

Richard Clay
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Dear Richard

Offshore Electricity Transmission – Draft Tender Regulations

BWEA and Scottish Renewables wish to make a joint response to this further consultation on the Offshore Electricity Transmission Draft Tender Regulations.

Representing 423 corporate members, BWEA is the UK's leading representative for the wind, wave and tidal energy industry. Further information on the work and membership of our organisation can be found on our website, www.bwea.com.

We appreciate the greater clarity that this latest stage of the offshore transmission consultation brings. However a full analysis of the tender process cannot be made until all the tender documents have been published. We believe that there is great merit in involving industry in the formulation of these documents as well as consulting once they have been produced. In many ways the tender process will be the most crucial part of the offshore regime.

Comments

The management of coordinated bids

The consideration of bids that cover several projects should be included in the tender regulations. As currently drafted the bids appear to be conceived as a single bid per project. One of the major benefits of a tender window approach will be that it will enable bidders tendering for projects in similar locations on similar timescales to offer a combined more economic and efficient connection solution. To permit a large scale expansion in offshore wind, combined bids should be enabled. An acknowledgement of this approach should be included in the current regulations as well as any further documents and guidance.

Part 3

Item 5 (2) (a) refers to the need for a developer to have entered into a CUSC bilateral connection agreement with GBSO to qualify for a tender. A distribution connected, license exempt project would not qualify for this criteria and we ask that the wording is changed to include "or a distribution license".

Regarding item 6 (2) (g) we believe that more guidance is needed on what an independent engineering audit should contain. At present this could be interpreted in different ways. It is not clear who is required to provide the audit and how the costs would be recovered.

In item 6 (2) (e) At present it is not clear what will be required to be in the data room and thus what will be required to satisfy the authority is not understood.

In item 6 (2) (f) It is not clear what is meant by committed, what form will the commitment take?

Part 4

Item 9 (2) (b), there should be more guidance on the information included in the expression of interest documentation about the qualifying project. More information up front about generic pre-qualification would be useful.

Part 5

Item 12 (4) (a) and (b) more information is required on what will be included in a detailed statement of requirements and the relevant commercial information included in the invitation to tender documentation.

Part 6

We would question the benefit of formally identifying a reserve bidder and suggest that references to a reserve bidder are removed. The concept of a reserve bidder has not been clear from previous consultations on the regime. A preferred bidder will make a firm and final offer and a reserve bidder is unnecessary. A more flexible system of reference to secondary bidders would be preferred. If a reserve bidder withdraws or is unable to take on a role then the replacement process is not clear

In item 14, as part of the evaluation process the Authority should consult with the developer about the evaluation criteria.

There is no process or rights to appeal for a bidder if their bid is unsuccessful. Likewise a developer has no opportunity to appeal if they disagree with the selected bidder. We would appreciate clarity on Ofgem's view of the process and we recognise the difficulty in balancing transparency and efficiency.

Part 7

Item 7 (1) and item 3 (1) and (2) appear to be a circular argument. The Authority will announce a date under 3(1) following a request by a developer under item 7. However a request made under item 7 must be made in advance of the date proposed under item 3. More guidance on this requirement would be beneficial.

As a drafting point, there is inconsistency in the use of companies and persons, licenses should be awarded to companies and not persons.

As in part 6 above, the reference to a reserve bidder should be removed in this section.

Part 8

The requirement to have a second round of tenders upon the cancellation of a tender has not been included in previous consultations. If an OFTO is required by

the Go Live date, we question whether there will be enough time to perform two tenders and then seek an OFTO of last resort.

Item 18 (2) where the authority cancels a tender exercise, either under 18(1) (a) or (b) it is not clear where the costs of the cancelled tender and re-tender will be borne. If a tender exercise were to be repeated several times the costs incurred could be considerable. We would appreciate a dialogue between Ofgem and the developer as to how a repeated tender was managed.

Item 18 (4), (5) and (6) where reference is made to paragraph (4), it appears that this should refer to paragraph (3).

Part 9

Item 21 (2) should include efficiently derived development costs and finance costs. As currently drafted it appears that only construction costs will be considered.

In item 22 (5), who will pay for determining the RAV? Will the costs fall to the developer or the OFTO? More guidance is needed in this area.

Part 10

In item 23 (3), the scale of the payments to be paid by the developer is not clear. The ability for Ofgem to revise the amount of security required is not appropriate, it should be clear and fixed at the outset.

The mechanism for treatment of the secured amount in the event that the tender is cancelled is not clear. If the developer withdraws from a project, then does it go to the OFTO? With reference to item 18 (2), if Ofgem cancels the initial tender process, either under 18(1)(a) or (b) then is there a requirement to give a second amount of security for a new tender?

There is no incentive on Ofgem to prevent the size of security from varying from the initial amount and avoid the need for a second security. If a security changes or a tender fails there is a need to explain to the developer why additional costs may be incurred. There should be an obligation on the Authority to conduct an efficient and economic tender process, to give both developers and prospective OFTO's comfort that amounts that they will be required to secure will not escalate, particularly if a tender is cancelled under 18(1) (b).

As noted above it is difficult to comment on the tender process with the limited information presented. We ask that when the further tender documents are presented for consultation that these tender regulations are also revisited in light of these further consultation responses.

We hope you find these comments useful and look forward to engaging on the more detailed tender documents when they are released. If you have any questions then please contact us regarding this consultation.

Yours sincerely,

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BWEA