

Modification of electricity transmission standard licence conditions - way forward document

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Overview:

This document forms part of the consultation process jointly undertaken by the Government and Ofgem to establish a regulatory regime for offshore electricity transmission. It sets out a way forward for modifying electricity transmission licence conditions. It provides an overview of the proposed structure of the standard conditions in electricity transmission licences in order to accommodate new offshore electricity transmission licensees and sets out proposed modifications to standard conditions for offshore transmission licensees and the Great Britain System Operator.

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Context

This document forms part of the on-going consultation process undertaken by the Office of Gas and Electricity Markets (Ofgem) and the Department for Business, Enterprise and Regulatory Reform (BERR) to introduce a regulatory regime for offshore electricity transmission. It follows on from the Government's recently published response to the Ofgem/BERR joint policy statement of July 2007 and Ofgem's January 2008 Regulatory Policy Update document.

Offshore electricity transmission networks will be required to transmit electricity from offshore generators (principally those using renewable sources) to customers via the onshore transmission and distribution networks. Offshore renewables are expected to make an important contribution to the achievement of the Government's aspiration to generate up to 20 per cent of Britain's energy from renewable sources by 2020. Economic and efficient offshore electricity transmission networks need to be developed to ensure consumers and generators do not face unnecessarily high charges and get quick connections at the lowest possible costs through technical innovation.

Amongst other things, Sections 90 and 91 of the Energy Act 2004 provide the Secretary of State with powers to modify the electricity distribution and transmission licence conditions for purposes connected with offshore electricity transmission and to extend the licence of the Great Britain System Operator (GBSO) to cover offshore areas. This document sets out a way forward for the modification of the standard conditions of the electricity transmission licence for the purposes of offshore electricity transmission.

Associated Documents

- [Regulation of Offshore Electricity Transmission: Government response to Offshore Electricity Transmission - A joint Ofgem/BERR Policy Statement](#) (BERR: URN 08/546)
- [Offshore electricity transmission - regulatory policy update](#) (Ofgem ref: 4/08)
- [Offshore electricity transmission: Ofgem/BERR joint policy statement](#) (Ofgem ref:189/07 BERR ref: URN 07/1096)
- [Offshore electricity transmission - second scoping document](#) (Ofgem ref: 58/07)
- [Government response to the joint DTI/Ofgem consultation on licensing offshore electricity transmission](#) (BERR ref: 07/634)
- [Licensing offshore electricity transmission - a joint Ofgem/DTI consultation](#) (Ofgem ref: 199/06 / BERR ref: 06/1952)
- [Updated Regulatory Impact Assessment](#) (BERR ref: 07/633)
- [A security standard for offshore transmission networks - an initial joint DTI/Ofgem consultation](#) (Ofgem ref: 211/06)
- [Offshore electricity transmission - scoping document](#) (Ofgem ref: 60/06)
- [Regulation of offshore electricity transmission - a joint consultation by DTI/Ofgem](#) (Ofgem ref: 178/05)

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Summary

The Government has committed to a substantial reduction in carbon emissions and to source 20 per cent of electricity from renewable sources by 2020. It recently outlined plans that could lead to the connection of up to 33 gigawatts of offshore renewable generation by 2020. Up to 8 gigawatts of offshore renewable generation, principally wind, will be seeking to connect over the next few years.

Ofgem and the Department for Business, Enterprise and Regulatory Reform have been working together to develop a regulatory regime for offshore electricity transmission activities that will allow generators in offshore waters to transport their electricity to onshore networks and then on to consumers. The Energy Act 2004 provided the Secretary of State with broad powers to introduce a new regulatory regime for offshore electricity networks.

As with onshore companies, offshore electricity transmission companies will be required to hold licences to transmit electricity. In this document we outline our plans for modifying the standard conditions of electricity transmission licences for purposes connected with offshore transmission. In this document we also outline proposals for restructuring the standard conditions of the electricity transmission licence and altering existing, and introducing additional conditions that will allow new licensees to own and maintain offshore transmission networks. Our proposals include introducing an additional section into the transmission licence for owners of offshore transmission networks and making modifications that will reflect the new obligations that will be placed upon the Great Britain System Operator as its role is expanded to cover offshore networks.

This consultation sets out the work that needs to be undertaken in order for the Secretary of State to exercise his powers to modify licence conditions under the Energy Act 2004. It outlines plans for a working group to assist the Government and Ofgem in their programme of drafting modifications to licence conditions, and sets out how drafts of additional and altered standard licence conditions will be consulted upon.

1. Introduction

Questions

There are no questions in this chapter.

Context

1.1. This document forms part of the ongoing process of developing a regulatory framework for offshore electricity transmission networks. The Energy Act 2004 (the Act) provides for broad powers to develop a regulatory regime for the transportation to the onshore system of electricity generated in offshore waters. Ofgem and BERR are working together to develop detailed policy proposals to implement the relevant sections of the Act. In particular, this document concerns the implementation of Section 90 of the Act, which allows the Secretary of State to make modifications to, amongst other things, transmission and distribution standard licence conditions (SLCs) which he considers appropriate for purposes connected with offshore electricity transmission. The legislative background is set out in Chapter 2.

1.2. The introduction of a regulatory regime for offshore electricity transmission networks is taking place within the context of the Government's overall energy and environmental policy. The Energy Review¹ and Energy White Paper² set out the Government's energy strategy and how it links to its strategy for tackling climate change. It has an aim of reducing carbon emissions in the UK by 60 per cent by 2050. It views the development of renewable electricity generation as an important element in achieving its carbon reduction goals and has an aspiration that 20 per cent of electricity will be generated from renewable sources by 2020. It believes that offshore wind energy can contribute significantly towards this target and recently announced plans which could see the development of up to 33 GW of offshore renewable generation capacity by 2020. The Government believes the proposed regulatory regime for offshore electricity transmission will help ensure these aims are met.

The consultation process

Purpose

1.3. This document sets out our proposed restructuring of the standard conditions of the electricity transmission licence in order to accommodate the introduction of a regulatory regime into offshore areas. We outline which of the current SLCs we currently think it would be appropriate to alter and provide an overview of conditions we currently think it would be appropriate to add. In chapter 3 and appendix 2 we

¹ [The Energy Challenge; Energy Review; A Report, July 2006](#)

² [Meeting the Energy Challenge: A White Paper on Energy, May 2007](#)

provide some detail of our initial views on the modifications to be made by the Secretary of State.

1.4. The licence modifications will reflect the type of regime that we are introducing. We have been publicly consulting since 2005 on our policy proposals for the form of the regime and have made significant progress. We are seeking to finalise our policy position in the coming months. The form of the regime will also be reflected in modifications that the Secretary of State considers it appropriate to make to industry codes and agreements under Section 90 of the Act and through the making of regulations by the Authority³ (subject to approval by the Secretary of State) in relation to a competitive tender process to identify to whom to award offshore electricity transmission licences⁴. We will consult separately on appropriate modifications to industry codes and agreements and Ofgem will consult on new tender regulations.

1.5. This document is the first stage of a consultation process in which we are seeking views on the modifications to be made to the standard conditions of the electricity transmission licence. The purpose of this consultation is to identify how best:

- The standard conditions of the electricity transmission licence can accommodate new offshore transmission companies; and
- The standard conditions of the electricity transmission licence can enable the GBSO to carry out its functions across both on and offshore transmission networks.

1.6. Ofgem will be responsible for taking forward the drafting of modifications to SLCs, in collaboration with industry parties through a working group. It is our current intention that the text of the modifications to SLCs will be publicly consulted on twice. The modifications will then be made by the Secretary of State.

