

25 July 2008

Mr Robert Hull  
Director, Offshore Transmission  
Ofgem  
9 Millbank  
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Dear Mr Hull

**Offshore Electricity Transmission – Regulatory Policy Update**

Thank you for the opportunity to comment on the regulatory policy statement issued on 13 June 2008. This response is the follow-on to the initial response made by DONG Energy A/S on 4 July and takes account of the discussions at the BERR / Ofgem External Communications workshop on 7 July.

Whilst we remain concerned about the complexity and costs associated with the new regime, we were heartened by the comments by yourself and Duarte at the workshop and the obvious commitment and high level of effort being put into development of the scheme. DONG Energy would like to play its part and hopes that its position as world leader in offshore wind, and operator of the only currently operating asset that will fall into the new regime, will be recognised and its experience acknowledged.

There is nothing we have seen or heard which deflects us from the view that the proposed enduring scheme will delay development of offshore wind, but welcome your acknowledgement at the workshop that if or when this is found to be case the proposed structure would need to be re-examined. We re-state our view that in order to avoid delays to the deployment of offshore wind, developers should be given the option (but not necessarily the obligation) to construct the transmission assets themselves and to then transfer them to an OFTO post construction.

We would also like to note the recently announced policies for “transmission access reform”. We note in particular the principles that “New generation projects should be offered firm connection dates, reasonably consistent with the development time of their project” and “Transmission companies need to have appropriate incentives to respond to the long term demand for access signalled by generators. They need the freedom and incentives to invest ahead of full user commitment”. These principles are not yet present in the enduring regime for offshore transmission. If or when they are, some of DONG Energy’s concerns about the new regime may be alleviated.

Detailed responses to the policy statement consultation questions are set out below, and we have added more general comments under each chapter heading where appropriate. It has proved impractical in the time available to fully review and comment on the proposed legal drafting, which if you would like a general comment seems rather incomplete and also one-sided ie drafted largely from the System Operator's perspective rather than the Users. We have also previously noted that the minimum recommended design criteria (in particular the requirement for two transformers and double busbars offshore) are unnecessary and do not accord either with international or past UK design practice.

Yours sincerely

PP 

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## Annex: List of Questions and Answers

### Questions - Chapter 2

*As a general comment DONG Energy would say that it remains of the view that the 20 year default term (and consequent recovery of capital expenditures over 20 years) is too short and discriminates against offshore Users compared with onshore Users.*

- 1 Revenue adjustments – should the regulated revenue stream be adjusted and, if so, how should this be designed?

*No comment*

- 2 Incremental capacity – what are your views on our updated position?

*DONG Energy remains of the view that the figures chosen are arbitrary and impractical, and experience in developing its own projects clearly leads to the need for a much flexible approach, particularly prior to completion (hence the suggestion that construction should remain under control of the developer, and only be transferred to the OFTO after completion).*

- 3 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?

*The 98.5% target is too low, DONG Energy considers 99% more appropriate. The 10% loss of OFTO revenue is also too low, this is entirely out of proportion to the loss of revenue faced by the generator if the OFTO fails to meet its performance target. If it is assumed that an offshore asset suitable for connection of up to 200MW of generation might have a capital cost of say £50m it might therefore have an annual revenue stream of circa £5m. 10% of this is £500,000, which would correspond to just over two days of generator revenue (assuming a load factor of 40%, £50 power price and £45 ROC value). DONG Energy's view is that a figure of say 50% of annual revenue might be more applicable, although any penalty on the OFTO should be spread over a number of years. We would however propose that the full compensation be paid by the GBSO to the generator in the year in which the failure occurs, and recovered from the OFTO later.*

- 4 What should be the role of the generator in defining the level and structure of performance incentives ex ante as part of their requirements?

*The Generator should be allowed to set the target performance and penalty structure*

- 5 What actions should be taken in the event of persistent OFTO underperformance?

*The generator needs to be fully protected from this situation – we note the risk allocation shows the OFTO to be responsible from the impact of poor performance, the generator should not have to pick up the consequences if the OFTO fails.*

### **Questions - Chapter 3**

*As a general comment DONG Energy would say that for the transitional regime the first condition that “the developer has secured an onshore connection offer from NGET” may not apply in the case of Licence Exempt Embedded Medium Power Stations (LEEMPS). As operator and developer of a number of transitional projects DONG Energy would also like more information on what is required from Ofgem including details of the independent engineering audit report for constructed projects.*

*Also for transitional projects it is unclear how the “two stage” assessment of Regulatory Asset Value is to work with firm tenders – how will changes in RAV be accommodated after the assets have been completed and handed over?*

- 1 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.

*DONG Energy is concerned that if offshore developers have to have entered into lease agreements with Crown Estate before applying for a connection they will be disadvantaged vis-à-vis onshore developers who have no such restrictions. The problem of the “queue” for transmission access should be fixed on a holistic basis, not by requiring one class of developer to meet more stringent requirements than others.*

- 2 The proposed approach for treating seabed surveys in the enduring regime.

*It is essential that these are done at an early stage and it makes much more sense for the developer to do this. Any properly and efficiently incurred costs by the developer should be refunded by the OFTO.*

- 3 The proposed linkage between the tender process and the connection process.

*Tenders should not start until the generator is ready to proceed with this part of the process, most likely after section 36 consent has been granted.*

- 4 The proposed approach for OFTOs to provide construction security.

*Essential*

- 5 The proposed approach that the preferred bidder will make its offer of construction through the normal STC process.

*No comment*

**Questions - Chapter 5**

- 1 Does the licence drafting reflect our policy positions?

*No comment*

- 2 Are there any other issues that should be addressed through licence changes?

*No comment*

**Questions - Chapter 6**

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

*See comment in covering letter*

**Questions - Chapter 7**

- 1 The mechanism for compensation arrangements for offshore generators should be defined in the CUSC.

*We are not sure that this approach is not consistent with the suggestion earlier that the User may specify different levels of compensation in its requirements for the OFTO tender. However, if the minimum compensation could be set out in the CUSC with the User free to specify different arrangements on a bilateral basis.*

*In terms of the actual mechanism used, we note NGET's proposal for "CAP048" type compensation for onshore restrictions, but consider that "CAP076" should be included as well.*

- 2 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.

*Comment as above*

- 3 The performance incentive (performance targets and penalty payments) should be set out in the offshore electricity transmission licence.

*Agreed, as this will be generator/location specific*