4.2.5. *Financial and Economic Information*
  - 4.2.6. *Management and Resources*
  - 4.2.7. *Health and Safety and Quality Assurance Information*
  - 4.2.8. *Environmental Information*
  - 4.2.9. *Details of Bidder's Advisors*
  - 4.2.10. *Compliance with Relevant Regulations and Legal and Potential Conflicts*
  - 4.2.11. *Case Study Question(s) [to be considered]*
  - 4.2.12. *Declaration*
  - 4.3. *[Confidentiality Agreement]*
  - 4.4. *[Contents of Data Room and Data Room Rules]*
  - 4.5. *Enquiry Form for Clarificatory Questions from Bidders*

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## **ITT CONTENTS LIST**

### **1. IMPORTANT NOTICE**

- 1.1. Purpose*
- 1.2. Confidentiality*
- 1.3. Copyright*
- 1.4. Canvassing, Collusion and Conduct*
- 1.5. Publicity*
- 1.6. Bidder's Responsibility to Inform Sub-contractors of ITT Rules and Confidentiality Obligations*
- 1.7. Ofgem's Right to Amend ITT and Associated Process for Doing So*
- 1.8. Ofgem's Copyright Over and Ownership of IP in ITT*
- 1.9. No Obligation to Accept Lowest/Any Bid*
- 1.10. Bidders' Responsibility to Obtain all Information Necessary to Support Their Bid*
- 1.11. No Representations or Warranties as to the Accuracy/Completeness of the Information Provided and Exclusion of Liability in Relation Thereto*
- 1.12. No Legal Partnership to be Created*
- 1.13. Bidders Participate in the Tender Process at Their Own Risk and Cost*
- 1.14. No Ofgem Liability to Reimburse Bid Costs to Unsuccessful Bidders*

### **2. INTRODUCTION TO THE PROJECT AND TENDER PROCESS**

- 2.1. Framework*
  - 2.1.1. Legislation and Tender Regulations*
  - 2.1.2. Licences*
  - 2.1.3. Industry Codes and Contracts*
- 2.2. Roles*
  - 2.2.1. Ofgem*
  - 2.2.2. GBSO*
  - 2.2.3. Offshore Generator*
  - 2.2.4. OFTO*
  - 2.2.5. [others?]*

- 
- 2.3. *Overview of Project*
    - 2.3.1. *The Offshore Generation Project(s)*
    - 2.3.2. *Offshore Generator(s)' Requirements for Offshore Transmission*
    - 2.3.3. *Progress With Onshore Connection Process*
    - 2.3.4. *[Progress With Construction of Transmission Assets – transitional projects only]*
    - 2.3.5. *[Assets To Be Transferred To OFTO - transitional projects only]*
    - 2.3.6. *Summary of Offshore Transmission Licence Requirements*
    - 2.3.7. *Summary of GBSO's Requirements Under [STC]*
    - 2.3.8. *Summary of BERR's Decommissioning Requirements*
  - 2.4. *Overview Of Tender Process*
    - 2.4.1. *Outcome of EOI Stage*
    - 2.4.2. *ITT and Responses*
    - 2.4.3. *Optional BAFO*
    - 2.4.4. *Preferred Bidder*
    - 2.4.5. *Financial Close*
    - 2.4.6. *Responsibility for Meeting Costs of Tender Process*
    - 2.4.7. *Timetable*

### **3. REGULATORY AND CONTRACTUAL FRAMEWORK**

- 3.1. *Legislative Framework*
  - 3.1.1. *Introduction and Overview*
  - 3.1.2. *Consultation Process*
  - 3.1.3. *Electricity Act 1989*
  - 3.1.4. *Energy Act 2004*
  - 3.1.5. *Energy Act 200[ ] [i.e. the Energy Bill]*
  - 3.1.6. *Tender Regulations*
- 3.2. *Licences*
  - 3.2.1. *Licences Under the Electricity Act 1989*
  - 3.2.2. *Key Onshore Transmission Licence Conditions*
  - 3.2.3. *[Key Distribution Licence Conditions – if relevant to Project]*
  - 3.2.4. *Overview of the Offshore Transmission Licence*
- 3.3. *Transmission [and Distribution] Charging*
  - 3.3.1. *Basis Of Transmission Charging*
  - 3.3.2. *Onshore Transmission Access Products*
  - 3.3.3. *[Basis of Distribution Charging - if relevant to Project]*

