BWEA

Delivering the UK's wind, wave and tidal energy

Offshore Electricity Transmission – Joint Ofgem/BERR Policy Statement
- BWEA Response

BWEA present this document in response to the joint Ofgem/BERR policy statement on Offshore Electricity Transmission.

The offshore electricity transmission regime is important, both to the offshore wind farm operators and developers currently working on projects, but also due to future plans for offshore wind farms and also for fulfilling the potential of wave and tidal stream generation. The BWEA is the trade association that represents companies involved in wind, wave and tidal stream energy generation.

The regime that is put in place must provide a balance of different factors to suit different interests. A generator wishes to see a system that is low cost and also quick, so that they can be up and running with as little complication as possible. A potential Offshore Transmission Operator (OFTO) wishes to see a system that is efficient and provides sufficient reward for the upfront risk that they are to take on board. Suppliers require a system that will give them access to a new market that is consistent and competitive with other markets for their products. From the point of view of UK plc, there is also a need for a system that provides the best value for money and the best strategic use of the offshore resource.

The BWEA occupies a good vantage point to be able to access many of these viewpoints. A concern has been raised that the proposed system has lost its way from what was originally envisioned. Those who criticise the scheme feel that the choice of a non-exclusive and regulated system should have provided a system that balanced the need for competition and so lowest cost with the need for a secure and stable supply for consumers. However in order to include both government control and an open competitive regime the system appears to have become more complicated and lengthier than would be desired in a scheme of this nature. It is unable to integrate the many interacting variables that need to be considered in developing a transmission network and be flexible enough to manage the different demands of those involved in the scheme.

Sufficient attractiveness for potential OFTOS

A main focus of concern about the proposed regime is that it provides sufficient attractiveness for parties interested in taking on the role of OFTO. If the OFTO's view of the process is that it requires more effort than the return they will receive, the result will be a lack of bids. Uncertainty in the size of return gained from being an OFTO would increase the unattractiveness of the role. If an OFTO were not appointed, how would this outcome be dealt with in the process?

Cost driven approach compared with quality and strategic considerations

The decisions made on the tender process should not purely depend on a bid that provides the lowest cost. While a low price is of huge importance to all parties involved and one of the greatest benefits of the non-exclusive approach, consideration must also be given to the ability of the tender to deliver a quality connection and also to integrate with other transmission work being built in the region and planned for the future.

The exclusive approach provides one method for providing that offshore transmission is developed strategically and integrated. For the non-exclusive system, there needs to be enough flexibility built into the scheme to allow for negotiation between developers and the OFTO and to allow for innovation in the solutions to connection. This will benefit creating a secure and stable connection and also in allowing collaborative approaches.

The duration of the tendering process and 2020 targets

BWEA is concerned about how long the tender process could take. The scheme introduced must provide a quick and efficient process to prevent delays in project completion.

To deliver the EU targets of 20% primary energy from renewable sources by 2020 it has been estimated that 34% of electricity generation will need to be generated by renewables. To translate this target into reality will require large scale deployment over a limited timescale. A lengthy tender process could severely hamper the government's attempts to meet this target.

Analysis of a simulated transmission project

Taking this into consideration, BWEA would like to see an analysis of a typical offshore wind farm simulated going through the process and compare the strengths and weaknesses of an exclusive geographical area approach and a non-exclusive approach at each stage. The costs and time periods required for tendering of the two approaches could be compared to demonstrate that a non-exclusive system did deliver the advantages claimed. A comparison could also be made of which system would be able to deliver the best strategic response.

It is important to point out that the BWEA membership is not unified on this issue. While many members have raised concerns, others have stressed that they do not wish to delay the consultation process and will work with the current system to make it work. The timetable proposed for the drafting and implementation of the scheme is ambitious already and a danger is that revisiting concerns will delay the process. If the continuation of the proposed scheme results in a system that is unworkable then a revision is necessary.

The BWEA wishes to work with the consultation to provide a workable system and is mindful of the implementation timetable, however consideration needs to be made of the framework of the scheme. Our response is given in detail below.

Chapter 1: Introduction and Chapter 2: Overview

The industry has been supportive in its interaction with the formation of this regime and now welcomes the understanding of Ofgem's preferences that this policy statement brings.

BWEA appreciates the clear distinction made between transitional and enduring arrangements.

