

**Licensing Offshore Transmission –
External Communication Sessions #2**

**10 August 2007, Department of Business, Enterprise and Regulatory
Reform (BERR), 1 Victoria Street, London**

Note of Meeting

This note has been taken by BERR / 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: Duarte Figueira, BERR

Robert Hull, Ofgem
Colin Green, Ofgem
Graham Knowles, Ofgem

John Greasley, National Grid
Hedd Roberts, National Grid
Tom Ireland, National Grid

Introduction – Duarte Figueira

1. Duarte Figueira (DF) opened the session with a brief overview of the aims of the day. He stated that the session sought to provide additional clarity on the framework set out in the Policy Statement, the scope of further work and the key stages in the implementation process. He also encouraged discussion and stated that he would welcome responses from all interested parties.

Overview of the Joint Policy Statement – Robert Hull

2. Robert Hull (RH) discussed the recent Joint Policy Statement on the licensing of offshore transmission. He outlined where were in the process, the principles behind the creation of an offshore regime and the key proposals detailed in the recent Policy Statement. He then discussed the next steps in the process.

Transitional Offshore Projects – Colin Green

3. Colin Green (CG) presented a summary of further thoughts on transitional offshore projects, as detailed in the Policy Statement. He provided a summary of how the tender process for these assets may look. He then outlined how Ofgem intended to assess the value of the assets and possible certain pre-conditions it would insist upon for entering the transitional tender process. Finally, he discussed the main issues that needed to be resolved for these projects, stating that we intended to progress on these through bi-lateral meetings with developers, working groups and workshops.

During the discussion the following points were made:

- It was questioned whether a potential Offshore Transmission Owner (OFTO) would have to go through the European Utilities Directive in

order to secure the licence, given the fact that Ofgem are not subject to EU procurement rules for public bodies.

CG stated that Ofgem's legal advice suggested that tenders for a potential OFTO would not be subject to the European Utilities Directive. (Follow-up response confirmed that it is tenders for work requested by an OFTO from its supplier that would be expected to be subject to the European Utilities Directive).

- It was questioned why it has been proposed that transitional assets be classified according to the development of the project and not according to its connection agreement.

CG stated that as connection agreements were relatively easy to secure, Ofgem would require evidence of more commitment that a project would proceed.

- It was questioned what arrangements would be in place for projects that did not have financial close but had secured a connection agreement.

CG stated that this process would apply to transitional projects only and that other projects would become part of the enduring regime.

- It was questioned whether current projects that wished to enter the bidding process would have to pay a fee to do so.

RH stated that while there were administrative costs to be covered, he did not envisage these to be significant. However, he said he recognised that as there would be many different parties involved in the tender process, each would be required to show a sufficient commitment. CG stated that he recognised that the risk of stranding is an issue.

- It was questioned whether offshore assets that are embedded into the onshore distribution system would have to comply with transmission standards.

CG stated that they would, if they were deemed to be a transmission asset, operating at 132kV or above, following commencement of section 180 of the Energy Act 2004. Bridget Morgan (Ofgem) stated that there were significant differences in onshore and offshore standards and recognised the problems involved in this issue.

- The issue of competition in the tender of transitional assets was raised and it was asked how competition would be introduced in the bidding process.

CG said that potential OFTOs could compete on how they propose to manage and maintain the asset. He said there was also scope for competition in how projects could be financed.

- Regarding the RAV determination of transitional assets, it was queried where the seventy-five per cent ex ante estimate would take effect.

CG stated that the “efficient” ex post costs (as determined by Ofgem) of the assets subject to transitional arrangements would determine the RAV.

- It was questioned how a potential bidder in the tender process for the transitional assets would compete for income streams and capital costs before the transfer of the asset from the developer to the OFTO at the end of the project.

CG stated that Ofgem would determine income streams against capital costs based on information provided.

- It was asked what arrangements would be in place if the standard of the transitional assets subject to a competitive tender was not compliant with criteria set down by Ofgem.

CG said that this would depend on what work was required for the asset to meet the standards in comparison to how willing the generator was to fund the work. He stated that while he recognised this would not be easy, he envisaged that Ofgem would determine how much the generator should pay for this.

- It was questioned how Ofgem would determine “efficient” *ex ante* costs.

CG stated that this would be done in a manner similar to how it is done onshore and recognised the need to have specialist support to do this. RH stated that how we proposed to do this is still in development and cited examples of how it was done in previous price controls. He discussed various approaches in how this could be done, such as analysis of efficient contracts or potential bench-marking.

It was stated that the party best suited to do this would be those letting the contracts and suggested that one hundred per cent *ex ante* costs should be used instead.

- It was asked whether the OFTO of last resort would be able to set a reserve price for the transitional asset.

