

George Cobb

Sent by email to: offshorelicensing@ofgem.gov.uk

19 August 2022

Dear George,

Offshore Transmission Owner (OFTO) End of Tender Revenue Stream

Thank you for the opportunity to respond to the consultation on OFTO End of Tender Revenue Stream.

Whilst reviewing the consultation we have some key themes that are noted below. We have then provided more detail about these in responses to individual consultation questions below.

Offshore Transmission Network Review (OTNR) and offshore coordination

We strongly recommend that Ofgem consider how the EoTRS process might interact with future network development frameworks and regimes. Through the ETNPR and OTNR we see a shift towards greater coordination of network planning, across both onshore and offshore. In a coordinated future landscape it is right that known offshore infrastructure developments are taken into consideration when planning and developing future networks. This is especially relevant given the initial OFTO tenders expiring in the early 2030's, by which time enduring coordinated development models are expected to be realised.

Competition

We welcome that Ofgem's approach of applying a cost benefit assessment in attempt to avoid an expensive and time consuming retendering process where possible. This is consistent with the interest of delivering a good-value solution for consumers.

Similar to the view we provided in our response of 15 July on 2030 offshore delivery models, we would welcome a more joined-up approach with equivalent questions across network policy areas, such as the impact of competition, so that there is assurance that a comparable and similarly valid review is taken across different workstreams.

Expected asset timeframes

When defining the asset tender extension period, we would encourage that the term is properly informed by previously awarded licence periods and the following need to have them retendered. The matter of even having to consider re-tendering indicates that regime durations can be better considered so that Ofgem doesn't have to go through the potentially costly tendering process in the future.

This should also look at whether OFTOs' interests have included the need to maintain their asset for the duration of the regime it is intended for, and provide the best long-term result, rather than just for the duration of their incumbency. This may have a bearing on consumer exposure for ongoing asset operation.

Incentives and performance measures

As we have noted with the approach to assessing competition, we would also encourage applying incentives that, where possible, are aligned with the well-rounded measures that are placed on onshore TOs. Of the proposals given by Ofgem, we are encouraged that taking a more holistic approach is included and would provide more value than the narrower assessment solely based on availability.

Please do not hesitate to contact me should you require any further information or want to discuss our response.

Yours sincerely

Josh Henderson
Regulation

Question 1: Have we captured the regulatory and commercial context for EoTRS policy appropriately? Are there other key contextual issues we need to bear in mind?

The wider regulatory landscape for the offshore sector is evolving and we think there is an opportunity now to consider how OFTO assets at the EoTRS stage fit into future frameworks.

The HND was published by the ESO in July with the goal of providing a recommended offshore and onshore design for a 2030 electricity network, that facilitates the Government's ambition for 50GW of offshore wind by 2030. We expect a second iteration of the HND to be published next year to include remaining known offshore developments, such as ScotWind leaseholders, any capacity available through the ScotWind clearing process and 4GW of Celtic Sea capacity. Last month Ofgem published its minded to decision on the ETNPR, confirming intentions to develop a Centralised Strategic Network Plan (CSNP), which takes a more holistic view of the network – both onshore and offshore, and across energy vectors. The clear direction of intent is towards greater coordination of future infrastructure. Furthermore, the OTNR enduring regime workstream is in train to establish a more strategic approach windfarm development beyond the implementation of the outcome of the OTNR pathways to 2030 workstream.

In such a coordinated future landscape it is right that known offshore infrastructure developments are taken into consideration when planning and developing future networks. It would be odd, therefore for the future of OFTOs at the EoTRS stage to be considered in isolation, rather than within such frameworks. There may, for example, be opportunity to re-purpose or upgrade the asset as part of a more efficient offshore network solution. This looks to be especially relevant given the relevant timeline for re-tendering happening from 2030 onwards when we would expect the CSNP and the OTNR enduring regime to be implemented.

We strongly recommend that Ofgem consider how the EoTRS process might interact with future network development frameworks and regimes. We do recognise, however, that providing firm commitments, at this stage, on any such interaction may not be possible given that future frameworks are still under development.

Question 3: What are your views on our proposed approach to use competition to improve the value-for-money of ERS offers?

We agree with Ofgem's approach of only considering further competitive tender when it has been subject to impact assessment. Our responses below to questions 13 and 14-16 give a bit more detail on what we think the benefits of this are in terms of providing value for consumers and how these assessments can also inform longer term asset viability.