Chapter 3: Design of Regulatory Regime

Question 1: Do you agree with our proposals for the design of the regulatory regime as outlined in this chapter? In particular, we would welcome your views on
- the role of the OFTO and the obligations that it would undertake;
- the regulatory and contractual framework, including the duration of (and what happens at the end of) the revenue stream, predefined adjustment mechanisms, transfer arrangements, and business separation requirements;
- the form and quantum of performance incentives;
- dealing with changes to generator requirements; and
- the allocation of risk.

Question 2: Do you feel that there is any aspect of the design of the regulatory regime that we have not considered sufficiently?

BWEA do not understand why a 20 year income stream has been chosen for an OFTO. Our preference would be that there is flexibility in the period so that it could match the lifespan of the generation assets. This could be achieved through the OFTO's bid and would enhance competitiveness and attractiveness to the OFTO. This would be equivalent to the onshore scheme.

It should be made clear what happens when the OFTO contract comes to an end. For example, if the generator wishes to re-plant and continue using his lease, BWEA would like to see that the current OFTO was given first refusal to continue with the agreement, provided performance had been satisfactory, so that re-tendering is avoided.

The fact that there is no price review within the OFTO contract means that there is no opportunity for re-opening the agreement even if there were a change in circumstances or a *force majeure* event that had to be taken into consideration during the life of the project. BWEA would like to see a provision for the re-opening of the contractual arrangements in the face of an unforeseen external event. This would be done on a case by case basis and there would need to be a materiality threshold taken into account. If this option was not included it would be reflected in the bidding price of the OFTO.

More clarity is required over the allocation of risk. It is worth high-lighting that the risk of stranding currently appears to be with the generator pre-construction and with the consumer, via TNUoS charges, after completion.

The risk of availability and outages should be placed on both the generator and OFTO taking into account security standards and maintenance.

If the transmission works failed to gain consent solely because of an action of the generator, would the OFTO be left with the consent failure risk. The risk matrix in Appendix 3 should take into consideration the likelihood and magnitude of the risk.

The risk placed on an OFTO is front-loaded and if there were only one OFTO bidding for a contract this could result in excessive pricing to cover this risk.

The use of penalties and incentives are supported in principle. The penalties should be large enough to ensure best practice in the OFTO, but not too large as to become a disincentive to OFTO bidding. The incentive/penalty scheme should be consistent with CAP048 principles and should be transferred via the GBSO.

The ability to vary a contract should not be directly between the OFTO and the generator. All contracting should be done through the GBSO. Variances to the standard design could be agreed between the OFTO and generator and then implemented through the GBSO contract.

The option of sub-leasing the sea bed should be clarified with the Crown Estate.

Chapter 4: Enduring Competitive Framework

Question 1: Do you agree with our proposals for the enduring competitive process as outlined in this chapter? In particular, we would welcome your views on:
- the use of an annual tender application window;
- the design of the tender process, and the stages we have outlined;
- recovery of tender costs; and
- running the tender process.

Question 2: Do you feel that there is any aspect of the enduring tender process that we have not considered sufficiently?

The benefits of the tender window should promote the benefits of the non-exclusive approach and bring lower prices and the option of a coordinated solution. However there is no body capable of examining coordinated solutions. In fact negotiation for a solution could be in breach of the competition rules.

The tender process should have clearly defined pre-qualification criteria and the evidence of meeting these criteria should be contained in the OFTOs bid.

Chapter 5: Transitional Arrangements

Question 1: Do you agree with our proposals for the transitional arrangements as outlined in this chapter? In particular, we would welcome your views on:
- the pre-conditions for qualifying transitional projects;
- the tender process for transitional projects, and whether they capture the potential projects that will require adoption;
- the transfer of assets; and
- interaction with the enduring regime.

Question 2: Do you feel that there is any aspect of the transitional arrangements that we have not considered sufficiently?

BWEA welcomes the pragmatic approach that has been taken to the transitional arrangements, including the restatement of intentions in paragraph 5.8. We support in principle the ability to enter the process at either the 'Go-active' or 'Go-Live' dates. Further clarity on the advantages and disadvantages of entering the scheme at either of these dates would be useful.