Previous consultations

1.7. In the Joint Ofgem/BERR Policy Statement, we noted that we intended to insert a new section (Section E) into the transmission licence to reflect the specific requirements and obligations that should only apply to offshore transmission owners (OFTOs) and not to activate sections of the existing licence conditions that are not relevant to OFTOs. It also proposed that holders of offshore electricity transmission licences should not also hold existing electricity transmission licences. Where affiliated companies with a common parent company held both offshore and existing electricity transmission licences, such companies should be separate legal entities. Responses to that consultation did not bring forward any information to suggest that this approach was inappropriate. We are therefore bringing forward our proposals for modifications on this basis.

³ The Gas and Electricity Markets Authority, of which Ofgem is the executive arm.

⁴ The licences required by those with specific responsibility for constructing, owning and maintaining offshore transmission networks - called offshore transmission owners (OFTOs).

1.8. The Government has previously decided⁵ that it was minded to extend the terms of the licence of National Grid Electricity Transmission plc (NGET) to cover system operation (SO) activities for offshore areas.

Overview of the process

1.9. Following the publication of this document, we will establish an industry working group to assist us in progressing drafting of the text of modifications to SLCs. We are then intending to undertake an initial consultation on the draft text of the modifications to SLCs. We anticipate that responses to the consultation on the draft text, and further assistance from the working group, will inform a final draft set of modifications. It is our current intention that this set of modifications will be consulted on as part of the Government's final consultation on the regulatory regime. The Secretary of State will then commence the relevant sections of the Act and make the appropriate modifications to electricity transmission licences and licence conditions.

1.10. This document builds upon previous consultations and decisions on the policy framework for offshore electricity transmission regime. Principally, these are the decisions in March 2006 that offshore transmission networks should be regulated by means of price control; in March 2007 that offshore electricity transmission licences should be non-exclusive; and confirmation in January 2008 of the decision that the Authority should run the competitive tender process. Ofgem published a further regulatory policy update in January 2008, on which it is currently seeking views.

1.11. We consider that our policy positions are sufficiently advanced to enable us to usefully begin consultation on the modifications to the SLCs. However, any modifications we make to licence conditions will reflect policy positions that we consult on separately and we will not be using the modification consultation process as a means of consulting on policy positions.

1.12. The engagement of industry parties in the development of policy has been vital in the progress that has been made so far. We would welcome industry participation in the on-going development of the detailed drafting changes that will allow the Secretary of State to make the modifications he considers appropriate under Sections 90 and 91 of the Act.

Structure of this document

1.13. This document has 3 chapters:

- Chapter 2 sets out the legislative background, including a description of how changes to licence conditions will reflect the policy proposals which are currently

⁵ [Regulation of Offshore Electricity Transmission - Extension of the GB System Operator Role Offshore](#)

subject to consultation, an explanation of how licensing works, and a full summary of the primary legislation that underlies the consultation.

- Chapter 3 sets out the changes we are proposing to make to the standard conditions of the electricity transmission licence. It also looks at the process for dealing with consequential changes in other licence conditions that may arise.

1.14. At appendix 2 we set out the full list of standard conditions of the electricity transmission licence that we consider will effectively introduce a regulatory regime for offshore electricity transmission.

Way forward

1.15. As well as welcoming responses to this consultation, we would welcome industry participation in the working group to take forward draft text of the modifications to licence conditions. We also welcome on-going industry involvement in other work streams currently being taken forward by Ofgem, BERR and NGET (as GBSO designate). Details of these other groups may be found on the Offshore Transmission section of the Ofgem website.

Working group

1.16. We will be forming a working group to assist us in our drafting of the modifications to licence conditions. Membership of the group will be by invitation. However, all papers submitted to the group for consideration will be published on the Ofgem website and other parties are welcome to provide views electronically to Ofgem at offshoretransmission@ofgem.gov.uk or in writing. Contact details for correspondence are provided in appendix 1 of this document. The terms of reference for the licensing working group will be published in due course.

Consultation

1.17. We are seeking views on the broad approach to introducing changes to electricity transmission licence conditions set out in this document. There will be the opportunity for interested parties to contribute through correspondence with the working group and to further consultations on draft licence condition modification text. We would welcome responses by 13 March, four weeks after the publication of this document. Details of how to respond can be found in appendix 1.

Timetable

1.18. In its response to the Joint Ofgem/BERR policy statement, the Government set out a timetable for delivery of the regime. In order to meet this timetable, we currently envisage the following steps are required:

- Spring 2008 - Working Group meets on 3 occasions;

- May 2008 - first consultation on the draft text of the modifications to licence conditions;
- July 2008 - final consultation on the draft text of the modifications to licence conditions;
- December 2008 - commencement of Sections 90 and 91 of the Act and modifications made.

2. Background

Questions

There are no questions in this chapter.

2.1. There are currently only three holders of electricity transmission licences in Great Britain. We are aware that a number of parties that will wish to bid to become holders of offshore transmission licences may be unfamiliar with the way that licensing operates and the legislative mechanisms under which changes to licences and licence conditions will be made. This chapter provides some background information on the way in which licences generally, and electricity transmission licences in particular, work. It also explains the links between the on-going policy consultations that have been the main focus of work on the offshore regime so far and the way in which some of this policy (but not all) will be introduced through changes to the standard conditions of electricity transmission licences. Finally, it provides an overview of the legal framework for the regulation of offshore electricity transmission networks.

How the electricity transmission licence works

2.2. A number of parties with an interest in offshore transmission networks, such as developers, investors and equipment manufacturers may not have previous experience of transmission licensing. We therefore believe it may be instructive to explain how electricity licences generally, and the transmission licence in particular, are structured and operated.

Transmission licensees and their roles

2.3. Participating in the transmission of electricity is a prohibited activity⁶, except for parties who either hold a licence that allows them to do so, or are granted an exemption from the requirement to hold a licence by the Secretary of State. Currently, no exemptions have been granted and there are three holders of electricity transmission licences. The licence holders are NGET, SP Transmission Limited (SPT) and Scottish Hydro Electric Transmission Limited (SHETL).

2.4. Transmission networks are normally used to transport electricity from large generators (e.g. nuclear or coal-fired power stations) to lower voltage distribution networks, which in turn transport the electricity onto customers. Some large customers also connect directly to transmission networks to receive electricity. Each current transmission licensee owns and maintains a transmission network within a geographic area. NGET owns the transmission network in England and Wales, SPT owns the transmission network in Southern Scotland and SHETL owns the

⁶ Under section 4 of the Electricity Act 1989.

transmission network in Northern Scotland. Owners of transmission networks are known as Transmission Owners (TOs). The three transmission networks are interconnected and together form the GB transmission system.

2.5. NGET as System Operator also has an additional role under its licence, which is to be the GBSO for the GB transmission system. In other words, it acts as System Operator for all current transmission networks. The Government has decided that it is minded to extend the GBSO role that NGET already has for current onshore networks to cover new offshore networks as well.

2.6. NGET is the only party that is allowed to control the power flows on the GB transmission system. NGET directs how the transmission system is configured (e.g. by issuing or carrying out switching instructions) and defines any changes needed when there is a transmission system outage (planned or unplanned). NGET is also able, in certain circumstances, to restrict use of the GB transmission system (e.g. by constraining output from generators). The role of the GBSO also includes providing a contractual interface with users of the GB transmission system. This means that anyone wishing to use the system (such as a generator exporting electricity onto it or electricity suppliers who buy the electricity to sell onto customers) contracts with the GBSO. The GBSO in turn contracts with TOs for the use of their network and any other transmission services that the users of the network need. Each TO is required by its licence to offer terms to the GBSO for the use of its network and the provision of transmission services. TOs are not allowed to offer terms directly to anyone wishing to use its transmission network, but rather must always go through the GBSO.

