



**Response to Ofgem/BERR Joint Policy Statement on Offshore  
Transmission**

**September 2007**

## **EXECUTIVE SUMMARY**

We have the ambition and capability to be a leader in the provision, ownership and operation of the transmission infrastructure required to harness the UK's rich offshore renewable resources.

We will continue to engage closely in the development of a framework that can balance the interests of all stakeholders. However, the framework as set out in the policy statement appears to place too much risk on the OFTO. This needs to be addressed to ensure that offshore transmission investment is sufficiently attractive relative to other investment opportunities.

Areas that we would like to see addressed are:

- funding of efficient bid costs of preferred bidders in recognition of the need to attract well developed bids;
- specific provision in the licence for OFTOs to formally request that significant costs outwith its control be considered by the Authority; and
- a realistic set of performance standards in line with technical standards

We fully support the concept of a multiple TO model within the BETTA framework and believe that this will deliver benefits to users of the network and to customers in general. Another advantage of this model is that it provides developers, subject to meeting requirements on legal separation, to become TOs for the assets connecting their developments.

The primary objective for the offshore regulatory framework should be to facilitate economic and effective connection of offshore renewables. We hope that our response will be of assistance in meeting this objective.

## **1. Design of Regulatory Regime**

### *The role of the OFTO*

The obligations applicable to an OFTO should be consistent with those applicable to onshore TOs. We have no particular concerns with the detail in this area as set out within the policy statement.

*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 arrangements*

We are generally supportive of the regulatory framework outlined in the document and agree that OFTO licences should be granted for a fixed period consistent with the anticipated life of the generation assets.

Following the expiry of an OFTO licence we believe that the incumbent OFTO should be given the opportunity to extend their licence for a further period if generation assets remain in place. An automatic re-tendering process would appear to be unnecessary.

We do not consider it appropriate that a review of the regulated revenue stream would only be at Ofgem's discretion in the event that they choose to exercise their general powers to modify licences in the most exceptional of circumstances. Specific provisions must be incorporated within licences to permit an OFTO to formally request re-opening of the regulatory agreement in the event of significant costs being incurred that are outwith its control.

### *The form and quantum of performance initiatives*

It is extremely important that a clear specification of transmission requirements is available against which a prospective OFTO can prepare a bid. The technical performance criteria set out in such a specification must be realistic and deliverable. Given the novelty of the offshore regime and the nature of the operating environment, there should be no requirement for an OFTO to compensate the generator for energy income revenue forgone as a consequence of unavailability.

We believe that the performance targets discussed in the policy statement are too onerous and are not consistent with the technical standards that are being developed. Further work is required to develop a balanced set of performance incentives. There would be merit in establishing a group to develop an appropriate performance regime and associated targets. We would be pleased to participate in such a group.

Consideration should be given to the lack of experience of operation of offshore transmission assets over an extended period when developing the performance regime. It is possible, for example in the event that serious problems were to materialise with sub-sea cables, that further capital investment could be required to maintain performance within required levels.

As stated in previous consultations, losses should not be included in a performance regime for an OFTO. Rather, it will be the actions of the SO and the generator that will influence the level of losses over the life of the assets.

### *Dealing with changes to generator requirements*

We agree with the proposals set out in the document that the OFTO would be able to provide incremental capacity and services to generators on a bilaterally agreed basis and that those terms would fall outside the price control mechanism. It is also reasonable that any major expansion of a generation site would be managed via a tender process.

### *Allocation of risk*

The framework as set out in the policy statement appears to place too much risk on the OFTO. This needs to be addressed to ensure that offshore transmission investment is sufficiently attractive relative to other investment opportunities. Areas that require further consideration are:

- funding of efficient bid costs of preferred bidders in recognition of the need to attract well developed bids;
- specific provision in the licence for OFTOs to formally request that significant costs outwith its control be considered by the Authority; and
- a realistic set of performance standards in line with technical standards.

We are supportive of the objective of minimising tender costs. However, this must be balanced with the need to encourage serious bidders to submit robust and deliverable tenders. We remain firmly of the view that preferred bidders should have their efficient costs funded, regardless of whether the bids are successful.

We disagree that an OFTO would have no opportunity to request the re-opening of the regulatory agreement if there were a change in circumstances or a *force majeure* event during the period of the licence term. Such unforeseen events should be subject to a re-opening of the price control mechanism and managed through provisions set out in OFTO licences.

Further consideration should be given to the requirement to have in place a decommissioning plan at the commencement of the licence period. Such a plan should be considered separately from the bidding process and evaluated at the later stages of the price control period with the pass-through of costs considered as a funding mechanism in the first instance.