BWEA is concerned by the regulatory risk that is presented by the 75% ex ante valuation that Ofgem is prepared to guarantee. It is our view that where Financial Investment Decision (FID) has been achieved, the contract prices constitute the best prices that could have been obtained in the market. Therefore 100% ex-ante guarantee of investment is appropriate in these cases. We agree with the need for an ex-post review of any difference between the contract price and final outturn cost following completion, to ensure that any difference has been economically and efficiently incurred.

There should be more clarity on what is meant by an economic and efficient investment and how this is determined for transitional arrangements. There may be a limited amount of expertise available within the Authority for offshore transmission developments. Provision of financial modelling should only be for the offshore transmission assets.

BWEA would like to see a generator affiliated OFTO treated in the same way as a pure OFTO, as business separation requirements would allow this. Re-advertising of bids should be avoided as this would add delay.

It should be noted that many projects operate on a balance sheet basis and will not experience 'financial close' as it is talked about in the policy statement. Clarity on the interpretation of this term is needed to avoid organisations reaching different interpretations.

It should be noted that treatment of phased developments is to be clarified. We would suggest subsequent phases post Go Live requiring additional infrastructure should be subject to the enduring process, but incumbent OFTO should get first refusal.

With regard to paragraph 5.24, technical compliance may currently be onshore but we expect different requirements for offshore points of connection and onshore OFTO network points of connection. Onshore compliance could be satisfied by an infrastructure solution offshore.

A higher level of security of connection should be charged to the generator in accordance with the Charging Methodology and should be via the GBSO.

With regard to paragraph 5.17, it is worth noting that the potential OFTO would also have to fund asset transfer valuation in addition to ongoing maintenance costs.

With regard to paragraph 5.22, do current licence exempt projects need a generation licence? Concerns have been raised on the financial implications for license exempt projects that enter the transitional scheme and lose their embedded benefits.

BWEA welcome the recovery of development costs for projects that are not at financial close. How will Ofgem determine what efficient level of costs are in this respect?

BWEA welcome the OFTO taking on the developers' cable routing where projects are sufficiently advanced but not yet at financial close.

More information is required on the data needed for the data room and the appropriate fees to cover tender costs. Clarity is required on the engineering audit report on functioning performance; this should only be for the offshore transmission assets and not include the offshore generation.

With regard to paragraph 5.28, assessment based purely on financial strength is not enough, capability and experience to carry out the role is also important, even if this is just the management of sub-contractors with relevant expertise.

The collation of tender information could be by the GBSO as it will receive some of the information via the connection application. However, competition concerns over affiliated TO would need to be addressed. Alternatively, support an Authority appointed third party, given the Tender Panel will be constituted by the Authority. This option would maintain complete independence during the process.

Further consideration of design and construction risk staying with the developer is required. It is not clear why the potential OFTO could not build in any post completion issues arising from design or construction issues in to its bid as a costed risk.

Chapter 6: Connection Application Process

Question 1: Do you agree with our proposals for the connection application process as outlined in this chapter? In particular, we would welcome your views on:
- the pre-application process;
- the indicative offer process (stage 1);
- the final offer process (stage 2); and
- the roles of the generator, the GBSO, and the OFTO in this process.

Question 2: Do you feel that there is any aspect of the connection application process that we have not considered sufficiently?

Question 3: We outline two options for annual tender application windows. Which of the following options do you think are appropriate?
- Option 1: A mandatory annual tender application window, to be incorporated into the offshore connection application and tender process; or
- Option 2: To rule out an annual tender application window and allow generators to realise cooperation benefits independently and optionally.

BWEA believe that the pre-application process should involve a feasibility study, but that this should be optional and should not include pre-defining work.

The tender process and the connection process need to be considered together, as part of an end to end process. It is unclear whether onshore access would be guaranteed for a future date at the 3 month indicative offer stage. The clustering of applications in a tender window places more pressure on the 3 month estimate and the tender panel. Robust and transparent queue management will be required to prevent delays at this stage.

An indicative offer made in 3 months, could differ greatly from the final offer made after more information is gathered as part of the tender process. This could create a problem in accepting the final bid, even though considerable time and money had been spent. The cost of the tender process could be considerable, once sea bed surveys and other factors are included.

The connection application forms may need to change for offshore generation applications to account for provision of additional tender information required by generators.

There should be no discrimination against an offshore generator in gaining access to onshore capacity when compared with onshore generators. A delay in one project should not impact on the access of another project. Again this requires robust queue management.

