

Licensing Offshore Transmission – External Communication Sessions
24th April 2007, Ofgem, 9 Millbank, London
Note of Meeting

This note has been taken by DTI / Ofgem to capture the key points made and to inform further debate. This note will concentrate on the issues raised during the question and answer sessions and subsequent discussion.

Speakers: Robert Hull, Ofgem Duarte Figueira, DTI
 Colin Green, Ofgem John Overton, DTI
 Duncan Innes, Ofgem
 Bridget Morgan, Ofgem
 Anthony Mungall, Ofgem
 Giles Stevens, Ofgem

Introduction – Robert Hull

1. Robert Hull (RH) opened the session with a brief discussion of the aims of the day and an overview of the proposed regime, stating that this was an opportunity to discuss Ofgem's initial thoughts for the new offshore transmission regime.

Government decision – Duarte Figueira

2. Duarte Figueira (DF) discussed the recent Government decision on the licensing of offshore transmission. He outlined the progress of the project, the licensing options that were consulted upon and the factors behind the Government decision.

During the discussion the following points were made:

- The question of what would be the situation if Renewable Obligation Certificate (ROC) banding comes in before the regime begins was asked.
John Overton (JO) stated that we can only work on what we know at present.
- It was suggested that statements in the Government response regarding the ability of a generator being allowed to bid to become an offshore transmission owner (OFTO) (subject to ring fencing) appeared to contradict DTI / Ofgem support of fuller unbundling at an EU level. In response it was stated that there were no plans to change the existing structure of the industry via this new regulatory regime. It was made clear that this option has always been subject to EU requirements and that developers would have to take account of any changes made at an EU level.
- Clarity was sought on the issue of ring-fencing. DF stated that this would be similar to the requirements that existed for onshore.
- DTI / Ofgem recognised the key role that industry will continue to have in the development of the new regime and will continue to engage via the work streams, external communication sessions and bi-laterals. There will be further consultations on key issues during the development of the regime over the next 18 months.

Summary of Ofgem scoping document – Giles Stevens

3. Giles Stevens (GS) gave a brief summary of Ofgem's scoping document, outlining the key work streams and issues.

During the discussion the following points were made:

- It was questioned whether the Channel Islands would be covered by the proposed regime.
Suzanne Coe (DTI) said the regime would cover the area known as the Renewable Energy Zone. This is set out in The Renewable Energy Zone (Designation of Area) Order 2004.
- A question was asked on whether the proposed regime would cover interconnectors.
GS stated that the scope of the offshore electricity transmission regime would cover those activities detailed in the Energy Act 2004. This would not extend to the development of offshore interconnectors.
- The issue of 'war-games' was raised and it was proposed that current projects need to be examined to identify process and problems. A request for more of the work streams to be joined up was made.
RH stated that there were reservations with this approach, in particular noting the challenging project timescales which face delivery of the regime and the resource availability to undertake such an intensive meeting. He did however agree that there is a need to address key issues within specific workstreams and accepted that efficient interface and communication between workstreams is critical.
- It was commented that too much bureaucracy would price investors out of the market.
RH said he noted these concerns and stated that the regime would aim to be as light-touch as possible.
- It was said that there are certain times of the year when offshore cables are not fixable and that this should be accounted for.
Peter Bucks (Ofgem) stated that this should be accounted for by developers in the tendering process.

Adoption – Robert Hull & John Overton

4. RH discussed the cost issues of adoption, outlining the pre-conditions to enable a project to be eligible for adoption and Ofgem's proposed approach. JO discussed the legal issues of adoption.

During the discussion the following points were made:

- The aim of the proposals was to give confidence that capital would be recoverable, if it was economically and efficiently incurred, once a regime was in place.
- A question was posed on what arrangements would be in place for projects that had commenced grid connection but were not yet commissioned i.e. did not fall within 'interim arrangements'. It was

also asked whether development costs, such as project design costs, be recoverable.

RH said that this issue would need to be considered.

