



Making a positive difference
for energy consumers

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Dear Gary,

Notice of consultation under section 8A of the Electricity Act 1989 to modify conditions of the electricity transmission licence (the Licence) proposed to be granted to the successful bidder for the Hornsea Two Offshore Wind Farm project.

We have today commenced a consultation under section 8A of the Electricity Act 1989 on the proposed modifications to certain standard conditions of the electricity transmission licence that may be granted to Diamond Transmission Partners Hornsea Two Limited (the **Potential Licensee** of the Hornsea Two Offshore Wind Farm project). The transmission Licence will be granted to the Potential Licensee if Diamond Transmission Partners (a consortium of HICL Infrastructure PLC and Mitsubishi Corporation) becomes the successful bidder for the Hornsea Two Offshore Wind Farm project (the **Project**).

The attached consultation notice is published on our website and sets out details of the proposed modifications, including why they are proposed and their effect, the closing date of the consultation, and how to respond.

We are proposing to add a number of amended standard conditions to the transmission licence that may be granted to the Potential Licensee should the Preferred Bidder become the successful bidder for the Project. These proposed conditions are detailed in the section 8A notice.

In accordance with our statutory requirements and best practice we have brought the proposed modifications to the attention of persons likely to be affected and provided copies of the notice to:

- the Secretary of State for the Department for Energy Security and Net Zero;
- Citizens Advice;
- Citizens Advice Scotland;
- The Health and Safety Executive;

The Office of Gas and Electricity Markets

10 South Colonnade, Canary Wharf, London, E14 4PU Tel 020 7901 7000

www.ofgem.gov.uk

- The Scottish Executive;
- The Welsh Assembly; and
- The Project Developer - Breesea Limited, Soundmark Wind Limited and Sonningmay Wind Ltd

Project specific licence modifications

The project specific modifications that have been included in this licence are summarised below.

Amended Standard Condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items)

The offshore regime incentivises licensees to manage costs efficiently over a defined period¹ but also recognises that licensees may not be best placed to manage risks where they are not sufficiently within their control. There are therefore a number of pre-defined revenue adjustment mechanisms in the licence that seek to optimally reallocate risk for a small number of known, but unpredictable, factors.

The Authority considers that the most appropriate way of providing the Potential Licensee with a method to recoup costs and/or expenses (as the case may be) resulting from defined contingent events (summarised below) in connection with this Project, is by including a CEA term in the licence.

We have therefore added a pass-through mechanism (the **contingent event revenue adjustment** or **CEA**) to amended standard condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items).

Summary of CEA mechanism

The CEA mechanism is a bespoke term in the Licence providing for revenue adjustments for discrete pass-through items in relation to the Hornsea Two transmission system. In summary, when determined by the Authority, it provides for an adjustment to the Potential Licensee's revenue entitlement should costs and/or expenses arise in the event that the Potential Licensee has been required by the Secretary of State to increase the size of its security in respect of its Decommissioning Plan to account for the payment of VAT and where, following the year 1 post-construction bathymetric survey undertaken in accordance with condition 15(2) of the Deemed Marine Licence, the MMO requires the licensee to undertake up to two additional bathymetric surveys, within the Relevant Period.

Rationale for Contingent Event Revenue Adjustment Term

The use of such a licence adjustment mechanism is necessary in cases such as this for the following reasons:

1. The Preferred Bidder was not aware (and could not reasonably be expected to have been aware) of either the contingent event and/or the materiality of the contingent event prior to and for the purposes of submitting its Invitation to Tender (**ITT**) submission.
2. It has not been possible for the Preferred Bidder to resolve or fully mitigate the contingent event by way of commercial agreement with relevant parties or by any other mechanism which would provide an appropriate solution; and

3. The contingent event is both contingent and material, in that:
 1. There are uncertain costs and/or expenses (as the case may be) which could not be forecast and which may be incurred by the Potential Licensee as a result of the contingent event; and
 2. It is likely that if the contingent event arises it would have a material impact on the costs and/or expenses (as the case may be) incurred by the Potential Licensee.

Tender revenue stream

Amended standard condition E12-J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) sets out the proposed tender revenue stream for the Project for the purposes of the section 8A consultation (the **s8A TRS**). The s8A TRS is based on the tender revenue stream bid by the Preferred Bidder at the ITT stage of the tender process, which has been updated as appropriate to reflect further information available to the Preferred Bidder since the date of the ITT submission, including the draft final transfer value for the Project. The s8A TRS assumes that 100% of the draft final transfer value will be paid to the Project developer on asset transfer. Details of the transfer value which is reflected in the s8A TRS are set out in the draft cost assessment report for the Project, which is published on our website today (www.ofgem.gov.uk).

If you have any queries regarding the information contained within this letter you should contact John Sinclair on 020 3263 2791 or by email to offshorelicensing@ofgem.gov.uk.

Yours sincerely,

Sean Payne
Head of OFTO Tender Management