

Offshore Transmission Final Consultation
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Dear Sir / Madam,

Offshore Transmission Final Consultation

Introduction

BWEA welcomes the opportunity to comment on this final consultation before the first tenders for transitional projects this summer.

The core of the offshore transmission regime is the appointment of OFTOs in a competitive tendering process. BWEA acknowledges in this response some of the benefits that a competitive process for appointing OFTO's can bring. The key for our membership is that the process is able to contribute to the delivery of offshore wind by 2020, and that risks are appropriately allocated.

BWEA is pleased to see this latest consultation touch upon areas which would enhance the ability of the regime to deliver, not just a competitively-priced OFTO, but an OFTO which will play a crucial role in delivering offshore wind energy projects of sufficient size and capability to meet 2020 targets.

Thus BWEA welcomes the emphasis given to the "current policy landscape" in Chapter 4. Whilst for the most part this simply notes other developments, we consider it essential that these and other emerging developments are followed closely by both Ofgem and DECC to ensure that the environment for offshore wind develops in a holistic manner. We would emphasise the particular importance of:

- Strengthening and growing the supply chain to meet the needs of what will be an 'industrial revolution' scale of delivery. This should be considered in the context of the economic downturn and the potential for generation of new jobs and economic and industrial growth within the UK in supporting offshore.
- Facilitating anticipatory strategic-level investment in infrastructure, offshore as well as onshore. The ENSG has undertaken some excellent work in defining what is needed to enhance the onshore network and we would urge the momentum on this is maintained through to implementation. We consider it incumbent on the government

to extend this initiative to the strategic development of the offshore network in the context of Round 3.

- The Transmission Access Review (TAR) and the access products that will be available to and are appropriate for offshore generators. We think there is some more work in getting the allocation of risks right for Round 3.

The above key issues are discussed in more detail in subsequent sections of this response.

We do think that the regime will struggle to square the circle of Ofgem's twin objectives of OFTO innovation with a meaningful competition on price. An early OFTO appointment somewhat frustrates the ability of OFTOs to compete on what will be, at that time, a very uncertain estimate of costs. A late OFTO appointment very much limits an OFTO's ability to introduce its own skills and innovation into the process. Whilst we would not challenge the desirability of these objectives, we would simply note that the result will inevitably be a compromise between the two.

Furthermore the removal from the generator of its ability to manage certain risks, whilst it is nonetheless exposed financially to those risks, is a very serious concern. The fact that generator's are bearing the risk will drive generators to seek to influence the process as far as possible, which somewhat goes against the grain of the competitive process that Ofgem is trying to engender. This creates a very uncomfortable environment for the generators and merits further thought prior to application of the regime to Round 3.

It is also worth noting that some of our comments on the regime are around the context and timelines for the competitive process and ensuring that the proposals are adaptable to changing circumstances. In this respect we believe that other sister policies on offshore wind – such as transmission charging and ROC support – are interrelated with the regime and contribute collectively to the commercial environment for offshore wind.

The regime should also be able to accommodate developments in national and European policies on consents, interconnectors, European markets and other such areas that have a significant bearing on the make-up and activities of an offshore wind energy industry.

BWEA's detailed comments follow. I hope you find these comments useful. Please do not hesitate to contact me if you would like to discuss any of these points.

Yours sincerely,

Peter Madigan
Offshore Renewables Development Manager

Final consultation on offshore regime – detailed comments

Supply chain and skills

BWEA welcomes the prominence given to supply chain and skills in the consultation. We agree that this is a significant issue and BWEA will continue to work with DECC / Ofgem to improve the skills base and supply chain capability and capacity.

BWEA supports an OFTO's policies and procedures for developing and maintaining the required skills and capacity to discharge its licence obligations being a consideration when awarding an OFTO licence. We consider this to be an important indicator of an OFTO's ability to deliver the asset and to maintain high network availability for the lifetime of the asset. Clearly there is a trade-off here in that OFTOs that propose to contract out functions rather than to undertake them in-house will have less need to show skills capacity, but a greater need to show supply chain capacity.

As you know the generator community is very concerned about their inability, during the tender, to assess the OFTO's capability to perform these essential and commercially-critical functions. The substantial risk for government targets is that generators exert their influence at the end of the process in vetoing the Agreement to Vary the connection offer.

