



ARODG Report London Array's response to the Ofgem Consultation

Introduction

London Array Limited (**London Array**) is probably the most advanced of the Round 2 offshore wind farms and, with a capacity of 1000MW, could by itself provide 10% of the government's 2010 target for renewable energy. London Array comprises E.ON UK Renewables Developments Limited (**E.ON**), Shell WindEnergy and CORE Ltd., itself a joint venture of Energi E2 of Denmark and Farm Energy Limited.

This response to the ARODG report addresses pre-commissioning security and rights during commissioning of TEC. Post-commissioning rights are not discussed.

As background, E.ON entered into a connection agreement and construction agreement on behalf of the London Array partners in March 2003. The agreements were subject to a modification in 2004, a further modification application in 2005 and a National Grid amendment to the completion date in January 2006. Security in this case is provided on balance sheet by E.ON, involving Final Sums Liability (FSL) rather than secured amounts.

The grid connection programme through to the availability of firm TEC and the associated FSL have remained a major problem area for the project partners throughout these modifications and the introduction of clustering. London Array has already responded to the National Grid consultation on managing grid access, expressing considerable concern over the impact of the current transmission access regime upon the project, and in particular the effect of the uncertain and undefined pre-commissioning security regime. These issues have also been raised repeatedly with the DTI, Ofgem and National Grid.

London Array recognises that the application of the clustering approach to the continually changing nature of clusters has resulted in a very high workload for National Grid, potentially diverting resources from providing users with economic and efficient connection solutions. It would appear to be as much in National Grid's as the user's interest for an agreed interim solution to be developed and implemented as soon as possible, while the Transmission Price Control Review takes its course.

In addition, National Grid should not be expected to take unreasonable risks where, in the final analysis, the costs of stranded assets would have to be picked up by consumers and accepts that developers should demonstrate commitment to their projects. We strongly believe, however, that National Grid should also have appropriate incentives to seek solutions to provide users with a good service and to promote the achievement of government energy policy.

Pre- commissioning Security and Commissioning of TEC

Currently it is difficult to understand the basis on which FSLs are calculated. The main problems with the current approach for final sums are perceived to be:

- an inequitable balance of risk between developers, National Grid and consumers which provides no incentive for National Grid to help meet government energy policy;
- lack of clarity and certainty on the potentially unacceptable levels of FSL that developers will need to treat as contingent liabilities, particularly before consent has been granted;
- for developers with existing connection agreements, serious anomalies between the final sums arrangements introduced by clustering and the terms and conditions of the existing agreements;
- unreasonably conservative lead times for materials required for the shared works, which advance the onset of significant FSL, and
- no obligations on National Grid to consult over, advise of, or seek approval for engineering and procurement activities that will cause significant changes in FSL levels, for example the letting of construction contracts and to advise counterparties of significant changes in the FSL level for any construction agreement..

Of these areas there are two key areas that affect developers: a) consent risk and b) third party risk.

London Array believes that the most equitable balance of risk and cost between the developer, National Grid and consumers, would entail a mixture of asset related and generic liabilities. Projects consistent with government policy and targets, or in locations where reinforcement might be justified by anticipated growth in demand, should not be secured entirely by users, as is the case under the clustering approach, but through a generic arrangement that separates the FSL from the project specific costs.

Prior to obtaining consent, users will generally only be prepared to make a limited commitment to final sums but, after consent has been received, they may be able to increase their commitment somewhat. Therefore the trigger for an increase in security should be the award of consent to build and not the placement of construction contracts for shared works for the grid connection. The level of FSL becomes less of an issue once the financial investment decision has been made for the project to proceed.

In light of this, London Array supports, and has previously proposed to the DTI, a two-stage approach in which the developer would carry the FSL for the project specific shallow connection costs, with deeper system and shared connection costs being dealt with on a use of system basis, requiring security equivalent to two or three years of average use of system charges. This would have the benefit of providing certainty to the level of FSL carried by the user, who will have no influence over any third party impacts on the deeper system and shared connection works.

With respect to pre-commissioning TEC, the ARODG report has addressed the circumstance when local works for a connection will be completed before shared wider works and there may be a period after CEC when full TEC will not be available. While this will not always be the case, including within a cluster of users, London Array supports the availability of mechanisms to maximise the accommodation of new and existing generation while reinforcement is being completed, recognising that this may require some temporary managed departure from the planning standards.