- 
- 3.3.4. *[Distribution Access Products - if relevant to Project]*
  - 3.3.5. *Basis of Offshore Transmission Charging*
  - 3.4. *Connection and Use of System Code (CUSC)*
    - 3.4.1. *Overview of CUSC and Bilateral Connection Agreement*
    - 3.4.2. *Key Applicable Provisions*
    - 3.4.3. *Changes Made to Accommodate Offshore Transmission*
    - 3.4.4. *Accession to the CUSC*
  - 3.5. *System Operator Transmission Operator Code (STC)*
    - 3.5.1. *Overview of STC [and any specific contract between GBSO and OFTO as recommended by STC working group]*
    - 3.5.2. *Key Applicable Provisions*
    - 3.5.3. *Changes Made to Accommodate Offshore Transmission*
    - 3.5.4. *Interrelationship Between STC and CUSC*
    - 3.5.5. *Accession to the STC.*
  - 3.6. *GBSQSS*
    - 3.6.1. *Overview of GBSQSS*
    - 3.6.2. *Key Applicable Requirements*
    - 3.6.3. *Changes Made to Accommodate Offshore Transmission*
  - 3.7. *Grid Code*
    - 3.7.1. *Overview of Grid Code*
    - 3.7.2. *Key Applicable Requirements*
    - 3.7.3. *Changes Made to Accommodate Offshore Transmission*
  - 3.8. *[Distribution Connection and Use of System Agreement (DCUSA) – if relevant to Project]*
    - 3.8.1. *Overview of DCUSA*
    - 3.8.2. *Key Applicable Provisions*
    - 3.8.3. *Changes Made to Accommodate Offshore Transmission*
    - 3.8.4. *Accession to DCUSA]*
  - 3.9. *[Distribution Code - if relevant to Project]*
    - 3.9.1. *Overview of Distribution Code*
    - 3.9.2. *Key Applicable Requirements*
    - 3.9.3. *Changes Made to Accommodate Offshore Transmission]*
  - 3.10. *Balancing and Settlement Code*
    - 3.10.1. *Detailed Description*
    - 3.10.2. *Key Applicable Provisions*

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3.10.3. *Changes Made to Accommodate Offshore Transmission*

3.10.4. *Accession to the BSC*

#### **4. THE OFTO's OBLIGATIONS**

##### *4.1. Obligations Overview*

4.1.1. *The Offshore Transmission Licence*

4.1.2. *Arrangements with the GBSO Under the STC [and any specific contract between GBSO and OFTO as recommended by STC working group]*

4.1.3. *Decommissioning Obligations to BERR*

##### *4.2. Commercial Overview*

4.2.1. *Core Requirements*

4.2.1.1. *[Construction – enduring projects only]*

4.2.1.2. *Operation and Maintenance [will include availability and performance requirements]*

4.2.1.3. *Financing*

4.2.2. *Duration, Service Commencement and Early Termination [will include arrangements on expiry or early termination of Licence term]*

4.2.3. *[Transfer of Transmission Assets – transitional projects only]*

4.2.4. *Payment and Performance Regime*

4.2.5. *Liability and Supervening Events*

4.2.6. *Insurance*

4.2.7. *Variations to Requirements*

4.2.8. *Decommissioning*

4.2.9. *Lenders' Rights*

4.2.10. *[Other Key Provisions]*

4.2.11. *[Risk Allocation Matrix]*

##### *4.3. Proposed Offshore Transmission Licence Terms*

4.3.1. *Overview*

4.3.1.1. *Terms*

4.3.1.2. *Geographical Area*

4.3.1.3. *Duration*

4.3.2. *Standard Condition*

4.3.2.1. *Section A (interpretations, applications and payments) – switched on*

4.3.2.2. *Section B (general) – switched off*

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4.3.2.3. *Section C (system operator standard conditions) – switched off*

4.3.2.4. *Section D (onshore transmission owner standard conditions) – switched off*