BWEA would also caution Ofgem on the wording of powers taken to enforce a non-exclusivity of supply chain players in OFTO consortia. It is important that this is not unduly limiting on the supply chain's ability to engage in and service the process.

Co-ordinated network development in Round 3

Paragraph 4.45 of the consultation notes that "*Tenders can then be run on the basis of these requirements, ensuring that co-ordinated network development is provided for, where it is specifically sought by developers. The tender process will be geared towards the requirements, including timing requirements, of generators.*"

The discussion around co-ordinated network development suggests that developers can co-operate in triggering multi-point, multi-project single tenders, and that The Crown Estate will have a key (but unspecified) role – which we take to mean that it could encourage co-ordinated applications like it is, for instance, in the Pentland Firth. BWEA accepts that this is a potential route for co-ordination but notes that it would not be wise to assume that competing developers and separately competing OFTOs will naturally co-operate. There is a role for The Crown Estate, Ofgem, government and / or National Grid as GBSO to take a strong lead here and we would urge Ofgem / DECC not to be complacent on this matter.

Non-exclusive asset-based approach

BWEA acknowledges that competition can bring benefits and motivate TO's to provide timely and cost-effective connections. We remain concerned however that if this is taken too far, competing companies operating within a zone will be uncooperative and that this will frustrate the timely delivery of strategic reinforcements. It will also be likely to increase the legal and administrative costs of negotiation between the different interests. There is a balance here and we would ask that license award places a strong weighting on the degree to which an OFTO can deliver strategic and forward-looking infrastructure.

BWEA favours one OFTO per Round 3 zone (in England and Wales – in Scotland the "zones" for territorial waters would need to be developed under discussion). The OFTO's appointment would be on a competitive basis, and part of the competition would include appraisal of the OFTO's plans for strategic development on the zone. We believe this marries the benefits of competition with the need for strategic and timely delivery of grid infrastructure.

BWEA also acknowledges that Ofgem's current thinking is that developers could themselves develop strategic plans and ask for OFTO's to tender against these plans. We would reiterate that competing generators may find it difficult (and costly) to come together on this basis. It is also partly interactive with the point at which generator's chose to appoint an OFTO. With some co-ordination they could undertake strategic design and delivery between them and tender for limited OFTO services of construction and operation or even, possibly, just operation. Key here is whether the tender can include some anticipatory investment that is outwith what the generators are willing to commit to. This does require some more thinking by Ofgem.

EU Third Package

BWEA is grateful for the clarifications provided on the Unbundling proposals. Furthermore BWEA considers it helpful that Ofgem / DECC assist in understanding the unbundling regime and in particular the differences between what the third package dictates and what Ofgem / DECC are working towards in the design of the offshore transmission regime as a matter of policy.

BWEA would also welcome some clarity on the implications for the OFTO tendering process where a generator is appointed as an OFTO and later divests the assets. Would this trigger a second tender or is the license freely tradable?

Regulation of the OFTOs

Incremental investment

The consultation states in its executive summary that the OFTO will be able to undertake up to 20% additional investment "*provided that the additional investment is generator-led.*" This qualification (that it needs to be generator-led) does not however appear in the main text. BWEA agrees that incremental investments should take into account generator-specifications and requirements. However we consider these investments should also be subject to any proposals on anticipatory investments being brought forward under TAR – i.e. that the incremental investments should not necessarily need generator user commitment.

BWEA also notes the OFTO will be required to respond to GBSO requests for changes to its system. BWEA notes that this could include GBSO as well as generator-led changes and so this is not consistent with the suggestion that all incremental investments will be generator-led. Notwithstanding this, BWEA considers it reasonable that the GBSO should be able to promote incremental investments in consultation with the generator, especially where these are strategic reinforcement works.

The document also proposes a revenue uplift for using assets more intensively, to complement the revenue uplift for new construction. BWEA would support measures that encourage the most efficient solution from the outset and notes this will likely require some engineering and regulatory appraisal of proposals to underpin any justified additional revenue.

