

Colin Green
Ofgem
9 Millbank
London SW1P 3GE

5th September 2007

Dear Colin

**British Energy response to the Consultation Document Offshore Electricity
Transmission – a Joint Ofgem/BERR Policy Statement**

British Energy (BE) welcomes the opportunity to comment on the above consultation. BE is the UK's largest generator of electricity. We own and operate eight nuclear power stations as well as Eggborough Power Station (a large coal plant with two units fitted with FGD) and four small embedded gas generator sites. We also have interests through a joint venture in developing a large island windfarm in Scotland.

On the whole BE supports the majority of the proposals in this consultation document. We believe that it is necessary to keep the whole process simple and transparent and to minimise any changes to the industry codes. We believe that Ofgem / BERR should ensure that sufficient effort is put in so that all aspects are covered and there is limited change after implementation.

We have the following comments on the consultation:

Design of the Regulatory Regime

BE is generally supportive of the proposed regulatory regime to licence OFTO's. There is a need to have strict obligations on the OFTO and to ensure that there are sufficient incentives to ensure that these obligations are met.

We have slight concerns in setting a 20 year licence for an OFTO as this may not align with the asset profile of an offshore generator. Whilst this approach may be appropriate for revenue recovery considerations, offshore generator licences are not so time limited and phased replacement of offshore assets could extend the life well beyond this period. In addition there is some mis-alignment with the Crown Estates granting of leases to generators which range from 22 (+3 for decommissioning) years in Round 1 and up to 50 years in Round 2. This could result in uncertainty for the generators about the availability of adequate offshore transmission assets beyond 20 years. It is not clear to us why OFTO licences could not be enduring as on the mainland but with an initial effective 20 year price control period.

Enduring Competitive Framework

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BE is generally supportive of the proposals for an enduring competitive tender process as a means of delivering the most cost effective solution to connecting offshore renewable generators.

Paragraph 4.39 identifies that the additional responsibilities given to Ofgem in managing the offshore tendering process should not unduly impinge on the existing areas of Ofgem's activities. This implies the need for additional resources with attendant cost implications. It is stated that it is intended that the additional costs would be recovered from the appropriate parties without explicitly identifying who those parties might be. BE suggests that this be clarified to remove ambiguity and the process should be self-financing through the payment application fees by tender applicants.

Transitional Arrangements

BE recognises there does need to be a framework to allow appointment of an OFTO for schemes that are already in progress. The framework proposed would seem to be largely appropriate but there are issues associated with the OFTO not being responsible for the design or construction of the offshore transmission assets. These issues may result in very little interest for the role of OFTO other than from either the developer or the major offshore equipment suppliers.

Paragraph 5.28 suggests that if a pre-qualification step is included to screen bidders then only financial health may be considered rather than designing and construction of assets. This is particularly short-sighted and anyone with an OFTO licence should be able to demonstrate that they have the capability and knowledge to manage strategic assets in potentially harsh environments.

Paragraph 5.37/38 identifies that the offshore transmission assets are transferred with the associated consents and licences. It would seem illogical to not also transfer any warranties and performance guarantees negotiated by the developer at the same time. Any potential OFTO would have the opportunity at the data gathering stage to view in confidence such warranties and guarantees and this would form part of their normal due diligence work before bids would be submitted.

Paragraph 5.40 refers to the provision of having an OFTO of last resort for transitional offshore projects as the developer. If the developer had not put forward a bid to become the OFTO then this approach seems a little perverse as it suggests in this case that the developer does not have the skills or feel qualified to take on the role of an OFTO. Would it be not more logical to appoint an existing transmission licensee as the OFTO of last resort?

Connection Application Process

BE agrees that the process should be based on the onshore process as far as possible with the GBSO being the single point of contact for connection applications. In this respect we would favour Option 2 as we believe normal commercial forces would tend to encourage co-operation where economic benefits can be realised. This may be further facilitated if CUSC

Amendment CAP151 Construction Agreement Works Register is approved as it will link transmission re-enforcements to triggering projects.

Connection via Distribution Networks

As described above, we agree that the GBSO should be the single point of contact for embedded transmission connection applications. It seems appropriate to base the process on that already existing for distribution.

Charging, Access and Compensation

BE agree that NGET as the GBSO is best placed to develop the offshore charging framework providing there is sufficient consultation with industry to ensure that all aspects are covered. As we mentioned in our response to the charging consultation, BE is in favour of the onshore connection point. When it comes to connection charging it is difficult to treat offshore in the same way as onshore due to the additional complexities and costs in connecting to the system. It is the choice of the user to locate assets offshore. The costs and complexities of this choice therefore are best met by the user under this option. It is our view that it is not reasonable to expect onshore users to incur charges as a result of users' choice to locate offshore.

We agree with the proposals relating to access and compensation. We do not see any reason why these should be any different to those received onshore.

Technical Rules

We think that the proposals to amend the current rules are sensible as it seems inefficient to create additional documents covering the same issues. The addition of an offshore chapter is probably better than having to change all of the individual chapters for each of the codes.

As this area is particularly complex, it seems the setting up of additional industry groups is sensible so that all areas are covered. It seems right to put in the extra effort to ensure that the rules developed are correct at the outset and that minimum change will be needed in the future.

As a nuclear generator we have a concern that any changes to the codes may have an adverse effect on our Nuclear Site Licenses (NSLPA). We therefore request that we are made aware in advance of any changes so we can consider what impact any changes may have.

Implementation Issues

We fully support Ofgem proposals in respect of licence changes. In particular, we agree that the changes should be accommodated within the existing structure of the transmission standard licence conditions, but with the addition of a new section for offshore transmission owner conditions. In the interests of transparency, we also support the proposal to require that holders of offshore transmission licences do not also hold a current onshore transmission

licence and that existing licensees operate any offshore transmission activities as a separate legal entity.

The development of offshore transmission is a complex area and will probably involve changes to all industry codes. These changes should be kept to a minimum and be as simple and transparent as possible. Industry should be given sufficient time to comment on changes to ensure that all direct/indirect issues have been considered.

Work Programme

The timescales set out in the consultation appear to be ambitious. We would hope that this process is not rushed and that all areas are covered adequately to avoid any unnecessary teething troubles when these rules come into force.

If you have any questions on our response please do not hesitate in contacting me.

Yours Sincerely

Rachel Lockley

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