4.3.2.5. *Section E (offshore transmission owner standard conditions) – switched on*

4.3.3. *Special Conditions*

4.4. *Proposed Arrangements With GBSO*

4.5. *Proposed Arrangements for Decommissioning*

4.6. *Required Consents and Permits – [for transitional projects will include progress made by offshore generator in obtaining consents/permits relating to transmission assets]*

4.6.1. *Crown Estate lease(s)*

4.6.2. *[others – to be populated]*

## **5. INSTRUCTIONS TO BIDDERS**

5.1. *Role of Key Third Parties in Tender Process*

5.1.1. *GBSO*

5.1.2. *[Other Transmission and/or Distribution Licensees]*

5.1.3. *Offshore Generator*

5.1.4. *[Other Stakeholders]*

5.2. *Shortlisted Bidders*

5.2.1. *Identity of Bidders*

5.2.2. *Arrangements Regarding Changes to Composition of Bidders*

5.2.3. *Bidders' Acknowledgement of Receipt of ITT Documentation*

5.3. *Bid Process*

5.3.1. *Issue of ITT*

5.3.2. *Initial Meetings With Bidders*

5.3.3. *Final Date for Questions/Requests*

5.3.4. *Bid Submission*

5.3.5. *Optional BAFO Request*

5.3.6. *BAFO submission*

5.3.7. *Appointment of Preferred Bidder*

5.3.8. *Licence Award*

5.3.9. *Agreement of Terms of Transfer of Transmission Assets With Offshore Generator – transitional projects only]*



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- 5.3.10. *[Transfer Scheme – transitional projects only]*
  - 5.3.11. *Financial Close*
  - 5.3.12. *[OFTO of Last Resort – transitional projects only]*
  - 5.3.13. *Amending Bid Timetable and Process*
  - 5.4. *Information Available to Bidders*
    - 5.4.1. *Overview of Information Available*
    - 5.4.2. *Arrangements for Accessing Data Room*
    - 5.4.3. *Initial Meetings With Bidders*
    - 5.4.4. *Process For Requesting Further Information*
      - 5.4.4.1. *Subsequent Bidder Meetings*
      - 5.4.4.2. *Information/Clarification Requests*
  - 5.5. *Bid Submission*
    - 5.5.1. *Deadline and Address for Submission*
    - 5.5.2. *Detailed Instructions on Form and Contents of Response*
      - 5.5.2.1. *Executive Summary*
      - 5.5.2.2. *Technical*
        - 5.5.2.2.1. *Detailed Proposals*
        - 5.5.2.2.2. *Proposed Sub-contracts*
        - 5.5.2.2.3. *Proposed Timetable*
        - 5.5.2.2.4. *Staff and Resourcing*
      - 5.5.2.3. *Financial*
        - 5.5.2.3.1. *Populated Financial Model*
        - 5.5.2.3.2. *Proposed Financing Structure*
        - 5.5.2.3.3. *Details of Lenders/Parent Company Financial Support*
        - 5.5.2.3.4. *Bid for Annual Revenue for Providing Offshore Transmission Services*
      - 5.5.2.4. *Commercial*
        - 5.5.2.4.1. *Detailed Response to Draft Offshore Transmission Licence*
        - 5.5.2.4.2. *[Detailed Offer to GBSO Under the STC – we should discuss what the bidders will be required to provide]*
        - 5.5.2.4.3. *[Detailed response to/proposals in relation to Decommissioning – we should discuss what the bidders will be required to provide]*
        - 5.5.2.4.4. *Anti-Collusion Certificate*