Question 8: What are your views on asking incumbent OFTOs to hold their extension offers throughout a competitive re-tender process? If we did not do that, how could we ensure incumbent OFTOs present the most attractive extension offer possible?

We agree with OFTOs maintaining their extension offers throughout the re-tender process and think this offers the right incentive for them to maintain a competitive offer throughout the re-tender process.

Question 9: What arrangements would we need to put in place to ensure we can compare on a fair basis the incumbent OFTO's extension offer and those received from other parties in a competitive re-tender process?

We don't have specific arrangements that we would prescribe but consideration should be given towards having access to asset health information. Other competing parties having a view of this would allow something close to a level playing field for them to make an offer with a similarly informed position as for the incumbent.

Question 13: Do you agree with the concept of the competition public interest test?

Yes, we would encourage Ofgem that any decision to extend the tender through a competitive process should be subject to an impact assessment and that this gives some effort to avoid a costly re-tender where possible but also ensuring a good-value solution is found as well. This approach will help towards having the right focus on providing good value for consumers.

Question 14: Do you agree with the two proposed assessments in the competition public interest test? Are there any additional areas we should cover?

Yes – they are appropriate in considering whether the process is feasible and if it is worthwhile financially.

Question 16: What wider impacts on the OFTO programme should we consider as part of the competition public interest test? What would be most important to consider?

We would recommend that the review should look at whether OFTOs have been operating their asset based on the longer use of the asset and maintain/prolonging its function, or whether it has been maintained in a fashion that has only been interested in the term of their incumbency. The way in which the asset has been managed up until the EoTRS assessment may have important bearings on its future operation – be it by the incumbent, a new entity, or a repurposing of the infrastructure into the wider offshore network. This in turn may have cost implications for the consumer where a future TRS reflects the costs of maintaining the asset. Using the findings of this should then inform a view of whether they have provided the best opportunity for the longer term asset viability whether this can be better achieved under the regime in the future.

Question 20: Could it be possible to potentially estimate the regulatory revenue stream savings from competitive tendering even before receiving an offer from the incumbent OFTO? If so, how could we best approach that assessment?

Even with an offer from the incumbent OFTO, we expect assessments to be made on a project-by-project basis in order to acknowledge different risks as well as the likelihood of assets becoming more complicated to replace, change, and maintain.

The rate of return for these investments must then be appropriately determined and set to be reflective of costs and risks, including any regulatory protections, in order to ensure the investment is retained and attracted into the sector. This is also distinct asset class to a brand new constructed cable at the start of its life and so Ofgem must avoid applying historical OFTO rates which would not transfer or apply to this new asset class.

Question 29: Do you consider it appropriate to have more than one option for creating a performance incentive?

Yes, we think that considering a more balanced scorecard is worthwhile. Elements covering environmental efforts and stakeholder engagement are comparable with expectations for the development and assessment of onshore assets.

Onshore Transmission Owners are expected to consider a range of contextual information for their own asset development projects. For example, our Lairg to Loch Buidhe overhead line (OHL) project which demonstrated the importance of practical knowledge, expertise and consistency to deliver projects in sensitive areas and work with a wide variety of stakeholders.

For example, our Lairg to Loch Buidhe project comprised of Overhead Lines (OHL) and substation within a NATURA site (international designation) for protected bird species. There were competing priorities between Scottish Natural Heritage (now NatureScot), SEPA and the local community. Nature Scot preferred one route to avoid increasing the risk of bird collisions, SEPA had concerns over impacts on peatland and hydrology, and the local community were opposed to the route favoured by NatureScot due to the landscape and visual impact on the village. Ultimately our knowledge of the environmental factors, local priorities and appropriate technical mitigations and alternatives allowed us to reach a compromise that successfully avoided statutory objections and appeals which would have added years of delays.

Question 32: Are there any specific incentives that you would like to see introduced into the OFTO regime? Please explain.

No, but we would encourage the use of the more balanced scorecard as a route to achieving more similarity with what is required onshore. As well as including environmental and stakeholder considerations that, are worth including given the parallel with onshore, and as mentioned before, the expected increase in coordination likely encourages some harmonising of requirements. We would welcome this in having the same consistent approach across both regimes where a wider range of factors are considered.