

London Array Response to Consultation on Offshore Transmission Licensing

Chapter 2 – Regulatory Options

Question 1

Which option do you favour and what are your reasons for doing so? Do you have any views on any aspect of our intended approach under each option?

Option 1 (non-exclusive licensing) is strongly preferred. A regime that enables multiple bids for offshore transmission opportunities should result in the best price option and minimize the cost of offshore transmission networks and provide best value to consumers. It will also be more flexible with respect to future development of the offshore transmission networks, will allow new entrants into the market and provide early developers with a means of legally owning their transmission networks should no licensed TO be prepared to bid competitively.

We believe Option 2 (exclusive licensing) could result in regional TOs of different sizes with different capabilities and resources being unable to meet their obligations to connect new parties in an efficient and economic manner, resulting in offshore queues, higher connection costs, more failed projects and less benefit to consumers.

Question 2 *Do you think that the approaches that have been ruled out should be considered further and are there any other options or approaches that should be considered?*

The consultation has focussed on the two most appropriate options. However, some form of generator tender approach may have been prematurely discounted, specifically for consented Round 2 projects that reach financial close before the award of offshore TO licences. It would be in no ones interest if Round 2 projects with early consents became prohibited activities under the Energy Act and did not proceed because no licensed TOs were prepared to bid to provide a connection.

Question 3 *Should anything further have been taken in to account in assessing the options?*

No.

Chapter 3 – Practical issues under the regulatory options

Question 1 *Could providing anything further, beyond the comfort already provided by Ofgem, be justified for projects that will be constructed or have secured financial close prior to the award of offshore TO licences?*

The level of comfort provided by Ofgem is not satisfactory for projects that reach financial close, or will have gone out to tender for the offshore transmission, before the award of offshore TO licences. Several Round 2 projects will have carried out preliminary design studies and will be seeking tenders for offshore transmission during 2007. This will have to be done without any firm guidance on the electrical design standards that would make their networks capable of adoption by an offshore TO, or that the anticipated investment would be deemed to be on an acceptable economic and efficient basis. We recognise that SQSS is the subject of another consultation but the results of that consultation are likely to be too late for some projects. This issue needs to be addressed as a priority.

Question 2

Would a departure from Ofgem's current approach to the adoption of assets be justified or would different treatment be unduly discriminatory?

The issue is not so much Ofgem's current approach to the adoption of assets but the lack of adequate guidance on the connection standards, tests of economic and efficient construction and fitness for purpose.

Question 3

What are your views on the potential costs to TOs of bidding to build, own and operate offshore assets? Do you have views on how such costs might be minimised?

It is not appropriate for the winning TO bidder to pay the costs of the unsuccessful bids. This would result in commercial gaming at the expense of other TOs and the projects requiring the connections. The costs of bidding should be borne by those preparing the bids.

Having said this, there is limited experience and data in respect of owning, maintaining and operating offshore networks and the uncertain and possibly significant cost of preparing bids, added to the degree of uncertainty of winning a bid, could result in fewer serious proposals than would provide realistic competition. The main uncertainties for the licensed TO would be the cable route and seabed geology. The important issues for the generator would be the capability of the selected TO to provide a connection at a reasonable cost in an acceptable timescale.

One possible means of reducing the cost of bidding for licensed TOs could be for project developers to select appropriate cable routes in conjunction with a co-ordinating body, perhaps GBSO, and to carry out initial surveys at their cost to a specified standard. The resulting data would be made available to interested TOs via GBSO, who would make an offer to GBSO on that basis, with an agreed standard mechanism to adjust prices in the event these data are subsequently found not to be accurate. GBSO would then select, with the aid of an independent tender panel, the TO with the capability to provide a timely connection at an acceptable price and make a connection offer to the generator.

Question 4

Do you believe there is a risk of a lack of co-operation that is specific to the non-exclusive approach? If so, how serious a problem do you believe this is? To what extent could the suggested measures or any other measures mitigate such a risk?