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- 5.5.2.4.5. *Confirmation that Responses to PQO Remain True and Accurate*
  - 5.5.3. *Instructions for Population of Financial Model*
  - 5.5.4. *Consequences of Submitting an Incorrect/Non-compliant Bid*
  - 5.5.5. *Types of Bid*
    - 5.5.5.1. *Compliant (Must be Submitted)*
    - 5.5.5.2. *Variant (Can Be Submitted In Addition to a Compliant Bid, but Must Be Discussed Before Submission)*
  - 5.6. *Regulatory Compliance*
    - 5.6.1. *[Do we need to ask Bidders for a statement of regulatory compliance e.g. that they are not also holders of an onshore transmission licence? To be discussed]*
  - 5.7. *Evaluation*
    - 5.7.1. *Ofgem's Right to Seek Clarification/Further Information from Bidders*
    - 5.7.2. *Compliant Bids*
      - 5.7.2.1. *Evaluation Criteria and Weighting*
      - 5.7.2.2. *Identification of Compliant Bids*
      - 5.7.2.3. *Technical Evaluation*
      - 5.7.2.4. *Financial Evaluation*
      - 5.7.2.5. *Commercial Evaluation*
    - 5.7.3. *Variant Bids*
    - 5.7.4. *Option for BAFO Submission*
    - 5.7.5. *Status of Preferred Bidder Appointment*
  - 5.8. *Confidentiality and the Freedom of Information Act 2000*
    - 5.8.1. *Confidentiality of the ITT and the Project*
    - 5.8.2. *Confidentiality Agreement*
    - 5.8.3. *Potential Application of the Freedom of Information Act 2000 to Information Provided by Bidders*
  - 5.9. *Ongoing Obligations*
    - 5.9.1. *Obligation to Update Information Provided in the Bid as and Whenever Necessary*
    - 5.9.2. *Participation in Tender Process Assumes Acceptance of ITT Terms and Conditions*
  - 5.10. *Withdrawal/Exclusion*
    - 5.10.1. *Process for Bidders Withdrawing from Tender Process*
    - 5.10.2. *Circumstances for Excluding Bidders from Tender Process*

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*5.10.3. Consequences of Withdrawal/Exclusion and Associated Obligations  
[e.g. return of all ITT documentation, deposit refunding]*

*5.11. Costs*

*5.11.1. Bidders' Responsibility for Own Costs of Bidding*

*5.11.2. Ofgem's Projected Costs of Running the Tender Process*

*5.11.3. Offshore Generator Contribution*

*5.11.4. Bidder Contributions*

*5.11.5. Refunds to Unsuccessful Bidders*

## **6. APPENDICES**

*6.1. Glossary/Definitions*

*6.2. ITT Acknowledgement of Receipt Form*

*6.3. Certificate of Non-Collusion*

*6.4. [Risk Allocation Matrix]*

*6.5. [Contents of Data Room and Data Room Rules – may be issued separately]*

*6.6. Enquiry Form for Clarificatory Questions from Bidders*

*6.7. Submission Checklist*

*6.8. Format for Technical, Financial and Commercial Responses*

*6.9. Financial Model Template*

*6.10. Bid Submission Certificate*

*6.11. Bank/Parent Company Commitment Letter*

*6.12. Draft Offshore Transmission Licence*

*6.13. [STC related documentation]*

*6.14. [Decommissioning related documentation]*

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## Appendix 8 - Engagement with Transitional Projects

1.1. Over the course of the summer, Ofgem intends to embark on a programme of engagement with offshore developers who will or consider that they will be seeking an OFTO under the transitional regime. This is an important first step toward identifying those projects that will be tendered from when the regime reaches Go Active.

1.2. In order to initiate this programme of engagement, Ofgem invites all relevant parties to contact it directly before the end of July 2008 setting out detailed information about their offshore development(s). Ofgem is keen to get as wide an understanding as possible about these projects and so developers are requested to provide information on the following:

- Technical information of the offshore development, including:
  - capacity,
  - expected onshore connection date,
  - detail on the extent of pre-construction works,
  - the expected construction start date, and
  - when the developer expects to begin commissioning.
- Financial information specifically on when developers expect to reach full financial close or have in place equivalent financial commitment; and
- The extent to which the developer has obtained or is in the process of obtaining the necessary consents and leases

1.3. This list is not intended to be exhaustive and developers are asked to provide as much information as possible so that Ofgem has a more detailed understanding of those projects that are likely to fall under the first transitional tender round. This information gathering exercise is an important first step toward to scoping out the need for Ofgem to undertake RAV assessments. Further information will be requested on a project specific basis as the process unfolds.

