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5 September 2007

Dear Colin

JOINT OFGEM/BERR POLICY STATEMENT ON OFFSHORE TRANSMISSION

We have appreciated the ability to participate in industry workshops on the regulation of Offshore Electricity Transmission, where a wide range of different parties were represented, and are pleased to offer our comments on the resulting Joint Policy Statement. It has been valuable to meet, exchange views with and hear the opinions of a wider group of stakeholders and interested parties than is the norm in industry working groups and similar discussions. This has, in particular, highlighted the differing priorities and concerns of different interest groups. We recognise the value of this diversity of views and welcome the consideration throughout the Policy Statement of numerous opportunities and mechanisms to encourage a diversity of responses to the regulatory framework and innovation in tenders and services. We hope that the encouragement of innovation is evident as a recurring theme in our response.

Please find below our broad comments on the design of the regulatory regime, the enduring competitive framework, the connection application process and connections via distribution networks.

We broadly agree with the role of the OFTO as set out in the policy statement and support the concept of encouraging innovation by enabling the individual requirements of different generators and specific offers identified by OFTOs to be incorporated into non-standard special licence conditions. Of the standard obligations proposed, we are unsure what additional technical requirements would be required of all OFTOs beyond the requirements to provide a defined power transmission capacity, meet all industry codes and satisfy pre-defined performance obligations.

The regulatory and contractual framework proposed appears sensible and logical and appropriately reflects the industry debate we witnessed at relevant workshops. Given that twenty years is representative of estimates of the anticipated working life of offshore generators, we agree that this is a sensible period over which revenues should be recovered. Long-term certainty of revenue will encourage prospective OFTOs to pass on anticipated efficiency gains to consumers through the competitive tendering process.

At the end of the twenty year period it is our view that the OFTO should be allowed to extend its licence for a further period. This would enable the OFTO to consider further developments to its' asset base to meet the evolving requirements of offshore generators and, where efficient, to invest in the assets in order to capitalise on opportunities to serve the generator for a longer periods. This efficient use of assets would be further encouraged by the

use of bi-lateral agreements between generators and OFTO to provide additional services beyond those required under the terms of the OFTO's licence.

We do not believe that an arbitrary cap on investment is appropriate in that it might act as a restriction on efficient bi-lateral arrangements. It may be more appropriate to clearly set out the types of arrangements that would not be appropriate for bi-lateral agreements and would warrant, instead, the launch of a new tender process. In these circumstances the incumbent OFTO might be able to demonstrate the efficiency offered by his position and competition would ensure such efficiencies were shared with customers.

The evolving relationship between generator and OFTO should be allowed to develop upon a sensible foundation of performance obligations as described in the Policy

Statement: We have given considerable thought to the allocation of risk and agree with the principles set out in Appendix 3 of the Policy Statement. Generic obligations should be sufficient to provide an appropriate framework against which prospective OFTOs could bid, but should be kept to a minimum in order to give room for innovation and variant bids.

Our initial opinion is that obligations related to a construction and commissioning date are essential. Some measure of availability or frequency of interruption is also required, but there is a risk that obligations in this area try to measure the same incident in a number of different ways. The key views that must be considered when determining a minimum set of performance obligations should be those of the generators, against whose business cases issues such as frequency and length of interruptions can be valued. Furthermore, standards of construction are very hard to specify and measure and it may be that, as with our experience of onshore distribution networks, outcome based obligations are more effective than output measures.

It would be inconsistent with the policy direction that is facilitating the development of offshore generation to exclude some obligation to reduce electrical losses. Whilst we agree that in most areas where a pre-determined minimum standard is being set there is not a need for incentive mechanisms beyond those provided by Ofgem's general powers to impose financial penalties or issue enforcement orders, we believe this may not be the case for losses. We have experienced, in the regulatory framework for DNOs, the effectiveness of incentive regimes in driving positive behaviour where a financial value can be ascribed to a situation where the licensee has a potential choice of outcomes.

The tender process and stages outlined are a sensible representation of the types of processes we have often set up or participated in ourselves. Competition will be encouraged by the use of pre-determined criteria to evaluate tenders at each stage of the process. Other steps that would encourage competition include dropping the requirement for bidders to be pre-licensed and minimising the costs of bidding. This can be achieved by only undertaking once certain activities that all bidders require, such as seabed surveys, and sharing the results with all parties. Cost recovery for bidders at certain stages of the tender process would also encourage more to participate.

We believe that the number of potential offshore generation projects is sufficiently small that, where there are benefits in co-ordination, these will naturally emerge and enable the most efficient bids. The use of an annual window may be restrictive to the timely development of some offshore generation projects and each tender should, therefore, be progressed promptly following a firm commitment from a generator.

We firmly believe that Ofgem is correct in identifying the essential similarity between an embedded transmission connection and an Embedded Large Power Station, and we agree that the standard industry arrangements need little change to accommodate embedded transmission on this basis.

Clearly the connection process is different, in that potentially there are two licensees with concurrent three month periods allowed for quoting for connections. However, recognising that these projects do have a long life and given recent experience with LEEMPS (where the CUSC has been amended with the Statement of Works process) we do not see this as being a particular concern at this stage, provided appropriate discussions occur throughout the life of the project. We see this as being achievable within the spirit of Chapter 6 of your document, albeit with a little flexing of the proposed Stage 1 and the pre-application process.

We hope that these comments are useful and look forward to further participation in finalising the Offshore Transmission regulatory framework.

Yours sincerely

Paul Bircham

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