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Dear Graham

**Modification of electricity transmission standard licence conditions – way forward document**

Scottish and Southern Energy (SSE) welcomes the principles set out in this consultation document that any modifications to the electricity transmission licence as a result of the implementing the new regime for offshore transmission should be as limited as possible and that new licence conditions should be based as far as possible on existing conditions of the transmission licence.

The key policy decision that underlies the proposals in the consultation is 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. This proposal was consulted on in the July 2007 policy statement and, in the absence of strong objections, has been adopted as a key policy decision. We strongly disagree with this decision.

Having reviewed the July 2007 policy statement, we note that no explanation or rationale was provided for the proposal that holders of offshore transmission licences should not also be able to hold a current onshore transmission licence. It is not clear to us why this decision was taken; hence we would welcome, before this process is taken any further, a clear statement from Ofgem and BERR on the reasoning behind this policy decision.

I set out our detailed comments on the proposed licence changes below.

## **Section A**

We agree that Condition A1 will need to be amended to include new definitions; and agree that no changes should be required to Conditions A2 and A4. We also support the proposed insertion of new Conditions A5 and A6 as preferable to making wider modifications to allow the “switching on” or “switching off” of conditions under Section B of the licence.

The consultation document notes that minor definitional change will be required in Condition A3. It is not clear to us what this change would be and detail of the proposed change would be welcome.

## **Section B**

We agree that minimal, if any, change is required to Section B of the licence.

It is possible that Condition B12 may need to be amended to include reference to proposed Condition E12; however other changes to this condition do not, to us, appear to be required. The consultation document also notes that minor amendments will be required to Conditions B15 and B16. It is not clear to us what changes would be required and more detail of the proposed changes would be welcome.

## **Section C**

We agree that Condition C1 will need to be amended to include new definitions. We also agree that new Condition C8B may be required (subject to the progress of the Energy Bill); however, note that such a condition would only be needed for a pre-determined period for pre-determined circumstances and, hence, should be limited in duration and scope.

We agree that amendments may be required to existing Conditions C8 and C9, and to insert new Condition C8A. However, the necessity for these changes will be determined by the outcome of the workstream which is looking at the connections process. Some clarification on the timetable of the connections process workstream, and how this interacts with the licensing work, would be welcome.

It is not clear to us why modifications will be required to Condition C7. The obligation on the GB System Operator (GBSO) to not discriminate between any persons or class or classes of persons does not, currently, mean that all parties are treated the same. For example, there are differences between the treatment of the England and Wales Transmission Owner (TO) and the Scottish TOs; and there are differences in treatment of different sizes or types of generator. Given this, it is not clear why modifications would be required to accommodate Offshore Transmission Owners (OFTOs) and offshore generators – and, further, how such modifications could be implemented without undermining the existing regime.

We do not agree that change will be required to Condition C17, and the obligation should remain, in its current form, on the GBSO to plan, develop and operate the GB transmission system in accordance with the GB Security and Quality of Supply Standard (SQSS).

#### **Section D**

We agree that minimal, if any, change is required to Section D of the licence.

As with our comments above on proposed modifications to Condition C17, we do not agree that change will be required to Condition D3 and the obligation should remain, in its current form, on the TOs to plan and develop the GB transmission system in accordance with the GB SQSS. The consultation document also notes that minor amendments may be required to Conditions D4A and D4B. It is not clear to us how changes to existing Conditions C8 and C9 and the introduction of new Condition C8A would result in changes to Conditions D4A and D4B, and more detail on this would be welcome.

#### **Section E**

We agree with the proposals in paragraphs 3.36 and 3.37 of the consultation document not to replicate in Section E some of conditions currently under Sections B and D. We also agree with the proposed structure of Section E, and (subject to our comments below) the proposed conditions.

The consultation document proposes that, for the purposes of light-touch regulation, the conditions relating to regulatory accounts and regulatory reporting may be combined. We fully support the principle of proportionate regulation and, hence, believe there may be some merit in this approach. In principle, licensees should only be required to submit such information as is required for effective regulation. In this regard, the forms of the submissions made by the existing TOs are unlikely to be appropriate for OFTOs given, for example, the different type of price control and different performance measures. Some information necessary for onshore TOs may be extraneous for OFTOs, while other information necessary for the regulation of OFTOs may not be included in the current reporting requirements. This is clearly an issue that needs detailed examination and should be considered as a priority by the licensing working group.

On a similar point of regulatory burden, we note that the proposed Condition E10 would be less onerous than the equivalent condition for the existing TOs; that proposed Conditions E6 and E18, when compared with equivalent Section B conditions, may need to be reviewed “in respect of affiliated generation businesses”; that proposed Condition E7, when compared with its equivalent Section B condition, may need to be reviewed “in relation to the period during which the licensee is constructing its transmission assets”; and that proposed Condition E9, when compared with its equivalent Section B condition, may need to be “altered to reflect the different nature of OFTOs compared to existing onshore transmission licensees”.

These five proposed licence conditions largely relate to financial ring-fencing and ensuring that the OFTO has sufficient resources to finance its functions. While, in principle, we agree that the regulatory burden should be proportionate to business concerned, we do not agree that there is justification in this instance for the obligations on the OFTO to be lesser than those on the onshore TOs. In particular, we believe that those provisions that are intended to protect customers from a failure of the regulated business are necessary to ensure security of supply and to safeguard customers. Consequently, it is important that both the onshore and offshore TOs share these licence conditions.

Finally, we note that proposed Conditions E14 and E15, when compared with equivalent Section B conditions, may need to be modified to reflect the different requirements for OFTOs. We believe that any such required changes will be minimal, and the obligation on the OFTO to comply with the STC and GB SQSS should be the same as for onshore transmission licensees.

If you would like to discuss any of the points raised in this response, then please do not hesitate to give me a call.

Yours sincerely,

**Malcolm J Burns**  
**Regulation Manager**