2.7. When the offshore transmission regime is introduced, there will be new TOs with specific responsibility for constructing, owning and maintaining offshore transmission networks. These new TOs will be known as OFTOs. Because they will be constructing entirely new networks which will be specifically designed to import electricity generated by offshore power stations (rather than maintaining and adapting existing large and meshed networks which also have customers connected) it is likely that their roles and obligations will be different to existing TOs in some respects. We have to take account of this when adapting the licence conditions to accommodate their functions and obligations.

Structure of licences

2.8. A licence is formed of three elements. These are:

- The terms (set by the Authority);
- The Standard Conditions (which may be common to all licensees, or certain classes of licensee); and
- Special conditions (which are conditions specific to each individual licensee).

2.9. Each of these elements is explained further below. Examples of standard and special conditions may be found on Ofgem's Electronic Public Register which may be found on Ofgem's website.⁷

Terms

2.10. All licences are issued by the Authority with certain terms. The terms of the licence typically refer to, amongst other things, the geographical area in which the licence applies and its duration. The terms are set by The Authority upon grant of the licence and may not be subsequently altered except as provided for by specific primary legislation.

2.11. In the case of offshore electricity transmission, there is such a provision in primary legislation (Section 91 of the Act) which allows the Secretary of State to modify NGET's licence for the purposes of extending its authorisation to cover SO activities offshore.

The Standard Conditions

2.12. Standard conditions typically cover the obligations of licensees. In the transmission licence, for example, they include such obligations as for licensees to comply with an industry code, known as the System Operator - Transmission Owner code (STC), that sets out certain contractual obligations that exist between different transmission licensees and obligations in respect of financing and business structure.

2.13. Standard conditions of licences are sometimes divided into different sections. The standard conditions of the transmission licence, for example, are divided into sections which in part recognise the differing obligations on the two different classes of transmission licensee. Under the current structure, there is a section which specifies the obligations on the system operator (Section C) and a section which specifies the obligations on a TO (Section D).

2.14. Different sections (or even conditions within those sections) in licences may be switched on or off. That is, the conditions may specifically apply or not apply in each licence. Under the current transmission licences, for example, Section C is not switched on (the conditions do not apply) in the licences of SPT and SHETL. This is because those licensees do not carry out the function of SO.⁸

2.15. Except where there are specific legislative provisions that provide otherwise (as in the case here of the modification of conditions for purposes connected with offshore transmission under Section 90 the Act), standard conditions may normally only be added, omitted or altered if a certain proportion of relevant licence holders

⁷ <http://epr.ofgem.gov.uk>

⁸ Section D is not in effect in the licence of NGET. NGET's role as GBSO encompasses both SO and TO functions. Therefore NGET's obligations in respect of these functions are set out in section C of its licence.

do not object. For transmission SLCs, currently in practice this means that the transmission licensees and the Authority have to be in favour of the modification before it can be made.

Special conditions

2.16. A special condition is a condition that applies only to one individual licensee. Typically, such conditions cover matters that are specific to the licensee, such as a restriction on the geographic limit of its transmission area, the manner in which it is remunerated (its price control conditions), and any performance obligations it may have, such as the quality of service it provides. Such conditions may be inserted, withdrawn or amended by bi-lateral agreement between the licensee and the Authority.

Changes to licence conditions

2.17. Requirements on licensees may evolve over time, and there are processes in place to modify licence conditions where a need arises. Modifications can be made to the licence conditions of the electricity transmission licence under Section 11A of the Electricity Act 1989. Modifications made under Section 11A modify the standard conditions of the licence and therefore, once implemented, apply to all licences of that type. Modifications to the standard (in certain circumstances) and special conditions of a particular individual licence can be made under a different mechanism, which is under Section 11 of the Electricity Act 1989.

2.18. Modifications under Section 11A can be made if a certain proportion of all licence holders agree to such a change, whereas modifications under Section 11 require the individual consent of the licence holder who is having its licence modified. The Authority is required to carry out a 28 day statutory consultation prior to making any modifications under either Sections 11A or 11.

2.19. While these mechanisms will apply for any future modifications to conditions, they do not apply for the changes the Secretary of State will be seeking to make as a result of the consultation exercise set in train by this consultation document. This is because the Act provides for the Secretary of State to make modifications to licences without recourse to these mechanisms. The powers are explained in more detail in the final section of this chapter. They apply for 18 months from commencement of the enabling power (i.e. Sections 90 or 91 of the Act), so modifications can be made using these powers only for a short period. The Secretary of State will consult on all the modifications that he proposes to make and welcomes the close involvement of not only current licensees, but also potential future licensees and other interested parties.

The role of the standard licence conditions in delivering policy proposals

2.20. We have been consulting for some time on the overall policy for offshore transmission regulation. This policy will be implemented through a number of different vehicles, of which modifications to standard transmission conditions is one part. We have described in our policy consultations areas such as a competitive tender process for the identifying to whom to grant OFTO licences, the regulatory regime by which OFTOs will receive a regulated revenue stream and be obliged to provide certain levels of service, the connection application process for offshore generators, and issues such as transmission access and charging. We have also noted the potential for different technical rules existing offshore and the expected role of offshore transmission licensees.

2.21. The standard conditions of the transmission licence typically focus on generic obligations on licensees. These include the requirement to be party to the STC, to provide (and offer) transmission services and to comply with certain financial and reporting obligations. We have noted that wherever possible we are seeking to replicate onshore arrangements, except where there is good reason not to. We have noted in this chapter the unique role of the GBSO and how it is to be extended to cover offshore transmission networks.

2.22. Given that our overall policy is to replicate onshore arrangements where appropriate, there are relatively few, but important, new policy areas which will be reflected in changes to the standard conditions of the electricity transmission licence. For the GBSO this includes obligations in respect of the connection application process and the interface that exists between this and a competitive tender process to identify offshore transmission licensees. For offshore transmission licensees, the role of an OFTO will be broadly similar to that of an existing onshore TO, but there will be slightly different financial obligations (given the differing features of offshore transmission with respect to security of supply) which will be reflected in the standard conditions, as will the different process that obliges them to make available their network to users.

Other ways that policy will be implemented

2.23. While modifying the standard conditions of the transmission licence will implement the high level framework for our policy proposals, the detailed arrangements for our regulatory policy will be implemented by other means (e.g. industry codes). This consultation only considers changes to the standard transmission licence conditions. However we consider that it is useful to provide information about how the detailed arrangements are being addressed as this enables a fuller understanding and context for our proposals to modify standard conditions of the transmission licence.

Tender regulations

2.24. The Authority will make tender regulations (which will be subject to the approval of the Secretary of State) before it commences the first tender process. We have been consulting separately on the underlying process that these regulations will govern. The consultation has touched on the phases the tender process will go through, the roles and obligations of participants and how the process will be funded. Ofgem will consult on the tender regulations which will capture all these issues in the coming months.

2.25. As part of the tender process, we envisage that the terms of each licence, which will be set by the Authority, will be advertised in advance of bids being submitted.

Industry codes

2.26. Industry codes set out in more detail the arrangements that are in place to assist the licensee to comply with its obligations. As an example, the transmission licence requires NGET to offer terms to an applicant for connection to and use of the GB transmission system. The Connection and Use of System Code (CUSC) and the Grid Code define the information that the applicant is required to provide to enable NGET to assess the application and provide the offer, define restrictions on NGET's use of the applicant's data, and define standard terms that form conditions of the offer made by NGET to the applicant.