## **2. Enduring Competitive Framework**

We welcome the decision that the Authority will manage the tender process and approve the selection of bidders at each stage of the process.

### *The use of the annual tender application window*

We are generally supportive of the principle of a tender application window. A coordinated approach in locations where there are a number of developments will require some form of application/commitment window to work with a clustering approach. Such a window would provide an opportunity for adjacent developments to secure the appropriate consents and financial approvals and make the necessary user commitment to allow construction of the transmission assets to commence. This could result in a delay for some of the early movers in a particular area but should ultimately result in more MWs connecting.

Rather than having a fixed window, as is suggested in the policy statement, we believe that some flexibility should be retained based on the intended timescales of the various developers in a particular location. This could result in a window of less than or greater than one-year being applied.

*The design of the tender process, and stages outlined in consultation*

We generally support the outline of the iterative tender process set out in the consultation however do have concerns with regard to the following areas;

- the degree to which it will be possible to differentiate between bidders on price in advance of detailed pre-construction work; and
- the need to encourage serious bidders by funding efficient tender and pre-construction costs.

We do not believe that it is possible for price to be the main differentiating factor at the initial stage of the bid evaluation. As previously stated, we do not think that it is possible for a firm price to be developed in advance of detailed pre-construction works. Prices bid at an early stage must be considered as indicative only.

*Recovery of tender costs*

As stated previously, we are supportive of the objective of minimising tender costs. However, this must be balanced with the need to encourage serious bidders to submit robust and deliverable tenders. We remain firmly of the view that preferred bidders should have their efficient costs funded, regardless of whether the bids are successful.

*Do you feel that there is any aspect of the enduring tender process that has not been considered sufficiently?*

We believe that the following issues require further consideration in developing the tender process:

- the inability of bidding OFTOs to provide firm prices at end of tender process;
- the time required to producing a firm bids; and
- the recovery of tender costs

### **3. Transitional Arrangements**

We are generally supportive of the transitional arrangements set out in the consultation. However, it is critical to ensure that prospective OFTOs are furnished with adequate information to make an informed bid. Where assets have yet to be constructed, OFTOs should have the opportunity to carry out diligence checks on the design to assess the quality of the installation. In addition, provisions should be incorporated within the process to provide the OFTO with assurances that any installed equipment was fit for purpose.

The point at which a scheme would be considered under the enduring regime appears to be appropriate.

### **4. Connection Application Process**

*Pre-application Process*

We believe that there is merit in the generator participating in a pre-application process. However, we consider that such involvement should be voluntary rather than compulsory and restricted to making an assessment of the possible onshore connection points to accommodate the planned generation project, and making an assessment on the feasibility of the network accommodating such a connection.

*The indicative offer process (Stage 1)*

We understand that, from a connection queue perspective, it is imperative that offshore developments are not disadvantaged relative to onshore developments. It is therefore important that offshore developers receive some form of offer within a 3-month period. However, we do not believe that it is desirable, or in the interests of any party, for an indicative offer to be issued covering costs or delivery timescales for the offshore works.

*The final offer process (Stage 2)*

We are generally supportive of the process set out in the policy statement.

*The roles of the generator, the GBSO and the OFTO in the process*

We believe that the roles described in the policy statement of the key stakeholders in respect of the process to be appropriate.

## **5. Connection via distribution networks**

*Comparable types of connection*

The three types of connection under the onshore arrangements that could be considered as possible comparators for embedded transmission appear reasonable.

*Charging arrangements*

The charging arrangements as described in the policy statement appear appropriate.

*Connection application process*

We do not see any requirement to implement additional obligations in respect of connection offers to the distribution system.

## **6. Charging, access and compensation**

*The development of charging arrangements*

We believe that the proposals for developing the charging arrangements are generally appropriate.

*Access products*

We agree that the detail of such access arrangements should be progressed through discussions on the design of the regulatory regime.

*Compensation proposals, particularly whether there should be a penalty only regime in place for the OFTO.*

We support balanced and symmetrical incentive mechanisms that provide an opportunity for both reward and penalty and believe that such mechanisms provide a stronger incentive and are more likely to deliver desired levels of performance than a penalty only regime. In our view consideration must also be given to capping the level of reward/penalty that will be applied in any given year to ensure that the incentive mechanism does not have a disproportionate impact.

## **7. Technical Rules**

We are generally supportive of the recommendations outlined in the policy statement for developing technical rules.

## **8. Implementation Issues**

We are generally supportive of the proposals set out in the policy statement for changes to licences and industry codes.

## **9. Work Programme**

We are generally supportive of the proposed work programme as outlined in the policy statement and of the proposed approach to industry engagement.