Developers are asked to provide this information by the end of July 2008 to:

Robert Hull  
Director, Offshore Transmission  
Ofgem,  
9 Millbank  
London,  
SW1P 3GE

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## Appendix 9 - Overview of existing onshore and proposed offshore regimes

1.1. This appendix outlines the key contractual and commercial relationships that form the existing onshore transmission regime and contrasts these arrangements with those additional features that are being proposed as part of the offshore regime. It is written primarily for stakeholders from the investment community who have a limited experience of the regulatory governance of the energy industry.

1.2. In the energy markets, primary legislation, licenses and codes define the regulatory framework in which industry participants operate their businesses. This consultation document sets out the new licences and codes that will define the commercial and regulatory relationships which will govern the provision of offshore transmission services.

1.3. Both Ofgem and BERR are aware that opportunities in offshore transmission have attracted interest from new investors, who may be unfamiliar with the existing industry structure, rules and regulation. The key industry players: the System Operator (SO); Transmission Owner (TO); Government; and Ofgem.

1.4. A legal overview now explains the relevant Primary Legislation, Licence Obligations; and Code Obligations.

### *Primary Legislation - Electricity Act 1989*

1.5. The Electricity Act specifies five types of prohibited activity. Distribution, Transmission, Generation, Supply and Interconnector. For a party to carry out any of the above detailed activities they must first be granted a licence to do so by the Authority. The power to grant such licences is set out in Section 6 of the Electricity Act.

1.6. Under the proposed Offshore regime this power will be extended to cover the granting of licences for the purposes of offshore transmission. In addition, Section 6C of the Electricity Act gives the Authority the power to make regulations to enable it to run competitive tender processes and determine the successful bidders for the purposes of the offshore transmission regime.

### *Primary Legislation - Energy Act 2004*

1.7. The Energy Act provides for broad powers to develop a regulatory regime to facilitate the transportation to the onshore system of electricity produced in offshore waters from renewable sources.

1.8. Section 92 of the Energy Act brings section 6C of the Electricity Act into effect.

1.9. The Energy Act also provides powers for the Secretary of State to make changes to relevant codes, agreements and licences, which regulate onshore electricity

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transmission and distribution, for the purposes of regulating offshore electricity transmission and distribution.

*Primary Legislation - The Energy Bill (2008)*

1.10. Section 89 of the Energy Bill makes changes to the Electricity Act so that certain activities offshore require a licence. upon commencement of this section of the Bill those participating in offshore transmission will require a licence to operate.

*Licences*

1.11. As stated above, the Electricity Act provides the Authority with powers to grant licences to provide permission to carry out such prohibited activities (including the onshore transmission of electricity).

1.12. The transmission licence also contains obligations specifying that licensees must comply with relevant industry codes.

1.13. Under the offshore regime, these powers will be extended to the granting of licences for the purposes of offshore electricity transmission. This will be achieved not by granting new licences, but through the amendment of the existing licence, tailored to cover offshore activities.

*Industry Codes*

1.14. Within the relevant licences there are provisions which oblige electricity licensees to comply with certain industry codes. Transmission Licensees are obliged to comply with the Balancing and Settlement Code (BSC), the Connection and Use of System Codes (CUSC), the Grid Code and the System Operator Transmission Owner Code (STC). Distribution Licensees are obliged to comply with the Distribution Code (DCode), Distribution Connection and Use of System Agreement (DCUSA) and the Master Registration Agreement (MRA). Below is a brief description of those codes which are relevant to the transmission regime.

*System Operator Transmission Code*

1.15. The STC defines the obligations and responsibilities of the Transmission Owners and the GBSO in order to facilitate BETTA (British Electricity Trading Arrangements). Current parties to the STC are NGET as the GBSO, Scottish Hydro-Electric Transmission Ltd and SP Transmission Ltd as TOs. These obligations are set out in Standard Condition B12 of the Transmission Licence.

*Grid Code*

1.16. The Grid Code is a technical code which sets out, among other things, the Planning, Connection Conditions and Testing requirements for the management of the GB Transmission System. The code is designed to permit the development, maintenance and operation of the GB Transmission System. Parties to the code are NGET and all Users of the Transmission System. This includes Generators, DC

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Convertor Owners, Suppliers and Non- Embedded customers. These obligations are set out in Standard Condition C14 of the Transmission Licence.