2.27. We have proposed that the detailed aspects of the proposed offshore transmission arrangements will be implemented by appropriate changes to codes and agreements. We have identified, with the assistance of industry working groups, a need to develop change proposals to CUSC, STC, Grid Code, a Balancing and Settlement Code (BSC), Distribution Code and Distribution Connection and Use of System Agreement (DCUSA). We have agreement from each of the code owners to provide us with support in developing draft code change proposals to implement our offshore transmission policy proposals.

2.28. We intend to consult on all proposals to change codes and agreements that we consider are appropriate to implement the new offshore transmission arrangements. Following further development and consultation, we anticipate that the Secretary of State will make modifications to the codes and agreements as part of the implementation process.

Special conditions

2.29. We envisage that OFTO special conditions will reflect many of our policy proposals on the regulatory regime. They will cover such things as the remuneration of the OFTO, its performance obligations and the specific requirements on reporting

on its activities. The regulatory arrangements for OFTOs in terms of remuneration and performance requirements are currently under consultation by Ofgem.⁹

2.30. Special conditions will be agreed bi-laterally between the Authority and the OFTO at the time that the licence is granted and will to a large degree be informed by the tender process that leads to the OFTO's appointment. These conditions would therefore not be subject to the Secretary of State's powers under the Act. However, Ofgem intends to provide some sample special conditions in time for participants in tender processes to understand how such arrangements will be set out.

Further information

2.31. The full text of the current SLCs of the electricity transmission licence and the special conditions of each licensee can be viewed on Ofgem's Electronic Public Register, which can be found on its website (www.ofgem.gov.uk). Details of work streams, working groups and consultations may be found on the Ofgem website.

Legislative framework

2.32. In this section we provide a broad overview of the legislative framework for the regulation of offshore transmission activities. We have provided an overview of this in previous documents, but it may be of benefit to those unfamiliar with the legislation, in particular to the powers that specifically apply to this consultation. The Government is currently seeking additional powers under the Energy Bill in connection with the tender process.¹⁰

Electricity Act 1989 - licensing

2.33. The Electricity Act 1989 provides the statutory framework for transmission licensing. Licences provide the primary means by which Ofgem regulates electricity transmission.

2.34. The Electricity Act 1989 (Section 4) prohibits a person from participating in the transmission of electricity without a licence¹¹. This prohibition currently applies in Great Britain and the territorial sea adjacent to Great Britain.

2.35. Under Section 4(3A) of the Electricity Act 1989, a person participates in the transmission of electricity if they:

⁹ [Offshore Electricity Transmission - Regulatory Policy Update](#)

¹⁰ [Explanatory notes to the Energy Bill](#). The powers under the Bill relate to issues connected with the tender process and the transfer of assets. The cost recovery powers are not relevant to this consultation, but a minor part of the transfer powers may occasion the need for a modification to the section C conditions. This is explained in chapter 3.

¹¹ The Electricity Act 1989 (section 5) enables the Secretary of State to exempt a person from a requirement to hold a transmission licence.

- (a) co-ordinate and direct the flow of electricity onto and over a transmission system; or
- (b) make available for use for the purposes of transmission anything which forms part of the transmission system.

2.36. The activities described in paragraph (a) above are commonly referred to as SO activities and the activities described in paragraph (b) above are commonly referred to as TO activities.

2.37. Electricity transmission licences are granted under Section 6 of the Electricity Act 1989 by the Authority and are subject to both SLCs and special conditions particular to an individual licence.

2.38. A transmission licence containing the same standard conditions will be granted regardless of whether the person is carrying out SO activities or TO activities. However, the SO SLCs or the TO SLCs will be switched on or off in the particular licence to reflect the activities which the licence holder is undertaking.

2.39. The standard conditions of a transmission licence include a requirement for all transmission licence holders to be a party to the STC. It also places an obligation on the GBSO to have in place a BSC, a CUSC, a Grid Code and certain other codes and agreements.

Energy Act 2004

2.40. The relevant sections of the Act (89, 90, 91, 92 and 180) provide enabling powers for the Secretary of State to establish a regulatory framework for offshore electricity transmission.

2.41. The relevant sections of the Act have not yet been commenced. It is Government's intention to commence them at the appropriate time after the detailed consultation on the proposed modifications to licences and licence conditions and codes and agreements, and arrangements for the process of identifying to whom to award licences has been completed. Commencement is currently anticipated to be in December 2008 for Sections 90, 91 and 92 and December 2009 for Sections 89 and 180.

2.42. Section 89 of the Act extends the prohibition on persons participating in transmission of electricity without a licence (or exemption) to the Renewable Energy Zone (REZ) and confirms that the prohibition extends to Great Britain and the territorial sea adjacent to Great Britain. Sections 90 and 91 concern the modifications that the Secretary of State is empowered to make in relation to offshore transmission and offshore distribution. Section 92 inserts a new Section 6C in the Electricity Act 1989 which enables the Authority to make regulations for competitive tenders for offshore transmission licences. Section 180 substitutes a new definition of "high voltage line" in the Electricity Act 1989 so that a relevant offshore line of a nominal voltage of 132 kilovolts (kV) or more is "high voltage".

Powers relevant to this consultation

2.43. The Government is seeking additional powers in the Energy Bill, which is currently before Parliament. This document primarily concerns changes to SLCs that may arise under Sections 90 or 91 of the Act.

2.44. Section 90 of the Act provides the Secretary of State with, amongst other things, powers to make the modifications he considers appropriate to the standard conditions of electricity transmission licences for purposes connected with offshore transmission. Section 111 of the Electricity Act 1989 (and Section 198 of the Act) defines modification to include additions, alterations, and omissions and cognate expressions shall be construed accordingly. The powers under the Act therefore allow the Secretary of State both to alter the text of existing transmission standard conditions and to add standard conditions, in both cases where he considers it appropriate to do so for purposes connected with offshore transmission.

2.45. Under Section 90, the Secretary of State will be able to establish the obligations that will be common to each offshore transmission licensee, modify the standard conditions reflecting obligations on the GBSO and modify codes and agreements to reflect any changes he considers appropriate for purposes connected with offshore transmission. Modifications to industry codes and agreements are being progressed in parallel. Drafting of proposed code changes is being led by the code owners under instruction from Ofgem who will coordinate proposed changes to codes with licence change proposals. Separate consultation is proposed for changes to industry codes and agreements.

2.46. Section 91 of the Act allows the Secretary of State to modify the "coordination licence" for the purpose of applying a system operator's authorisation and licence conditions in relation to the transmission of electricity in specified offshore areas. Such modification may include modifications to the licence and conditions which the Secretary of State considers appropriate for incidental, consequential or transitional purposes. It also enables the Secretary of State to make, for incidental or consequential purposes in relation to that main purpose, modifications of a particular licence or modifications of the SLCs of any type. In practice this allows the terms and conditions of NGET's licence to be modified such that its functions as GBSO will cover all onshore and offshore transmission networks. Section 91 powers may also be used to make incidental, consequential or transitional modifications to licence conditions, including SLCs.

3. Proposals

Questions

Question 1: What are your views on the proposed conditions outlined in this chapter (and described in more detail in appendix 2)? In particular, do you feel that any of the proposed new or amended conditions are unnecessary? Please explain why.

Question 2: Do you think there are any further conditions that it would be appropriate to alter or add, for purposes connected with offshore transmission?

