BERR/Ofgem Offshore Transmission - External Communication Session #3
25 January 2008

This note has been taken by BERR/Ofgem to capture the key points made at the offshore transmission external communications session, and to inform further debate. This note summarises the issues raised during the presentations and details the question and answer sessions and subsequent discussions.

Speakers

Duarte Figueira, BERR
Robert Hull, Ofgem
John Overton, BERR
Colin Green, Ofgem
Richard Clay, Ofgem
John Greasley, National Grid

Introduction – Duarte Figueria

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 Government decisions set out in the recent Government response to the July 2007 Policy Statement;

- The scope of further work as set out in Ofgem's regulatory policy update and the key stages in the implementation process; and

- National Grid's role in the development of the regime.

Offshore Transmission: Government Response and Decisions – John Overton

John Overton (JO) discussed the recent Government Response to the Joint Policy Statement July 2007. He outlined the key proposals from the July 2007 Policy Statement, a summary of the key responses and concerns raised by the respondents and the decisions that the government had taken following this consultation process. He then briefly discussed the next steps in the process and the key milestones going forward.

One participant suggested that there was no need for a compulsory property transfer scheme from both a generators and OFTOs point of view as it was in both their interests to reach an agreement.

Robert Hull (RH) said that a key benefit of having a transfer scheme is that it will help to avoid delay if the normal commercial negotiations do not provide a way forward that is satisfactory to all parties involved. DF said that the transfer scheme will only be used as a last resort and that it will be time limited. Colin Green (CG) added that the scheme would also be applicable if a third party was preventing a generator and OFTO reaching agreement.

Regulatory Policy Update – Robert Hull

In introducing this section RH set out the policy principals that BERR and Ofgem have used when developing the offshore transmission regime. He then gave a high level view of the key proposals from Ofgem's recently published Regulatory Policy Update – the design of the regulatory regime and the enduring and transitional tender arrangements.

Regulatory Regime – Colin Green

CG presented a summary of the key proposals for consultation as set out in the Regulatory Policy Update. These were:

- Period of the revenue stream
- Incremental capacity requirements
- Pre-defined adjustment mechanisms
- Performance obligations and incentives

Competitive Tender Process – Richard Clay

RC gave an overview of the tender process under the enduring regime. He described the 4 stage process – expression of interest, invitation to tender, best and final offer and selection of preferred bidder – and set out the high level principals of how Ofgem will recover their costs within this process. He then set out the key issues for further consultation. Ofgem will be holding a Tender Process Workshop on 22 February.

Transitional Tender Process – Colin Green

CG outlined the key differences in the tender process for transitional projects, the role of the OFTO of last resort and the pre-conditions for providing generators/OFTOs with comfort on costs.

Implementation issues – Colin Green

CG outlined the refined workstreams that have been set up to deliver the necessary changes to OFTO licences, industry codes and to deliver the tender process.

Connection application process, access, charging and compensation – John Greasley.

JG outlined the role of National Grid (as GBSO) in the development of the offshore transmission regime. He described the processes and work to deliver:

- A flexible connection process that will deliver offers of sufficient quality and certainty to enable them to be taken forward by the tender process.

- A charging methodology to cater for offshore transmission in line with their obligations as the GBSO. The latest consultation covers:

    - The offshore connection and use of system boundary
    - Offshore circuit expansion factors
    - Treatment of high voltage direct current

- Access and compensation arrangements based on the principles outlined in BERR/Ofgem July 2007 Policy Statement. A report will be submitted to Ofgem in February 2008.

He welcomed feedback from all interested parties on the current consultations and at the workshops that were planned over the coming weeks.

Question and Answer Session

How will the impact of project changes due to restrictions within planning consents be managed in the proposed offshore transmission regime?

The tender process is being designed to be flexible, with the developer providing information that will inform the tender process. If the developer has undertaken pre-works (e.g. with regard to consents), these will be included in the information for bidders. Similarly if the developer continues to progress consents applications in parallel with the tender process, the developer would be able to provide updates to the tender panel which would be provided in the information for bidders. As Ofgem set out in its regulatory policy update (January 2008), developers currently seek the relevant consents and leases from the appropriate bodies, such as the Crown Estates and Marine & Fisheries Agency. Ofgem does not see any reason why developers should not continue to take steps to obtain these once the new arrangements for the award of OFTO licences are put in place, and then transfer these to the OFTO who would then take responsibility for any further consenting work.

What would developers need to provide into the tender process?