- The question was asked on whether appeals be allowed once the Regulatory Asset Value (RAV) is determined.
RH said that this had yet to be decided.
- It was asked how Ofgem's sustainable development duty would be taken account of.
RH stated that this duty would be taken account of in the same way as Ofgem usually did, such as under the onshore Transmission Price Control Regime (TPCR) arrangements.
- It was asked how the RAV would be assessed if OFTOs installed assets above the minimum security level.
RH stated that this would be a matter of customer choice and said that Ofgem would not factor this into the RAV.
- A developer welcomed Ofgem's proposals regarding adoption.
- It was suggested that 75% *ex ante* recovery seemed ungenerous. 75% *ex post* recovery was suggested instead.
RH noted that the proposal reflected Ofgem's intention for a lighter touch regulatory approach offshore and the need to strike a balance between the certainties required to develop such projects and cost efficiency.
- It is for consideration whether increased costs as a result of environmental mitigation, for example a longer cable route to shore to reduce environmental impact, may be recoverable if considered to be economic and efficient.
- Any changes in technical rules that will affect those already constructing projects before the new regime goes live will continue to be assessed on an individual basis.

Connection Application Process – Robert Hull & Anthony Mungall

5. RH discussed the issue of the connection application process, the key policy questions and the proposed approach to connection via a transmission network.
Anthony Mungall (AM) discussed the connection application process in relation to connection via a distributed network.

During the discussion the following points were made:

- It was asked whether the connection arrangements for the Scottish Islands have set a precedent for the regime and whether Ofgem intend to consult on this issue separately.
Both RH and DF stated that the current Scoping Document was only concerned with the offshore connection process. RH said that matters regarding the Scottish Islands were dealt with in a TPCR final proposals document in December 2006. It is envisaged that an open letter will be issued within the next few months to initiate this process.

- It was asked how the costs of meeting environmental obligations would be met through the regime.
RH noted that, as onshore, companies would be responsible for meeting all relevant licence obligations, including environmental, when designing a project.
- A question was posed on what would be expected to happen in a situation where there was a considerable rise in the costs of a firm offer after signing of the indicative offer. Would the final offer be capped at the level of the indicative offer or what level of increase would be allowed? Would a developer be subject to penalties if it backed out at the final offer stage?
RH suggested that a generator will be able to reject an offer if it is unacceptable, although it must be recognised that the generator will be subject to providing increased levels of financial commitment against agreed construction works at defined points in the connection application process. He accepted that further work is required on the interim stage between an indicative offer and a final offer. However, he added that utmost care must be taken not to jeopardise onshore arrangements or adversely impact the GB queue.
- It was questioned whether generators would be able to refer offshore offers to Ofgem for determination.
RH noted that dispute resolution procedures required further consideration although it was envisaged that, as onshore, cases would continue to be assessed on an individual basis.
- The timescales in which a final offer to connect would be made were queried. It was said that a final figure for connection would need to include a target date for it to be as secure as possible.
RH stated that the final date depends on other factors (e.g. planning consents) and suggested that the offer process should be synchronised with the tender process. However, this would require further consideration.
- Ofgem's proposed annual coordination window for connection offers was queried. The example of onshore problems was cited and it was stated that anything that delayed projects even further, or discriminated against offshore generators, must be avoided.
RH stated that coordination was important as it would provide opportunities to improve design efficiency but said that he was open to ideas.
- DTI / Ofgem are confident that mechanisms can be put in place to ensure that no one organisation will have an unfair advantage. For example, the business separation mechanisms within National Grid (NG).

Connection via distribution network

- A question was posed regarding who would pay for any work the GB System Operator (GBSO) requires the Distribution Network Operator (DNO) to carry out.
RH said he welcomed views on this and that a further review of the issue was needed.

- It was noted that the ability of an offshore generator to receive compensation for a connection design built to a level above the minimum offshore security standard appears to have been precluded. AM noted that arrangements do not preclude a generator in choosing to build a more secure connection, gaining firm access and being eligible for compensation payments based on a Transmission Entry Capacity (TEC) product and payment of Transmission Network Use of System (TNUoS) charges. The issue of compensation is bound to the access product available and the commercial framework.
- It was questioned why the DNO connection outlined in the Scoping Document looks like this. AM said that Ofgem's initial policy proposal would offer the best approach to light-touch regulation but invited comment on this and the alternative approaches outlined in the March 2007 scoping document.

Technical Rules – Bridget Morgan

6. Bridget Morgan (BM) outlined the issues involved, the key policy questions and Ofgem's proposed approach in developing the technical rules.