Overview of proposals

3.1. This consultation sets out our initial thoughts on how the SLCs of the electricity transmission licence should be structured to accommodate the extension of the prohibition of unlicensed participation in the transmission of electricity under Section 4 of the Electricity Act 1989 into offshore areas. This consultation only concerns the standard conditions of the electricity transmission licence and modifications that will be made by the Secretary of State following commencement of Sections 90 and 91 of the Act.¹²

3.2. Broadly this consultation covers the following issues:

- The restructuring of the standard conditions to include an additional section for OFTOs;
- New mechanisms within the licence to switch on and off relevant sections for different transmission activities;
- New obligations on the GBSO in respect of offshore transmission connections; and
- The conditions that will apply to OFTOs.

3.3. A summary of these proposals follow in this chapter. A full list of the proposed SLCs is included at appendix 2. This highlights proposed new conditions (noting existing conditions which we intend to use as models for the text and any expected variations), conditions which we expect to amend (and a brief description of what that amendment is for) and conditions which we do not expect to change (although any condition may be subject to minor consequential changes). We do not intend to delete any of the existing conditions. We do not include any proposed text for new or amended licence conditions in this consultation. This will be considered by an industry working group in the coming months, before an initial public consultation in Spring. There is a short explanatory section at the end of the chapter covering consequential changes to other licence types and to individual licences and how these will be addressed.

¹² The full text of the current SLCs of the electricity transmission licence can be viewed on Ofgem's Electronic Public Register, which can be found on its website: <http://epr.ofgem.gov.uk/>

Scope of the changes

3.4. There is a limit on the remit of the Secretary of State's powers under Sections 90 and 91 of the Act, as described in chapter 2. For the avoidance of doubt, there is no intention to tidy up the licence generally, remove unused or outdated conditions or change the scope of onshore obligations, except if appropriate under these powers.

Structure of the transmission licence

3.5. In July 2007, Ofgem and BERR published a policy statement that, amongst other things, proposed that a new section (Section E) should be added to the transmission SLCs. We also proposed that any party holding an offshore transmission licence should be a separate legal entity from any company holding an existing transmission licence, albeit that the company could be affiliated to other licensed companies. Having considered responses to the consultation, we are drafting modifications in line with our original proposals in the July policy statement. Taken together with its previous announcement in August 2006 that the role of NGET as GBSO should be extended offshore, we feel this provides a clear framework for the structure of the electricity transmission SLCs.

3.6. The transmission licence structure that underpins the modifications we will consult on therefore has five sections. These are:

- Section A (interpretations, applications and payments);
- Section B (general);
- Section C (system operator standard conditions);
- Section D (onshore transmission owner standard conditions); and
- Section E (offshore transmission owner standard conditions).

3.7. In effect, this would see Section B switched off in OFTO licences and the appropriately modified conditions of Section B (together with appropriately modified conditions of Section D) replicated in a new Section E which would only be switched on in OFTO licences.

3.8. Therefore the following licensees would have the following sections active in their licences:

- NGET (as GBSO and onshore TO): Sections A, B, and C switched on and Sections D and E switched off;
- SPT and SHETL (as onshore TOs): Sections A, B and D switched on and Sections C and E switched off; and
- All OFTOs: Sections A and E switched on and Sections B, C and D switched off.

3.9. Structuring the licence in this way best facilitates the Government's policy approach that:

- NGET should act as GBSO for both on and offshore networks;
- Holders of onshore transmission licences may not also carry out offshore transmission activities under the same licence, but may hold a separate licence for this purpose through an affiliated company that is a separate legal entity; and
- Offshore licence conditions should replicate onshore licence conditions as closely as possible, except where there is a good reason for differences.

3.10. We consider that structuring the licence in this way allows suitable flexibility in reflecting the obligations of OFTOs and the extension of the role of the GBSO, while minimising the changes for existing licensees.

Overview of proposals

3.11. The Secretary of State's powers under Section 90(1)(a) are limited to modifying SLCs for purposes connected with offshore transmission or offshore distribution. We are proposing modifications to the standard conditions of the transmission licence with the following in mind:

- That any modifications should reflect policy decisions that have been clearly consulted upon and should not be a vehicle for making policy decisions in themselves;
- That any modifications should be as limited as possible in their impact on the licences of existing TO licensees;
- That changes to the GBSO's licence (including Section C conditions) will be minimised as far as possible;
- That consequential changes to other licences will be minimised where possible; and
- That new conditions for Section E will be based as far as possible on existing conditions of the transmission licence, or other types of licence (such as the electricity distribution licence) if applicable.

3.12. Having undertaken an initial review of the standard conditions of the electricity transmission licence, we are proposing to introduce 23 new SLCs. Of the new conditions, 19 new conditions will form the new Section E of the licence and be based on existing conditions found in Sections B and D of the licence. An additional 2 conditions will be inserted into Section A to facilitate the switching on of Section E and switching off of Section B for OFTOs. Two further new conditions will be inserted into Section C to facilitate the GBSO's expanded role offshore.

3.13. Our review has also identified potential amendments to 13 existing conditions. We currently envisage all other current conditions would remain unchanged, although minor consequential changes may be appropriate in any of the existing conditions.

3.14. The volume of changes is illustrated in the table below.

Section	New Conditions	Amended Conditions	Unchanged Conditions
A	2	2	2
B	0	3	14
C	2	5	19
D	0	3	14
E	19	0	0
Total	23	13	49

3.15. The changes we are proposing are outlined section by section below. There is a full summary of the proposed conditions at appendix 2.

Section A

3.16. Section A of the licence serves a number of functions. Condition A1 provides definitions of terms which are used both in the licence and in codes and agreements maintained in accordance with the conditions of the licence. Conditions A2 and A3 provide mechanisms to switch on and off other sections (and therefore conditions) of the licence. Condition A4 concerns payments by licensees to the Authority.

3.17. We envisage that amendments will be required to Condition A1 to reflect new definitions that will be specific to offshore transmission activities and other consequential amendments. We note the important correlation between this condition and work being undertaken on changes to industry codes and agreements, where terms defined in the licence are necessary for interpretations of the codes and agreements.

3.18. We anticipate that a minor definitional change will be required in Condition A3. We do not at this stage anticipate that changes will be required in Conditions A2 and A4.

3.19. We propose to insert two new conditions into Section A (Conditions A5 and A6). Condition A5 would facilitate the dis-application (i.e. switching off) of Section B in OFTO licences, while Condition A6 would allow the application (i.e. switching on) of the new Section E in OFTO licences.

3.20. We have considered an alternative model, whereby Condition A5 allowed the application of Section B in certain licences. In other words, Section B would be specifically "switched on" in a similar way that Sections C and D are now under Conditions A2 and A3, and that Section E would be under our proposals for Condition A6. In effect this would mean that Section B would cease to automatically apply in all licences as it does currently, and would be specifically switched on for NGET, SPT and SHETL. The advantage of this approach is that all "switching" conditions would be used consistently and Section B would not have to be specifically switched off in every OFTO licence which the Authority grants. However, it would require making modifications to the licence conditions of existing licensees. We would welcome

views on whether respondents feel they would prefer this approach over our proposed model.

Section B

3.21. Section B of the licence contains general conditions which apply to all current onshore licensees. It is intended that they apply regardless of whether the licensee is undertaking a SO or TO function. We do not envisage that many significant changes will apply to Section B since we do not intend that it should apply to OFTOs and it does not affect the system operator's role.

3.22. We anticipate that only three conditions will require amending. Condition B12 establishes the STC and requires that licensees be party to it. Since we intend that this code should apply in some form to OFTOs, we envisage that this condition should be amended to reflect that licensees other than those to which Section B applies may be party to the code. We also envisage that relatively minor definitional amendments will be required to Conditions B15 and B16 (which refer to price control reporting obligations).