*Connection and Use of System Code*

1.17. The CUSC constitutes the contractual framework for connection to and use of GB's high voltage transmission system. Parties to the CUSC are the Transmission Company (NGC), Generators, Distribution Companies and Suppliers. The obligation to be party to the CUSC is set out in Standard Condition C10 of the Transmission Licence.

*Balancing and Settlement Code*

1.18. The BSC is largely a commercial based code which focuses on the balancing and settlement arrangements which form part of BETTA. Parties to the BSC are the Transmission Company (NGC), Distribution System Operators, Trading Parties, Interconnector Administrators and Suppliers. The obligation to be a party to the BSC is set out in Standard Condition C3 of the Transmission Licence.

*Distribution Code*

1.19. The DCode is another technical code and all DNO's are obliged to operate such a code by virtue of the licence. The Code itself sets out the technical parameters for connection to and use of their systems. The obligation to be a party to the Code is set out in Condition 9 of the Distribution Licence.

*Distribution Connection and Use of System Agreement*

1.20. The DCUSA is a multi-party contract between distributors, suppliers and generators which constitutes the contractual framework for the connection to and use of the electricity distribution network. It replaced numerous bi-lateral contracts to provide a consistent approach to the relationship between these parties within the electricity industry. The obligation to be a party to the Code is set out in Standard Condition 9B of the Distribution Licence.

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## Appendix 10 – 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 for 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>18</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>19</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 consumers, present and future, 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>20</sup>; and
- The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.<sup>21</sup>

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<sup>18</sup> entitled “Gas Supply” and “Electricity Supply” respectively.

<sup>19</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>20</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>21</sup> The Authority may have regard to other descriptions of consumers.



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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>22</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;
- Contribute to the achievement of sustainable development; 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>23</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>22</sup> or persons authorised by exemptions to carry on any activity.

<sup>23</sup> Council Regulation (EC) 1/2003

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## Appendix 11 - Glossary

### **A**

#### Authority

Gas and Electricity Markets Authority

### **B**

#### BaFO

Best and Final Offer

#### BCA

BSC Change Administrator

#### BERR

Department for Business Enterprise and Regulatory Reform

#### BSC

Balancing and Settlement Code

### **C**

#### CUSC

Connection and Use of System Code

### **D**

#### DC

Direct Current

#### DCUSA

Distribution Connection and Use of System Agreement

#### DNO

Distribution Network Operator

#### DTI

Department of Trade and Industry

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## **E**

[EOI](#)

Expression of Interest

## **G**

[GBSO](#)

Great Britain System Operator

[GBSQSS](#)

Great Britain Security and Quality of Supply Standard

[GW](#)

Gigawatt

## **H**

[HV](#)

High Voltage

## **I**

[ITT](#)

Invitation to Tender

## **K**

[kV](#)

Kilo Volt

## **L**

[LV](#)

Low Voltage

## **M**

[MW](#)

Megawatt

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## **N**

### [NGET](#)

National Grid Electricity Transmission plc

## **O**

### [Ofgem](#)

Office of Gas and Electricity Markets

### [OFTO](#)

Offshore Transmission Owner

## **R**

### [RAV](#)

Regulatory Asset Value

### [REZ](#)

Renewable Energy Zone

### [RPI](#)

Retail Price Index

## **S**

### [SEA](#)

Strategic Environmental Assessment

### [SEF](#)

Specific Expansion Factor

### [SHETL](#)

Scottish Hydro Electric Transmission Ltd

### [SLC](#)

Standard Licence Conditions

### [SQSS](#)

Security and Quality of Supply Standard

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SPT

Scottish Power Transmission Ltd

STC

System Operator - Transmission Owner Code

SYS

Seven Year Statement

**T**

TCMF

Transmission Charging Methodologies Forum

TEC

Transmission Entry Capacity

TnUoS

Transmission Network Use of System

**U**

UoS

Use of System

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## Appendix 12 - 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:

**Andrew MacFaul**  
Consultation Co-ordinator  
Ofgem  
9 Millbank  
London  
SW1P 3GE  
[andrew.macfaul@ofgem.gov.uk](mailto:andrew.macfaul@ofgem.gov.uk)