During the discussion the following points were made:

- It was asked how Ofgem envisage managing the impact of changes to technical rules for projects under development. RH stated that this would be assessed on a case-by-case basis. He noted that this is one reason for seeking early clarity on technical rules.
- It was suggested that the initial assumption of extending the onshore arrangements offshore would not always be feasible. BM agreed but stated that this was the starting assumption. She expected that many arrangements would remain the same unless there were specific reasons why they should be different offshore.

Access, Charging & Compensation – Anthony Mungall

7. AM outlined the issues and questions relating to Access, Charging and Compensation. He then discussed Ofgem's proposed approach to each, explaining why where appropriate.

During the discussion the following points were made:

- It was asked whether, in the event that onshore charging methodology was deemed inappropriate offshore, would onshore charging be re-examined. RH responded by noting that this matter will be addressed by NG as offshore GBSO designate. He noted that NG intends to use the current industry forums and industry consultation to develop the relevant offshore charging methodologies.
- It was questioned how a Transmission Owner (TO) would be judged in the event of continual failure in its grid.

RH stated that serious questions would be asked of the TO in the event of continual failure of its grid, possibly resulting in re-tendering of the assets.

- It was said that incremental charging and zero modifications to connection agreement would be discriminatory. RH referred to his previous answer (see above).
- It was said that the NG Charging Methodology would be a big challenge offshore, given that expensive modifications to assets maybe required. RH referred to his previous answer and noted that Ofgem would have concerns if proposals lead to uneconomic developments.
- It was stated that Ofgem's proposal not to provide compensation to generators in the event of faults would be problematic. It was said that the right incentives would need to be put on owners to make the grid available. Further, it was suggested that not to offer the same level of compensation would be discriminatory. RH agreed that the right incentives would need to be placed on OFTOs and that Ofgem are looking at incentives, such as higher-than-expected performance. It was suggested that the price control will outline incentives against performance criteria and suggestions were welcomed. The speaker said that they had firm ideas on this and would be happy to feed them into the work streams.
- It was stated that capacity for first two years of project would be low compared to capacity once project is established. It was said this may be a danger in that TOs would be reluctant to take on early projects. RH noted that this is one reason for seeking clarity on the tender process. The proposed regime reflects Ofgem's intention for a lighter-touch regulatory approach and the need to strike a balance between certainty to develop such projects and efficiency of costs. If such an event did arise however the regime would need to be re-examined.
- A request for clarity was made regarding the customer base over which offshore transmission charges will be recovered. Would the costs of material modifications to its connection be smeared? RH noted that National Grid Electricity Transmission Ltd (NGET) charging methodology sets out the cost recovery mechanism. Under this mechanism, the GBSO would recover cost reflective TNUoS charges from OFTOs under its charging methodology. RH added that Ofgem expects NGET, in accordance with its licence obligations, to develop a non-discriminatory framework similar to that onshore whereby an asset that is deemed to be shareable would be considered as an infrastructure asset, the costs of which would be recovered from all users of the transmission system.

Tender Design – Duncan Innes

8. Duncan Innes (DI) discussed the aims of designing a tender process for licensing offshore transmission and then presented the potential stages in the proposed approach and the management of such an approach. He also outlined how an efficient tender would be identified and the next steps in the proposal.

During the discussion the following points were made:

- The circumstance of what would happen in the event of no bids or there being only one bid was raised. It was suggested that this was a risk for generators.
RH stated that if there were no efficient tenders, the regime may need to be re-examined.
- It was asked when 'relevant criteria' for the tender process would be defined.
RH stated that indicative criteria were outlined in the Scoping Document and that work on the exact criteria was still on-going. The proposed tender process will be consulted upon.
- It was questioned where the offshore developer would sit within the tender process. It was stated that Ofgem's proposed regime would take risk away from developers.
GS noted that the risk was effectively removed from developers by the Government decision in March 2006 to adopt a price control approach for offshore electricity transmission. He added that under a tender process an offshore developer may itself be bidding to provide the offshore transmission assets. He noted that ensuring that generators faced some form of user commitment would ensure that at least some of the risk could be transferred back to developers. RH commented that the regime is being developed with the aim of delivering the most efficient solution.
- It was stated that the cost element of tenders was still very unclear and that there would be difficulty in submitting a single tender given the uncertainties with indicative costs within the three month timescale. How would a successful bid be identified?
RH stated that no decision had been made on this issue yet but that a balance must be struck between how much information is provided with the costs of providing this information. He noted that further consultation is required.
- It was suggested the tender process proposed meant that developers would need to do a significant amount of work to develop the requirements of their tender. Otherwise, there was risk that bidders would over-inflate costs to account for all uncertainties. How would this represent an improvement to current arrangements?
RH said that at present there is no regulatory regime for offshore electricity transmission. A decision was taken on adopting a price control approach following a consultation process. He stated that funding of the offshore transmission grid would be split between offshore generators and the general customer base of GB.
- It was stated that the proposed tender process seemed to be attractive and it was suggested that shared information on sea-bed surveys could be included in the pre-tender process. Would timeliness of connection be one of the performance criteria for assessing tenders?
RH stated that there was potential for a lot of work to be done here, but suggested that timeliness may be one of the criteria used. These arrangements need to ensure that parties are able to rely on pre-tender information.
- It was noted that it is likely for parts of the GBSO and host TO business to be involved in the tender process. A request was made for

clarification on what safeguards are envisaged to offset the advantages arising from running the onshore connection offer process in parallel with the offshore tender process.

RH noted that there were arrangements already in place onshore to ensure adequate business separation and DTI / Ofgem were confident that similar approaches could be used in this context.

Design of regulatory regime (Price Control) – Colin Green

9. Colin Green (CG) presented the key policy questions and the proposed approach to the design of the regulatory regime. This included key characteristics, such as revenue streams, delivery requirements and performance incentives.

During the discussion the following points were made:

- Why Ofgem proposes to move away from 5-year periodic review when it does not know the lifetime of the asset was asked. It was suggested that re-opening of the price control in the event of extending the transmission system would be a risk for developers.
CG said that the Scoping Document sets out a straw-man to assist with policy development and that comments on this proposed approach were welcome. RH added that there is a need to develop arrangements that would allow competition for substantial changes to an extension in the offshore connection (e.g. doubling of capacity) but accepted that the manner in which price control arrangements would deal with such extensions would be a challenge. He said it may be possible for small incremental changes to be part of the bidding process.
- It was said that allowing incremental changes to the bidding process would be a risk. The issue was raised of what would be the case for the second party in the event that first party (from the point of view of future revenue streams) did not bid. This would have an impact on the GB queue.
RH stated that he had no firm views on this issue but reiterated Ofgem's commitment to design a regime that is sufficiently attractive to developers but also does not restrict generators from bidding.
- Clarity on what assets Ofgem are referring to (i.e. the transmission grid or generator) when it talks of the lifetime of the asset was sought. It was said that linking this with the price control is important.
RH stated a decision would need to be made on this.
- The question of what would happen to finance at the end of the price control was asked. Would it be re-tendered?
RH stated that we would look at Private Finance Initiatives principles to see how they could be applied.
- Confirmation was sought on whether a TO would be bidding more than just a revenue stream under Ofgem's proposed straw-man.
CG confirmed that there is a need for sufficient information to allow for the checking of a submitted revenue stream. RH added that each bidder would be responsible for the assumptions that underpin its revenue stream bid.