Section C

3.23. Section C of the licence contains conditions which set out the obligations which are specific to the GBSO. We envisage that the majority of conditions in Section C are fit for purpose in reflecting the extended role of the GBSO and only anticipate the need for two additional condition and amendments to a further five conditions.

3.24. We propose to introduce a new Condition C8A to complement the existing Condition C8 (which requires the GBSO to offer terms for connection to anyone requesting access to the transmission system). Condition C8A will require the GBSO to offer terms to offshore generators. We do not consider that Condition C8 can be adequately altered for offshore purposes. This is because, unlike onshore where there are incumbent TOs, OFTOs will be identified by a competitive tender process. This is likely to necessitate a two stage connection process.

3.25. We propose to introduce a new Condition C8B to reflect some obligations that the GBSO will have in relation to proposed powers under the Energy Bill. There is a proposed provision in the Bill that in order for the Authority to make a transfer scheme the GBSO shall have given the Authority, in accordance with its licence, a completion notice in relation to the transmission system to which the scheme relates. This would require a licence condition for NGET as GBSO to provide the Authority with a completion notice. The transfer scheme only applies to certain transitional schemes and not to enduring schemes. We expect to reflect such parameters in the scope of the condition. Drafting will be informed by any changes to the Bill in the Parliamentary process.

3.26. Condition C1 provides a number of definitions specific to SO activities. Similarly to Condition A1 we envisage that there is scope for new definitions to be included in this section and other consequential amendments.

3.27. Condition C7 prohibits the GBSO from discriminating between users. We envisage the possibility of clarifying that the necessary different treatment of onshore and offshore generators and TOs in our regime does not breach this condition.

3.28. We envisage modifying Condition C8 (the requirement to offer terms for connection) to reflect that it only applies to applications for connection from onshore users.

3.29. We envisage modifying Condition C9 which sets out the functions of the Authority with respect to disputes arising from the action of licensees under Conditions C8 and D4A (the obligation to offer terms for connection that applies to the GBSO and TOs respectively). We envisage that this will also take account of the different requirements of the new Conditions C8A and E15 which will set out similar obligations with respect to offshore connections.

3.30. We note the possibility, depending on the outcome of work being progressed separately¹³, that modifications may be required to Condition C17 which sets out the requirement to plan, develop and operate the GB transmission system in accordance with the GB Security and Quality of Supply Standard (GBSQSS). We intend to consult on proposed changes to the GBSQSS as part of any consultation on proposed changes to Condition C17.

Section D

3.31. Section D of the licence currently contains conditions which are specific to TO activities. The section will be renamed "onshore transmission owner standard conditions" to reflect that these conditions will only apply to onshore TOs. As they will not apply to OFTOs (and do not by definition have any SO function) we envisage that only minor definitional amendments may be required in this section. We have identified three conditions which we envisage may require some changes.

3.32. Condition D3 refers to a TO's obligations under the GBSQSS. Should any changes be required under Condition C17, some consequential changes may be required to this condition. We intend to consult on proposed changes to the GBSQSS as part of any consultation on proposed changes to Condition D3.

3.33. Condition D4A concerns a TO's obligations in respect of offering terms to the GBSO for connection to its transmission system. Any changes to Condition C8 and

¹³ GB Security and Quality of Supply Standard (GBSQSS) change proposals are being developed as part of our technical rules work stream.

C9, and the introduction of Condition C8A may require some definitional or cross reference changes.

3.34. Condition D4B concerns the functions of the Authority in respect of offers for connection made under Condition C4A and also to offers made by the GBSO under Condition C8. Any changes to Conditions C8, C9, D4A and the introduction of Condition C8A may require some consequential definitional and cross reference changes.

Section E

3.35. Section E will only apply to OFTOs. It will set out generic obligations that will apply to all OFTOs. The conditions in large part will reflect those in Sections B and D of the licence, but will be modified where appropriate. We provide a brief overview of each of the conditions we are proposing to insert below. For clarity, we do not propose to replicate a number of conditions from Sections B and D.

Section B and D conditions not replicated

3.36. The Section B conditions we do not propose to replicate are B10, B13, B14 and B17. Condition B10 is discussed under the description of Condition E10 below. Conditions B13 and B14 concern requirements that relate to the British Electricity Transmission and Trading Arrangements (BETTA) and these will not apply to OFTOs. Condition B17 concerns network output measures and was a condition specific to the last transmission price control review and will therefore not apply to OFTOs.

3.37. The conditions that we do not intend replicating from Section D are either not used, or the requirements of the conditions no longer apply (for example, conditions that set out transitional arrangements for the introduction of BETTA). Conditions D1, D4, D7, D8, D9, D10, D11, D13 and D14 are not used, Condition D12 is specific to Scotland and Condition D15 refers to the BETTA transitional period. We do not consider it appropriate to replicate these conditions.

Section E conditions

3.38. Condition E1 would be based on Condition B1 and concerns the requirement to keep regulatory accounts.

3.39. Condition E2 would be based on Condition B2 and relates to Condition E1 in terms of the change of the financial year.

3.40. As part of our over-riding policy approach we have considered that the structure of OFTOs would be less complex than that of existing transmission companies. Further, we have envisaged that OFTOs would be subject to a longer term of price control, and that the price control would not be periodically reviewed. We also note that there is a statutory requirement for all companies to keep

accounts. Given these factors, in reflecting our policy position the drafting of these two conditions might vary considerably from the existing Section B conditions. One alternative option, therefore, might be for these two conditions to be combined with E13 (described below) to form a general reporting obligation condition. We consider that this might be a more light-handed approach.¹⁴ We would welcome respondents' views on the merits of this alternative approach.

3.41. Condition E3 would be based on Condition B3 and concerns the requirement to seek the permission of the Authority to sell or relinquish control over relevant transmission assets.

3.42. Condition E4 would be based on Condition B4 and concerns the requirement on the licensee to provide the Authority with any information it reasonably requires.

3.43. Condition E5 would be based on Condition B5 and concerns the prohibition on the licensee providing or receiving cross subsidies to or from any affiliated business.

3.44. Condition E6 would be based on Condition B6 and concerns the restriction of the licensee's business activities to that required under its licence, and that its business should be financially ring-fenced from other affiliated businesses. We note the need to consider the application of this condition in respect of affiliated generation businesses.

3.45. Condition E7 would be based on Condition B7 and concerns the licensee ensuring that it has sufficient resources to carry out its licensed activities. We note the need to consider the application of this condition in particular in relation to the period during which the licensee is constructing its transmission assets.

3.46. Condition E8 would be based on Condition B8 and concerns the licensee ensuring that its ultimate controller (in other words, its parent company) provides undertakings that it will not cause the licensee to breach its obligations.

3.47. Condition E9 would be based on Condition B9 and concerns the licensee not undertaking certain defined financial actions without the permission of the Authority. This condition may be altered to reflect the different nature of OFTOs compared to existing onshore transmission licensees.

3.48. Condition E10 would be based on Condition BA5 of the electricity distribution licence which requires that the licensee either maintains an investment grade credit rating or provides certain other undertakings to the Authority that guarantees funds will be available to ensure the business may be kept solvent for a set period. We do not consider that Condition B10 which requires that the licensee maintains an investment grade credit rating is appropriate for OFTOs. We consider that the obligation is too onerous given the risk to security of supply from the failure of an

¹⁴ Should we follow this approach, then all the section E conditions would be renumbered accordingly. Readers should therefore note that the numbering and ordering of conditions in this document is indicative only and may change before modifications are made.

