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Dear Richard

Offshore Electricity Transmission – Draft Tender Regulations

Scottish and Southern Energy (SSE) welcomes the early publication of draft tender regulations for the award of offshore transmission licences. Our comments on this document are set out below.

Application of regulations

The draft regulations appear to preclude the licensing of offshore transmission systems by any route other than a competitive tender. This is not our interpretation of the Energy Act 2004, which permits for competitive tenders “in prescribed cases”, not necessarily in all cases. Regulations that prohibit any other licensing route are, in our opinion, unnecessarily restrictive and likely to result in inefficient outcomes; for example, when considering extensions to offshore networks, addressing situations where the competitive tender has been ineffective, integrating Round 3 developments, or licensing future pan-European interconnectors.

SSE supports a more flexible approach to the competitive licensing of offshore transmission asset owners which allows developments based on an integrated generation and transmission model. Integrated development is, in our experience, the most economic and efficient solution to the many technical challenges of working offshore; both for those Round 2 schemes already being progressed and future Round 3 projects where a zonal development model with greater co-ordination is proposed.

Given this, we would be concerned if the regulations were progressed on a “one size fits all” philosophy, hence reducing the scope for future developments and innovation. In this regard, we believe that these tender regulations should apply only to cases where a competitive tender is required and should not disallow the licensing of offshore transmission systems by other routes.

Scope of regulations

In publishing these draft regulations, Ofgem notes the need to ensure that there is an appropriate balance between the formal legislation (the tender regulations) and the more easily modifiable tender documentation such that there is certainty, but also flexibility, in the tender process. This is a difficult balance to achieve and, as currently drafted, the regulations err on the side of flexibility and would benefit from further detail.

For example, while setting out, at a high level, the procedure by which a competitive tender would be run, the draft tender regulations do not include for the duration of each stage or specify the party to which the costs incurred are to be allocated. This information is, we believe, critical for a successful tender process and should, therefore, be included in the tender regulations.

Role of the power station developer

In undertaking a tender exercise to select the owner of offshore transmission assets, Ofgem will come to a view on the revenue requirement of the asset owner and conditions that will determine the operational availability of the transmission assets. It is only once this information is known (i.e. at the point of licence award) that the affected generator will be able to assess the viability of its proposed development.

To avoid a situation where a licence is granted under conditions that are unacceptable to the affected generator, it is critical that developers are engaged in the competitive tender process. Key areas where generator engagement is required include: acquisition and management of consents, proposed technical design and operational procedures, and minimum standards for operational availability. Furthermore, the developer should be engaged in the process from an early stage to ensure that bidders are not progressed when the terms proposed will not be economically viable to the offshore generator.

Involvement of the power station developer will be required for all competitive tender exercises; hence we believe it is appropriate to recognise this in the tender regulations.

I hope these comments are helpful. Please do not hesitate to get in touch if you would like to discuss this further.

Yours sincerely,

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Regulation Analyst