Appendix 1: List of attendees

Name	Organisation
Adrian Clough	Herbert Smith LLP
Aileen McLeod	Scottish and Southern Energy
Alan Mc Hugh	EIR Grid
Alan Vickers	AMEC
Alex Msimang	V E Law
Allan Kelly	ScottishPower Energy Management
Andreas Gunst	DLA Piper UK LLP
Andrew Croker	Scira Offshore Energy Ltd.
Andrew Mann	Ofgem
Andrew Poole	Martineau Johnson
Andy Houston	Gemserv Limited
Anthony Mungall	Ofgem
Anthony Prince	The Bank of Tokyo-Mitsubishi UFJ, Ltd.
Armando Dominioni	McKinsey & Company Inc. Belgium
Arnaud Bouille	Ernst & Young LLP
Bob Bruce	Glenton Bruce Ltd.
Brian Taylor	National Grid
Charles Davies	
Charles Ruffell	RWEnpower
Charlie Rankin or James Mitchell	Morgan Stanley
Chris Allanson	CE Electric UK (NEDL and YEDL)
Chris Gray	Mizuho Corporate Bank
Chris Miller	Ernst & Young
Chris Towner	Bond Pearce
Chris Veal	Airtricity
Colin Green	Ofgem
Colin Johnson	Grant Thornton UK LLP
Colin Taylor	SP Transmission
Dane Wilkins	Ernst & Young
David Ashbourne	Ofgem
David Gray	Ofgem
David Laurie	Shepherd and Wedderburn LLP
David Porter	KEMA Consulting Europe
David Tee	Health & Safety Executive
Davy Thielens	KEMA Consulting Europe
Diane Antonovich	Mizuho Corporate Bank
Dominic Nash	modalcap
Doreen Tchan	Norton Rose
Dr Dominic Maclaine	Platts Power UK
Dr Dragana Popovic	Energy Networks Association
Dr Furong Li	University of Bath
Duarte Figueira	DTI
Duncan Innes	Ofgem
Elaine Greig	AMEC Wind Energy
Gabor J. Takacs	Master student, LSE

Gaynor Hartnell	Renewable Energy Association
Giles Stevens	Ofgem
Glyn Jones	Sterling Power Group
Graeme Cooper	BWEA
Graham Knowles	Ofgem
Graham Skelly	Sinclair Knight Merz
Hans-Ake Jonson	ABB Power Technologies AB
Hessel Halbesma	Oceanteam Power and Umbilical Limited
Ikbal Hussain	Ofgem
Jagdeep Tiwana	Ofgem
James Marsden	Natural England
James Toal	JayTee Consulting (Scotland) Ltd
Jan Roos	Fabricom BV
Jim Hodder	Metoc Plc
Joe Verdi	Marine Current Turbines TM Ltd
John Dunlop, CFA	HSH Nordbank AG
John Greasley	National Grid
John Lucas	ELEXON
John Overton	DTI
John Sinclair	Balfour Beatty Power Networks
John Wilson	Ofgem
Jon Mears	Oceanteam Power and Umbilical Limited
Joseph Hussey	Ocean Prospect Ltd
Judith Ward	UK Business Council for Sustainable Energy
Katherine Watson	DTI
Lasse Lohre	Norsk Hydro
Laura Jeffs	Centrica Energy
Lewis Dale	National Grid
Lyndon G Greedy	Garrad Hassan & Partners Ltd.
Mark Petterson or Richard Evans	Warwick Energy Limited / Thanet Offshore Wind ltd
Martin Read	ESBI
Matthew Knight	Siemens Transmission and Distribution Ltd
Michael Brooks	Oceanteam Power and Umbilical Limited
Michael Dean	Maclay Murray & Spens LLP
Michael Dodd	Ofgem
Michael Lewis	Bayern LB
Mike Attree	
Mike Eggleton	Alderney Renewable Energy
Neil Birch	RWE npower renewables
Neil Budd	Watson, Farley & Williams
Nigel Turvey	Western Power Distribution
Paul Jones	E.ON
Paul Killilea	Alfred McAlpine Infrastructure Services
Paul Mott	EDF ENERGY
Peter R Jones CEng FIET	ABB Ltd (UK)
Phil Baker	DTI
Philippe Lenoble	

Peter Bucks	Ofgem
Rachel Lockley	British Energy
Ralph Chamberlain	E.On Central Networks
Richard Cooke	AREVA T&D UK Ltd
Richard Daniels	DTI
Rita Shaw	
Robert Hull	Ofgem
Robert Longden	Airtricity
Rod Seville	The Crown Estate
Saf Ismail	Ofgem
Sarah Hall	nationalgrid
Shanti Majithia	National Grid
Sheila Connell	Allen & Overy LLP.
Simon Cowdroy	Econnect Consulting Ltd
Simon Eddleston	E.On Central Networks
Simon West	RBC Capital Markets, Energy and Utilities
Siobhan Carty	Ofgem
Stephen Knight	LogicaCMG
Steve Argent	Ofgem
Suzanne Coe	DTI
Tim Tutton	Oxera
Verity Mitchell	HSBC IB