OFTO is far lower than the failure of an onshore TO. We also consider that this obligation might act as a barrier to entry.

3.49. Condition E11 would be based on Condition B11 and concerns the obligations on the licensee to comply with the Fuel Security Code if so directed.

3.50. Condition E12 would reflect the requirement on the licensee to be a signatory to the STC and reflect the appropriate requirements set out in Condition B12, subject to work being taken forward separately on the STC.

3.51. Condition E13 would be based on requirements set out in Conditions B15 and B16 (which concern reporting arrangements in respect of price control revenues) although in a much reduced form. We consider that the different arrangements for regulated revenue for OFTOs and the likely different arrangements for performance requirements which can affect that revenue mean that beyond a generic requirement to report, these arrangements are better dealt with on a case by case basis under each licensee's special conditions.

3.52. Condition E14 would be based on Condition D2 which requires the licensee to provide transmission services in accordance with the requirements set out in the STC. We note that this condition may be modified to reflect the different requirements for OFTOs.

3.53. Condition E15 would be based on Condition D3 which requires that the licensee complies with the GBSQSS. We note that this condition may be modified to reflect the different requirements for OFTOs. We intend to consult on proposed changes to the GBSQSS as part of any consultation on the proposed text for Condition E15.

3.54. Condition E16 would be based on Condition D4A which requires that the licensee offers terms to the GBSO for connection to its transmission system. We note that this condition may differ from D4A given the differing nature of the connection application process for offshore generators.

3.55. Condition E17 would be based on Condition D4B which notes the functions on the Authority in respect to offers that would be made under Condition E16. We note that this condition may differ from D4B given the differing nature of the connection application process for offshore generators.

3.56. Condition E18 would be based on Condition D5 which requires that the licensee does not engage in preferential or discriminatory behaviour. As with Condition E6, we note the application of this condition in respect of affiliated generation businesses.

3.57. Condition E19 would be based on Condition D6 which prohibits the licensee from selling electricity to third parties.

3.58. We would welcome feedback from respondents on all of the proposed modifications outlined in this chapter and in particular the proposed conditions specific to OFTOs in Section E.

Consequential amendments

3.59. Aside from the changes to the SLCs outlined above and consequential changes to other SLCs that result (for example through cross references to other conditions or in the use of a defined term), other consequential changes may be appropriate for particular licence conditions (for example through a cross reference or defined term referred to in the special conditions), or the conditions of other licence types, such as generation or supply licences. Introducing the regime may also require the modification of the special conditions of an individual licensee for more substantive purposes. For example, some of the special conditions of NGET's licence may require modifying to reflect its extended role as GBSO offshore.

3.60. We will be analysing the special conditions of licensees and will also be discussing with licence holders whether they consider such changes are appropriate to their licence conditions. We will also be identifying if any consequential changes are required to the standard conditions of any other type of licence or the particular conditions of any other individual licence. We will consult on any changes before modifications are made. We explain below the powers that provide for making other (including consequential) changes.

Amendments under Section 90

3.61. For purposes connected with offshore transmission, Section 90 allows for appropriate modifications to be made to the standard conditions of the distribution licence as well as the transmission licence. Section 90 also allows for modifications of the conditions to any particular transmission or distribution licence for purposes that are incidental, consequential or transitional to modifications made to the SLCs of transmission or distribution licences under Section 90. This permits certain incidental, consequential or transitional changes to be made to the special conditions of any transmission or distribution licensee

Amendments under Section 91

3.62. Section 91 allows for the modification of the GBSO's licence (including its special conditions) for incidental, consequential or transitional purposes relating to the extension of the authorisation and conditions of its licence into offshore areas. It also allows for modifications for similar purposes to the conditions for any particular licence and the standard conditions of any type of licence.

Amendments through other modification procedures

In chapter 2 we outlined the procedure for making licence modifications where alternative primary legislation, such as Sections 90 and 91 of the Act, do not apply. Should we need to make modifications that are not covered by the Act, we will use normal modification processes to enact these changes.

Appendices

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Appendix 1 - Consultation Response and Questions

1.1. Ofgem and BERR would like to hear the views of interested parties in relation to any of the issues set out in this document.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by 13 March and should be sent to:

- Graham Knowles
- Ofgem
- 9 Millbank, London, SW1P 3GE
- 020 7901 7103
- offshoretransmission@ofgem.gov.uk

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. Next steps: Having considered the responses to this consultation, Ofgem and BERR intend to publish a response, before publishing draft licence text for consultation. Any questions on this document should, in the first instance, be directed to:

- Graham Knowles
 - Ofgem
 - 9 Millbank, London, SW1P 3GE
 - 020 7901 7103
 - offshoretransmission@ofgem.gov.uk
-

CHAPTER: One

There are no questions in this chapter.

CHAPTER: Two

There are no questions in this chapter.

CHAPTER: Three

Question 1: What are your views on the proposed conditions outlined in this chapter (and described in more detail in appendix 2)? In particular, do you feel that any of the proposed new or amended conditions are unnecessary? Please explain why.

Question 2: Do you think there are any further conditions that it would be appropriate to alter or add, for purposes connected with offshore transmission?

1.7. The Government does not consider that an impact assessment at this stage of the consultation is appropriate as this document does not contain any new policy proposals but sets out a way forward to enable the further development of previously set out proposals. The recently published updated Impact Assessment¹⁵ that accompanied the Government Response to the July 2007 Policy Statement outlined the high-level costs and benefits of the issues affecting licence conditions and recognised that further work is required to enable these to be more fully set out. The Government considers that as the detail of the changes that are required to the licence conditions become clearer, it will be in a better position, following the proposed two stage consultation process, to provide an updated view on the costs and benefits of the proposals in a future impact assessment.

¹⁵ [Updated impact assessment](#)

Appendix 2 – Summary of proposed conditions

1.1. The table below summarises our initial proposal for the structure of the electricity transmission licence standard conditions and the proposed new conditions to deliver an offshore regulatory regime. For each condition we note whether there should be no change, whether the existing condition needs amending or whether we are proposing a new condition. We do not propose to delete any existing conditions. Some brief explanatory comments are provided where amendments or new conditions are proposed.

1.2. All the proposed conditions in Section E are new, so for each of these conditions we provide a reference to an existing condition that we expect to use as a model for the text of the new condition. Any significant variations to the original condition are noted. Please note that the numbering and ordering of conditions in Section E is indicative only and may be subject to change before modifications are made.