BWEA would like to understand how connection corridors would be made to work. Potentially they provide an opportunity to include a strategic coordinated approach. However there remains the potential for this to add another layer of complexity as the mechanism by which this is incorporated is undefined. Would a separate tender be organised for all the transmission work in one area?

Chapter 7: Connection via DNOs

Question 1: Do you agree with our proposals for connection via distribution networks as outlined in this chapter? In particular, we would welcome your views on:
- comparable types of connection;
- charging arrangements; and
- connection application processes.

Question 2: Do you feel that there is any aspect of connection via distribution networks that we have not considered sufficiently?

Whether an OFTO connects directly to onshore transmission or to onshore distribution will effect the arrangements that the generator will receive (e.g. level of security, access rights, charges etc) and the timetable in which the initial offer is made, as these come under the STC and DCUSA respectively. A key consideration will be whether generators are prepared to experience anything different in the arrangements and timescales depending upon the type connection.

There is a concern over how the electricity transmission and distribution governance (Grid Code, CUSC, STC, DCode, DCUSA etc) will be co-ordinated.

The identification of connection corridors and the size of generation should help drive whether direct transmission connection or via distribution system is more appropriate. As projects increase in size the likelihood is that the connection type will tend towards direct transmission.

Chapter 8: Charging access and compensation

Question 1: Do you agree with our proposals for charging, access and compensation as outlined in this chapter? In particular, we would welcome your views on:
- the development of charging arrangements;
- access products; and
- compensation proposals, particularly whether there should be a penalty only regime in place for the OFTO.

Question 2: Do you feel that there are any aspects of charging, access and compensation that we have not considered sufficiently?

We believe it is necessary to develop arrangements that provide an appropriate balance between the security standards offshore, the transmission charges an offshore user pays, the access rights a user receives and the compensation arrangements that exist when that access is not available.

BWEA support in principle the OFTO penalty mechanism, unless connection has comparable security to an onshore connection. The level of penalty will need to balance the loss that a generator may face against the potential for OFTO bids to build in a risk premium, which would be paid for via the TNUoS charges. This becomes a form of self insurance. CAP048 principles may be more appropriate but incentive needs to be sufficiently strong on an OFTO to ensure that faults are rectified as quickly as practicable and availability is maximised.

BWEA suggest the scheme develops an argument that the reliability incentive and compensation are linked?

BWEA support, in principle, the extension of the onshore Charging Methodology offshore. It is important to note that the outcome of the NGET pre-consultation on charging methodologies may shape the design of the regime.

Regarding the extension of onshore access product and compensation arrangements offshore, we are concerned that flexibility will be lost as options for higher security standards must be negotiated outside the standard contract.

BWEA agree with the principle that access and compensation rights should be proportionate to the standard of connection and that charges should reflect the costs of this connection.

Chapter 9: Technical rules

Question 1: Do you agree with our proposals for technical rules as outlined in this chapter? In particular, we would welcome your views on:
- security standards; and
- the recommendations for developing technical rules.

Question 2: Do you feel that there is any aspect of technical rules that we have not considered sufficiently?

BWEA support in principle the proposal on GBSQSS
BWEA support in principle the proposals on Grid Code and re-consideration of classification issues.
BWEA support in principle that the way forward on development of the STC is to accommodate OFTO's.

Chapter 10: Implementation issues

Question 1: Do you agree with our proposals for implementation as outlined in this chapter? In particular, we would welcome your views on:
- changes to licences; and
- changes to codes.

Question 2: Do you feel that there is any aspect of implementation that we have not considered sufficiently?

There does not appear to be an option to designate changes for charging and access. Will the proposal to do this via the ongoing governance of the CUSC be feasible?

Consideration needs to be given as to where the rules governing the operation of the tender panel will sit.

Chapter 11: Works Programme

Question 1: Do you agree with our proposed work programme as outlined in this chapter? In particular, we would welcome your views on our proposed approach to industry engagement.

Question 2: Do you feel that there is any aspect of our proposed work programme that we have not considered sufficiently?

BWEA wish to see the new regime introduced as quickly as possible and applaud the ambitious timetable taken on board. We have outlined some reservations regarding the framework of the scheme and remain hopeful that this can be resolved within the timeline outlined. BWEA encourage consultation with industry to be as extensive as possible.