



Offshore Electricity Transmission
Draft Tender Regulations (21/09f) – 5 March 2009

Introduction

SP Energy Networks ('SPEN') welcomes the opportunity to comment on the latest draft regulations.

We remain concerned about how the regime will effectively deal with Round 3 connections and allow infrastructure associated with an entire development zone to be constructed by a single OFTO. The regulations assume a single tender initiated by a developer and we question how effective this will be in providing economic, efficient and timely solutions. We have covered this in more detail in earlier consultation responses and we will reiterate in the future.

Our detailed comments on the draft regulations are set out below.

Definitions

"Practical completion" (para. 3(4)) is not defined.

"Regulated assets" (para. 3(8)) is not defined.

Other points

"a developer"

This term appears throughout the draft regulations (e.g. 4 (2), 4(3)), but in many cases it is not linked to criteria for identifying the developer concerned. For example, para. 4(2) says that "a developer" will be notified by the Authority where a qualifying project has been determined without making clear that it is the relevant developer(s) that will be so notified. We assume that this form of words has been chosen because there may be more than one developer. We suggest using "relevant developer" in such cases.

Part 2 – Value of Assets

Notice period for completion of transitional projects.

Para. 3(4) says that a developer must give notice twelve weeks prior to 'practical completion' (not defined) of construction of the transmission assets. It is not clear what is the purpose of this provision given the requirement for a completion notice in para. 3(5). Also, if this is meant to be a minimum notice period, the question arises as to what happens if completion occurs ahead of time.

Part 3 – Qualifying Projects

Para. 4(5) does not include provision for reasons to be given by the Authority where it makes a determination at the request of a developer.

Part 4 – Entry Conditions

Para. 5(2) should make clear that the referral in question is for determination of a dispute by the Authority.

Part 7 – Qualification to Tender Stage

Para. 12(1) should make provision for applicants to have access to data room information following the pre-qualification stage in order to assist them in preparing a submission.

Part 13 – Notification of Offshore Transmission Licence Grant

Para. 22(7) refers to the Authority's determination of whether or not to award an offshore licence to the [a] successful bidder "... subject to any interim or final findings of any proceedings brought within the ten day period". It is not clear whether the "determination" is bound by the result of the proceedings.

Schedule 1 – Regulation 4

Para. 1(2) refers to conditions where a developer "will construct or install" the assets, but this presumably should also cover cases where the developer has already constructed or installed the assets concerned.

Schedule 2 – Regulations 5 and 6

Para. 2(1)(a) repeats the phrase "to the satisfaction of the Authority" that is in para. 2(1).

Schedule 3 – Regulations 10 and 12 [numbering here?]

Para. 1(1) says that the information in the qualification document "may" include the items listed thereafter. This should read "will", otherwise it is not clear what this schedule is really adding to the regulations.