Ofgem would expect developers to provide a robust functional specification for their grid connection on which the tender will be run. However, the tender process may reveal variant and innovative bids and Ofgem would expect to discuss any such bids with the developer to understand whether they would meet with their requirements or whether they would be willing to modify their requirements in the light of these bids. It is important that a balance is maintained between stakeholder involvement and ensuring that a fair assessment of the different bids was made.

It was stated that recent documents (Government Response to the Consultation and Ofgem's Regulatory Policy Update) do not apply to Scotland and Northern Ireland.

DF said that the document referred to was the UK Offshore Energy SEA – Scoping for Environmental Report[1] which sets out the Government's plan to carry out a Strategic Environmental Assessment (SEA) for offshore wind generation in English and Welsh territorial waters and the UK Renewable Energy Zone, including the Scottish Renewable Energy Zone. The reason that the document did not refer to territorial waters off Scotland and Northern Ireland is that BERR holds the responsibility of undertaking an SEA for any plan or programme for English and Welsh Territorial waters and for the UK Renewable Energy Zone, under the SEA Regulations. Under the same regulations the Scottish Executive and Northern Ireland Assembly are the competent authorities for SEAs in their respective territorial waters.

What arrangements will apply to wind farm developers considering offshore projects in the Channel Island waters?

The proposed offshore transmission arrangements will apply to generators situated in Renewable Energy Zones. The arrangements being developed for offshore transmission would not be applicable to Channel Island waters. However, it was recognised that the regime needed to be flexible and able to react to future developments.

A connection for generators located in the Channel Islands was expected to be treated as an interconnector under the current arrangements. Interconnectors are developed on a merchant basis, and there is an established process for awarding licences for this activity.

[1] http://www.offshore-sea.org.uk/downloads/Offshore_Energy_SEA_Scoping.pdf

Will there be an obligation during the transitional period for developers to take on the role of OFTO of last resort?

Ofgem set out in its regulatory policy update that the OFTO of last resort provisions will apply in certain limited circumstances to give developers the comfort that if no OFTO was forthcoming they would be able to operate their assets. In considering whether the Authority should award a licence where no competition has taken place, Ofgem would expect to take into account factors such as whether the transmission assets are of sufficient quality to be likely to allow the licensee to fulfil its obligations without the requirement for extensive expenditure to maintain them to this standard. Whilst these factors are being consulted upon, Ofgem would require that where an OFTO of last resort is appointed, it would need to be a separate and ring-fenced entity.

Does a "thick" OFTO have more freedom to specify the route etc of cables? What scope is there for innovation?

The Government and Ofgem have now moved away from the concepts of "thick" and "thin" OFTOs. The tender process is being designed to be as flexible as possible, which will mean that OFTOs will be able to bid in innovative designs based on the functional specification provided by the developer. Ofgem would expect to discuss any variant bids with the developer to understand whether they would meet with their requirements in light of the bids. It is up to individual companies on how particular aspects of their bids are sub-contracted.

How will non-firm offshore connection offers from NGET interact with the initial offshore connection offer?

Our current view is that the offshore generator should receive an initial connection date as part of the initial connection offer from NGET. We anticipate that interactivity between onshore and offshore offers would be managed by NGET in accordance with its current processes.

There was a concern expressed about the lack of network redundancy offshore to justify proposals not to provide compensation payments for offshore generators whose output is constrained by the offshore transmission system is constrained. It was stated that this is inconsistent with the cost benefit analysis work carried out as part of the GB SQSS sub-groups' development work and that the proposals in respect of compensation arrangements for offshore generators are different to the onshore arrangements and therefore this raises an issue around potential discrimination

National Grid set out that the GB SQSS sub-group had not made assumptions in respect of who would be liable for costs of energy curtailed and was understood to have considered overall costs of energy curtailed as part of the cost benefit analysis that formed the basis of the offshore security standard. It was agreed that this issue would be followed up by Ofgem.

Some of the OFTO risks identified in the risk register are risks that don't apply to generators. As a result, it's likely that OFTOs will seek to insure against these risks, therefore increasing costs (and associated revenue stream). What is the rationale for different treatment of OFTOS?

The risk register Ofgem has published in its regulatory policy update is indicative only, and is intended to stimulate further debate with interested stakeholders. This indicative risk register builds on the initial risk allocation we set out in July, taking into account comments received at that time. We would welcome further comments and discussion with regard to the updated register over the course of this consultation period.

It was asked whether at the end of the 20 year period, would the OFTO only have to clear the seabed of the cable?