CG said that he did not consider that this would occur.

- It was questioned how a revenue stream for assets in the enduring regime would be determined.

CG stated that Ofgem would be responsible for this and that to do it, we would examine the efficiency of the proposed bids.

It was suggested that Ofgem would be using *ex ante* costs and questioned why a “pure” OFTO would be treated differently to a potential OFTO for a transitional asset.

CG said that as the potential OFTO for transitional assets was not originally engaged in the bidding process and that as *ex post* information on capital costs was now available, Ofgem would determine a revenue stream based on this.

- It was suggested that it would be in the interest of the offshore developer to bid for the transitional asset, even if its bid had little value and therefore the notion of seventy-five per cent *ex post* cost recovery would become redundant.

CG stated that Ofgem would be able to insist on minimum criteria for a bid and to test how efficient a potential bid would be. He said that a key difference between assets subject to transitional arrangements and those in the enduring regime is that in the former, the potential developer has no control over the assets that have been installed and that the seventy-five per cent notion would provide discipline in the control of costs.

- It was questioned whether Ofgem had considered what liability the transitional asset OFTO would be subject to, for example, in the event of a fault.

CG said that Ofgem was looking at this issue and suggested it may be possible to use warranties. He said he recognised this was a risk for potential OFTOs in the transitional arrangements.

GB System Operator Issues – John Greasley

4. John Greasley (JG) outlined the role of National Grid (as GBSO) in the design of a regime for offshore transmission. He welcomed feedback from all interested parties and discussed the possible publication of an Offshore Opportunities Statement.

Transmission Charging arrangements – Hedd Roberts and Tom Ireland

5. Hedd Roberts (HR) provided an introduction to the GB transmission charging arrangements. He discussed NG's model in determining the Transmission Network Use of System charges and outlined the steps involved in determining the locational and residual element. He also suggested how this could apply to an offshore charging methodology.
6. Tom Ireland outlined the main issues that would be involved in offshore transmission charging. Anyone wishing to respond to the formal charging consultation should forward contact details to:
thomas.ireland@uk.ngrid.com

During the discussion the following points were made:

- It was stated that the option to treat offshore transmission assets as connection assets, with costs recovered from the offshore user via an asset based charge, would be a significant change from the onshore arrangements and could be considered to be discriminatory.

HR stated that National Grid had received a range of views on this topic. Some users agree that this option would be discriminatory, whilst others believe that the additional costs associated with offshore transmission assets justify a different approach.

- It was suggested that the proposed charging methodology does not show a preference for security/ predictability, such as that provided by marine technology and that it should.

HR said that the approval of the charging methodology during the BETTA project included a requirement to investigate the treatment of intermittent generation. National Grid concluded that the same charge was appropriate since the access rights provided are the same. The appropriate access arrangements for intermittent generation are currently being reviewed by the industry in various forums.

Enduring arrangements – Graham Knowles

7. Graham Knowles (GK) presented an overview of further thoughts on the enduring regime, as detailed in the Policy Statement. He discussed the basic features of the regime, how the tender process may look and issues that require consideration. (Follow up response – a diagram of an example of how a potential connection/tender process has been published in response to a request from a seminar participant).

During the discussion the following points were made:

- It was stated that Ofgem should run the tender process as they are best placed to do so.

RH said that this was an important issue for us and that we were keen to hear feedback on it.

- It was stated that the penalty for performance should work both ways, and not just for a generator in the event of a fault with the OFTO.

RH stated that under the regulatory approach of the proposed regime, the revenue stream of the OFTO will not be affected by the performance of the generator.

- On the issue of managing the connection process, it was stated that there is a conflict between the discipline of the regime (which developers welcomed) versus the creation of queue issues when certain projects are delayed. The example of a possible conflict between CCGT and OFTOs in obtaining an onshore connection was cited. It was argued that this represents a potential risk to all developers.

RH said that this was an important issue and required careful consideration in order to avoid long queues for connection. However, he pointed out that the regime must be minded to avoid discrimination between onshore and offshore users. He stated that the possibility of discussing scenarios had been considered and said he appreciated views on this. JG stated that NG would be happy to consider looking into this.

- It was questioned where the terminal point of the regulated asset would be.

RH said that that this was an issue currently being consulted upon at the various technical fora and was a key consideration. HR (hedd.roberts@uk.ngrid.com) stated that it would be important that all parties were consulted upon on this issue and welcomed any discussion on the matter. RH stated that Ofgem would have to approve a methodology statement presented by NG in this respect.

- It was questioned whether any comfort would be provided to developers in respect of an increase in construction costs from that which was presented in its bid.

RH stated that Ofgem would conduct an expert assessment of costs to determine what is efficient but that we would take account of mitigating factors.