SECTION A – INTERPRETATIONS, APPLICATION AND PAYMENTS			
Number	Title	Proposal	Comments
A1	Definitions and interpretation	Amend	Potential for addition of new definitions and consequential changes to existing definitions.
A2	Application of Section C	No change	
A3	Application of Section D	Amend	Potential small consequential definitional change.
A4	Payment by the Licensee to the Authority	No change	
A5	Application of Section B	New	In our licensing model, we propose to “switch-off” Section B for OFTOs and instead, include relevant conditions in Section E. Therefore, we are inserting this condition to enable us to “switch-off” Section B for OFTOs.
A6	Application of Section E	New	We propose that this would work in a similar way to Condition A3 and this would be worded similarly.
SECTION B – GENERAL			
Number	Title	Proposal	Comments
B1	Regulatory Accounts	No change	
B2	Change of financial year	No change	
B3	Disposal of relevant assets	No change	
B4	Provision of	No change	

	information to the Authority		
B5	Prohibition of cross-subsidies	No change	
B6	Restriction on activity and financial ringfencing	No change	
B7	Availability of resources	No change	
B8	Undertaking from ultimate controller	No change	
B9	Indebtedness	No change	
B10	Credit rating	No change	
B11	Security Arrangements	No change	
B12	System Operator – Transmission Owner Code	Amend	Potential consequential change arising from STC work stream.
B13	BETTA implementation	No change	
B14	BETTA run-off arrangements scheme	No change	
B15	Price Control Review Information	Amend	Potential small consequential definitional change.
B16	Price Control Revenue Reporting and Associated Information	Amend	Potential small consequential definitional change.
B17	Network Output Measure	No change	
SECTION C – SYSTEM OPERATOR STANDARD CONDITIONS			
Number	Title	Proposal	Comments
C1	Interpretation of Section C	Amend	Potential for addition of new definitions and consequential changes to existing definitions.
C2	Prohibited activities	No change	
C3	Balancing and Settlement Code (BSC)	No change	
C4	Charges for use of system	No change	
C5	Use of system charging methodology	No change	
C6	Connection	No change	

	charging methodology		
C7	Prohibition on discriminating between users	Amend	
C8	Requirement to offer terms	Amend	This will only apply in cases where an application is received from an onshore generator.
C8A	Requirement to offer terms (offshore users)	New	This condition will reflect the connection application arrangements for offshore users. Text will be based on SLC C8.
C8B	Requirement to provide the Authority with a completion notice	New	This condition will reflect obligations placed on the GBSO under the Energy Bill with respect to informing the Authority that a transmission development is complete in order that the Authority may make a transfer scheme.
C9	Functions of the Authority	Amend	Consequential amendments arising from Condition C8A and E17.
C10	Connection and Use of System Code (CUSC)	No change	
C11	Production of information about the GB transmission system	No change	
C12	Limits on the level to which transmission services are provided	No change	
C13	Adjustments to use of system charges (small generators)	No change	
C14	Grid Code	No change	
C15	Compliance with Distribution Codes	No change	
C16	Procurement and use of balancing services	No change	
C17	Transmission system security standard and quality of service	Amend	Potential consequential amendment arising from changes being progressed through the GBSQSS work stream.
C18	Requirement to offer terms for	No change	

	connection or use of the GB transmission system during the transition period		
C19	Not used	No change	
C20	Assistance for areas with high distribution costs scheme: Restriction on revenue	No change	
C21	Assistance for areas with high distribution costs scheme: payments from authorised suppliers	No change	
C22	Assistance for areas with high distribution costs scheme: payments to authorised distributor	No change	
C23	Assistance for areas with high distribution costs scheme: annual statement	No change	
C24	Energy Administration: GBSO Shortfall Contribution Obligations	No change	
SECTION D – ONSHORE TRANSMISSION OWNER STANDARD CONDITIONS			
Number	Title	Proposal	Comments
D1	Interpretation of Section D	No change	
D2	Obligation to provide transmission services	No change	
D3	Transmission system security standard and quality of service	Amend	Potential consequential amendment arising from changes being progressed through the GBSQSS work stream.
D4	Not used	No change	
D4A	Obligations in relation to offers	Amend	Potential consequential changes arising from insertion of new Condition

	for connection etc.		C8A.
D4B	Functions of the Authority	Amend	Potential consequential change arising from potential changes to Condition C9.
D5	Prohibition on engaging in preferential or discriminatory behaviour	No change	
D6	Prohibition on selling electricity	No change	
D7	Not used	No change	
D8	Not used	No change	
D9	Not used	No change	
D10	Not used	No change	
D11	Not used	No change	
D12	Scottish Settlement Agreement	No change	
D13	Not used	No change	
D14	Not used	No change	
D15	Obligations relating to the preparation of TO offers during the transition period	No change	
SECTION E – OFFSHORE TRANSMISSION OWNER STANDARD CONDITIONS			
Number	Title	Equivalent condition	Comments
E1	Regulatory accounts	B1	
E2	Change of financial year	B2	
E3	Disposal of relevant assets	B3	
E4	Provision of information to the Authority	B4	
E5	Prohibition of cross-subsidies	B5	
E6	Restriction on activity and financial ring-fencing	B6	
E7	Availability of resources	B7	
E8	Undertaking from ultimate controller	B8	
E9	Indebtedness	B9	

E10	Credit rating	BA5 (distribution licence)	BA5 in the distribution licence is the equivalent condition to B10 (transmission) but adapted for Independent Distribution Network Operators. We consider this a more appropriate model than B10.
E11	Security arrangements	B11	
E12	System Operator – Transmission Code	B12	This will be a much reduced version of B12 that requires a licensee to be a signatory to the STC.
E13	Price Control Revenue Reporting and Associated Information	B15 and 16	This will cover areas outlined in the Section B Conditions 15 - 16, but is likely to be greatly reduced, with the reporting elements outlined in special conditions.
E14	Obligation to provide transmission services	D2	
E15	Transmission system security standard and quality of service	D3	
E16	Obligations in relation to offers for connection etc.	D4A	This condition is likely to be applied in a substantially different manner from D4A and be worded accordingly. It will capture the following issues: i. Third Party Access (TPA) arrangements; ii. Variations to required capacity from existing connected generation; and iii. Relatively minor variations to connection agreement subsequently to connection.
E17	Functions of the Authority	D4B	This is likely to be applied in a very different way, given the differences outlined in E16.
E18	Prohibition on engaging in preferential or discriminatory behaviour	D5	
E19	Prohibition on selling electricity	D6	

Appendix 3 – The Authority’s Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority (“the Authority”), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.¹⁶

1.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly¹⁷.

1.4. The Authority’s principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of consumers, present and future, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

1.5. The Authority must when carrying out those functions have regard to:

- The need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- The need to secure that all reasonable demands for electricity are met;
- The need to secure that licence holders are able to finance the activities which are the subject of obligations on them¹⁸; and
- The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.¹⁹

1.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

¹⁶ entitled “Gas Supply” and “Electricity Supply” respectively.

¹⁷ However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

¹⁸ under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

¹⁹ The Authority may have regard to other descriptions of consumers.

- Promote efficiency and economy on the part of those licensed²⁰ under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- Protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity;
- Contribute to the achievement of sustainable development; and
- Secure a diverse and viable long-term energy supply.

1.7. In carrying out the functions referred to, the Authority must also have regard, to:

- The effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- Certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation²¹ and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

²⁰ or persons authorised by exemptions to carry on any activity.

²¹ Council Regulation (EC) 1/2003

Appendix 4 - Glossary

A

Authority

Gas and Electricity Markets Authority

The Act

The Energy Act 2004

B

BERR

Department of Business Enterprise and Regulatory Reform

BETTA

British Electricity Transmission and Trading Arrangements

BSC

Balancing and Settlement Code

C

CUSC

Connection and Use of System Code

D

DCUSA

Distribution Connection and Use of System Agreement

G

GBSO

Great Britain System Operator

GBSQSS

Great Britain Security and Quality of Supply Standard

GW

Gigawatt

K

kV

Kilovolts

N

NGET

National Grid Electricity Transmission plc

O

Ofgem

Office of Gas and Electricity Markets

OFTO

Offshore Transmission Owner

R

REZ

Renewable Energy Zone

S

SHETL

Scottish Hydro Electricity Transmission Limited

SLC

Standard Licence Condition

SO

System Operation

SPT

SP Transmission Limited

STC

System Operator - Transmission Owner Code

T

TO

Transmission Owner

TPA

Third Party Access

Appendix 5 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments.

1.2. Please send your comments to:

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