There is provision for decommissioning/making safe which will lay with the OFTO and it will be expected to make a provision to remove their assets at the end of the licence period. DF said that the Government's policy on de-commissioning is being updated through the current Energy Bill[2].

Under the proposed arrangements, there is likely to be a perverse incentive for an OFTO not to maintain its assets appropriately toward the end of the 20 year revenue period, given that it is not certain that it will retain the licence beyond the initial term. How do you propose to deal with this?

It is important to note that Ofgem is proposing to issue OFTO licences in perpetuity, with the ability to revoke after 20 years (i.e. when the revenue stream ends). Where there is a demonstrable need for the continued availability of the offshore transmission assets beyond 20 years, the current default position is that there will be a further tender. However, until the point at which the tender yields a preferred bidder, the incumbent OFTO will have responsibilities under the licence. In addition, it will continue to have these responsibilities if the tender process does not yield a preferred bidder. As such, the incumbent will have a commercial incentive to maintain the assets given that it will continue to have requirements under the OFTO licence. Furthermore, Ofgem intends to put in place performance incentives on outputs such as availability, which should assuage this concern further.

Are the decommissioning arrangements proposed for offshore transmission consistent with those proposed for offshore generators? Is Ofgem confident they can assemble a competent tender team?

In respect of decommissioning arrangements, BERR are confident that the approach is consistent.

Ofgem is currently considering the detailed arrangements that need to be put in place to ensure that the tender process is effective and delivers fit for purpose assets for generators and do so in the best interests of customers. To that end, Ofgem will be further developing the necessary processes and procedures for managing a tender process during the course of this year.

Is NGET confident that participants at the December offshore access workshop are aware of the need to respond to the material that was subsequently circulated?

National Grid were confident of this, and said that the closing date of the consultation had been extended and that the invitation to respond had been circulated more widely than to just the participants at the access workshop i.e. to NGET's usual CUSC distribution list.

[2] http://www.berr.gov.uk/energy/bill/page40931.html

List of attendees

Phil	Baker	BERR
Richard	Bankart	Cornwall Consulting
Ben	Barton	The Crown Estate
Rupert	Berryman	KBR
Florence	Blayac	Shell Wind Energy Limited
Danielle	Brimelow	EDF Energy
Michael	Brooks	Oceanteam
Neil	Budd	Watson, Farley Williams
Lydia	Chase	Lovells
Richard	Clay	Ofgem
Suzanne	Coe	BERR
Sheila	Connell	Allen & Overy LLP
Richard	Cooke	Areva
Tony	Cotton	ETRS Ltd
Richard	Daniels	BERR
Colin	Down	Ofgem
Mike	Eggleton	Alderney Renewable Energy
Duarte	Figueira	BERR
Mark	Fitch	Kema Consulting
John	Greasley	National Grid
Colin	Green	Ofgem
Jo	Habberley	National Grid
Eric	Hargrave	RBC Capital Markets
Paul	Hawker	BERR
Liz	Hillman	Ofgem
Robert	Hull	Ofgem
Joseph	Hussey	Ocean Prospect
Fiona	Irwin	Garrard Hassan
Peter	Jeffreys	European Investment Bank
Laura	Jeffs	Centrica
Colin	Johnson	Grant Thornton UK LLP
Sean	Kelly	National Grid
Alan	Kelly	Scottish Power
Sundeep	Klair	Energy Networks Association
Robert	Longden	Airtricity
John	Lucas	Elexon
Peter	Madigan	BWEA
Andrew	Mann	Ofgem
Claire	Maxim	Eon UK
Sam	McEwen	Ofgem
Aileen	McLeod	SSE
Jon	Mears	Oceanteam
Philip	Merson	Talisman Energy (UK) Limited
James	Mitchell	Morgan Stanley
Bridget	Morgan	Ofgem
John	Overton	BERR
Susan	Pelmore	Renewable Energy Association
Guy	Phillips	Eon-UK
Anthony	Prince	The Bank of Tokyo-Mitsubishi UFJ, Ltd

Charlotte	Ramsay	CDGSEE
Dafydd	Rickard	Warwick Energy
Nic	Rigby	npower renewables
Peter	Roper	Scottish Power
Charles	Ruffell	RWE Npower
David	Scott	EDF Energy
Chris	Seaman	Eon UK
Graham	Stein	National Grid
Chris	Towner	Bond Pearce
Richard	Tyler	Lovells
Charles	Yates	Grant Thornton UK LLP