It was asked whether Ofgem would look at specific issues in the contract, such as *force majeure*.

RH stated that at this stage, it was difficult to look at all possibilities but that onshore, Ofgem have looked at historic expenditure.

- It was asked whether the risk profile would be seen by all prospective OFTOs. It was suggested that a feasibility study could represent an exposure to risk and called on Ofgem to provide more clarity on possible risks developers may face.

RH said he recognised the importance of this issue. He stated that Ofgem could decide at the pre-construction stage what costs will be recoverable, though it was a challenge in the regime to decide what pre-works will be required. He stated that Ofgem will work with interested parties to do this and suggested we could make available an appropriate flow-chart to illustrate our thoughts on this.

- It was questioned what criteria would be used in imposing a penalty performance and queried whether loss of income or a loss of ROCs would be included.

RH said he wanted to avoid the use of bilateral contracts to determine penalties.

It was stated that the GBSO should administer the potential scheme to address penalty performances and suggested that the regime must avoid having the OFTO subject to all the risk.

RH stated that he did not envisage all risk sitting with the OFTO.

- A question was raised on the possibility of extending the 20 year licence.

RH said that it may be preferable to obtain a new licence although this was one of the issues still under consultation.

Other issues/Next steps – Colin Green

8. CG discussed the proposed timetable and the next stages in the creation of an offshore regime. He provided a main list of contacts for the offshore transmission teams at both BERR and Ofgem and stressed the importance of continued engagement between BERR and Ofgem and the various industry engagements.

List of attendees

First name	Surname	Organisation
Reg	Ajuonuma	Argus Media Group
Nick	Aked	IBM
Aily	Armour-Biggs	Global Energy
Steven	Argent	Ofgem
Mike	Attree	United Utilities Plc
Simon	Baker	Lewis Wind Power
Josef	Bleckenwegner	European Investment Bank
Michael	Brooks	Oceanteam Power and Umbilical Limited
Andy	Brown	BayernLB
Bob	Brown	Cornwall Energy
Bob	Bruce	Glenton Bruce Ltd.
Neil	Budd	Watson, Farley & Williams
Max	Cairnduff	Morgan Stanley
Siobhan	Carty	Ofgem
Anna	Chard	V E Law
Richard	Clay	Ofgem
Richard	Cooke	AREVA T&D Systems
Graeme	Cooper	BWEA
Richard	Daniels	BERR
Charles	Davies	
Matteo	Di Castelnuovo	Imperial College
Jeo	Duddy	
Mike	Eggleton	Alderney Renewable Energy
Mike	Evans	National Grid
Dan	Farmiloe	Ofgem
Duarte	Figueira	BERR
Cheryl	Fisher	European Investment Bank
Stephen	Foward	Infinis Ltd
Carol	Gould	Bank of Tokyo-Mitsubishi
John	Greasley	National Grid
Lyndon	Greedy	Garrad Hassan & Partners Ltd.
Colin	Green	Ofgem
Jo	Habberley	National Grid
Elizabeth	Hillman	
Tim	Hobday	
Tom	Ireland	National Grid
Saf	Ismail	Ofgem
Laura	Jeffer	Centrica Energy
Sean	Kelly	National Grid
Sundeep	Klair	Energy Networks Association
Graham	Knowles	Ofgem
Gary	Kruger	Eurus Energy UK
Rachel	Lockley	British Energy Power & Energy Trading
Robert	Longden	
Louise	Macleod	Dundas & Wilson
Peter	Madigan	
Andrew	Mann	Ofgem
Richard	Marshall	Hammonds
Sian	McGrath	Aquamarine Power

Sean	McLachlan	Balfour Beatty Capital
Nichola	McLaughlin	The Natural Power Consultants Ltd
Philip	Merson	Talisman Energy Ltd
Bridget	Morgan	Ofgem
Paul	Mott	EDF ENERGY
Paul	Neilson	Scottish and Southern Energy
Mark	Patterson	
Guy	Phillips	E.ON UK PLC
Dragana	Popvic	Energy Networks Association
Jonathan	Priestley	Elexon
Benjamin	Rees	BERR
Richard	Rigg	London Array
Hedd	Roberts	National Grid
Charles	Ruffell	Npower
David	Scott	EDF ENERGY
John	Sinclair	Balfour Beatty Power Networks
Richard	Smith	Sterling Contract Solutions
Graham	Stein	National Grid
Jenny	Swan	
Malcolm	Taylor	
Chris	Towner	Bond Pearce/Law firm
Tim	Tutton	Oxera
Chris	Veal	Airtricity
Jocelyn	Wessling	Sinclair Knight Merz
Paul	Whitehead	International Newsletters Platts
Bridget	Woodman	Warwick Business School
Min	Zhu	Ofgem