As suggested in the answer to Question 3, the GBSO could have a strong coordination role, as it presently has in relation to the onshore regime and licensed TOs should be required to consult with each other. This should address any concerns that there is a serious risk of a lack of co-operation under the non-exclusive approach. The incremental nature of development of offshore generation and its present radial nature do not suggest that the non-exclusive approach will result in uneconomic and inefficient investment.

Question 5

Is it appropriate to allow generators to bid to provide their own transmission services, in particular in the light of any potential moves towards unbundling at an EU level?

Provided there are suitable business separation arrangements generators should not be prevented from seeking to become offshore TOs. This will be particularly relevant for consented Round 2 projects that reach financial close before the award of offshore TO licences. As stated above, it would be in no ones interest if Round 2 projects with early consents became prohibited activities under the Energy Act and did not proceed because no licensed TOs were prepared to bid to provide a connection.

Question 6

How can confidence be built that the tender process can be run transparently and fairly and to what extent can the proposals outlined in this chapter ensure this?

Confidence in the tender process could be provided, as suggested in the consultation document, by the GBSO managing the tender process, subject to appropriate Licence Conditions, coupled with the use of an independent tender panel, backed by Ofgem's powers under competition law.

Question 7

Is it appropriate to have certain defined re-openers in a fixed price bidding system?

Where the tender process relates to the lifetime of the assets it would be appropriate to allow generators and successful TOs to agree a mechanism under an offshore TO price control for dealing with new obligations or unexpected significant costs. The mechanism could entail periodic reviews, subject to Ofgem price control guidelines, fixed and variable price elements, or some combination of the two. Whatever mechanism is adopted should only be triggered by a significant change in circumstances, to avoid de-valuing the initial bid process.

Question 8

How should the geographic extent of exclusive regional licences areas be defined? What is the appropriate balance between obliging exclusive offshore TOs to assume unknown levels of risk and the need for a wider geographic area to ensure a TO is available to connect generators? Is it appropriate to make available three offshore TO licences that cover the three strategic areas and to leave the remainder of the offshore area

Although this is not our preferred option, licensed geographic areas should initially be limited to the existing development areas but each area could be further divided, taking into account the number of projects and attractiveness of an area to ensure bids. Should subsequent offshore generation leases be made available, the new offshore areas should be tendered to allow new offshore TO entrants to enter the market as well as existing offshore TO's.

Question 9

On what basis should the competition for offshore exclusive TO licences be run?

As stated above this is not our favoured option. However, if an exclusive TO licence approach is adopted bids should only be assessed against known connections as the offshore regime develops, coupled with credit worthiness, capability and relevant experience.

Question 10

What is the value and feasibility of benchmarking exclusively licensed offshore TOs and in what way could this be facilitated if desirable?

In the event that an exclusive TO licence approach is adopted, benchmarking will be an important function to drive efficiency and reduce costs but very difficult to conduct effectively, particularly in the initial stages of the licensing regime.

Question 11

How can suitable incentives be placed on exclusive offshore TOs to ensure that assets are constructed and operated economically and efficiently? Is there an alternative to simply passing through costs that raise the charges paid by consumers and generators? Would it be suitable to use international benchmarks as a means of assessing economy and efficiency?

It will be difficult to place suitable incentives on exclusive offshore TOs to ensure that assets are constructed and operated efficiently and economically. A simple pass-through of costs cannot be in the interests of generators or consumers. International benchmarks could be used, subject to careful analysis to ensure validity, until UK data is readily available.

Question 12

What arrangements would be appropriate for dealing with future build outside of exclusively licensed areas?

Areas identified for future build outside of exclusively licensed areas should be tendered to allow new offshore TO entrants to enter the market as well as existing offshore TO's.

Question 13

How can generators be provided with timely, firm offers within reasonable timescales under the exclusive option?

Connection offers with timely connection dates should not be delayed under either of the exclusive or non-exclusive approaches due to competition with onshore applications for the same transmission capacity. The suggestion that project developers should be responsible for selecting cable routes in conjunction with a co-ordinating body, perhaps GBSO, and carry out surveys to a specified standard before applying for a connection, should shorten timescales and avoid the need to split the onshore and offshore elements of an offer.