Performance incentives

The document states (p27) that *"As the proposals for the regime have developed, we have better understood the balance of risk between developers, OFTOs and consumers. This document contains proposals for ensuring that the risks rest with those best placed to manage them under the new regime."*

It remains our concern that the generator is bearing the risk of network failure (rather than this being shared more widely). BWEA finds it difficult to understand why Ofgem/DECC believes that this is an allocation of risk to a party best placed to manage it. The regime, by design, deliberately removes transmission functions from the generator.

The rationale appears to be that generators bear this risk onshore, and to a certain extent they do. However the risk of an outage being inaccessible and unfixable onshore is much lower. Where a large generator bears losses due to an inability to generate for a sustained period this could be equally as catastrophic to the generator as to the OFTO's inability to transmit. Furthermore compensation arrangements onshore are not capped as they are for the offshore regime so the arrangements are not comparable and leave the offshore generators exposed.

BWEA is warm to suggestions that the generator could seek to mitigate this risk as far as possible through detailed specifications for the tender. However there will inevitably be a need to refine proposals to ensure that they meet the generator's needs and optimise the level of investment by the OFTO with the risk faced by the generator. We would caution against assuming that a generator can make an initial specification and then be presented with an optimal solution without any further two-way interaction. BWEA hopes that Ofgem can be pragmatic in this respect when running the tenders. BWEA is also concerned that Ofgem will focus on the least-cost options at the expense of the generator's level of risk.

Delivery incentive

BWEA notes the clarification on the extension of Liquidated Damages (LD) provisions offshore. BWEA also notes the emphasis on using licence breach as a vehicle for ensuring timely delivery. Our understanding is that adherence to reasonably defined delivery schedules in the Transmission Owner Construction Agreement (TOCA) would be a licence condition. BWEA would appreciate further information on how effective this provision might be and how long it would take to enforce if required.

Decommissioning

Allowing pass-through of unanticipated costs could favour OFTOs that don't anticipate the costs sufficiently and hence offer a more competitive price. There should be some benchmarking of decommissioning standards to make this comparable.

Reactive power provision

BWEA notes the intention to bring forward proposals under the normal governance procedures on generator compensation for OFTO-provided reactive power services. We agree that these proposals need more careful consideration. BWEA has been concerned that the generator pays for the equipment through its transmission access charge but is not the party offering or potentially being paid for the service. Clearly this needs some thought.

Security requirements

Because the GB SQSS definition for offshore is not directly linked to access rights and compensation, its role is somewhat denuded. Ofgem has sought to link access rights – or at least access rights on similar terms to the onshore regime – with the level of redundancy in a connection. BWEA has reservations about this approach and would also query the original intent in developing aspects of the GB SQSS offshore definition if, in any event, all access rights need to be negotiated within the capped compensation available to a generator.

Post-implementation monitoring

Ofgem notes that *"We intend to monitor the effectiveness of the new regime to ensure it is delivering the anticipated benefits."*

BWEA is very supportive of a post-implementation monitoring programme. We consider it essential that the criteria against which the performance of the regime is judged are defined before the regime is implemented – that is, now. We also consider that it would be more appropriate and that there would be benefits in contracting a third party to monitor performance, rather than ask Ofgem to, effectively, monitor its own performance.

The Impact Assessment

BWEA agrees that it would be wrong to attribute the environmental benefits of offshore wind to the offshore transmission regime. The design of the regime is however relevant to when offshore wind will be delivered, and acceleration or delay is measurable in carbon terms by the cost of carbon in any one year.

It would be difficult to say with certainty that the regime will or won't delay offshore wind in comparison with alternative policy environments. However it would be instructive to take a scenario-based approach in walking through the timescales for the process, and this is something that has been resisted to-date by DECC / Ofgem. BWEA provides some comments on its own walk-through below, and would commend this process as worthwhile to inform any developments for Round 3.

The impact assessment asserts that "*The benefits of an open, secure and certain regulatory regime with the risks resting with those best able to manage them will attract investment to the offshore wind sector.*" BWEA considers this to be Ofgem / DECC's opinion, rather than a factual statement, and as such we would question its validity in an impact assessment. As noted earlier, BWEA does not agree that the regime allocates all the risks appropriately. It would also be more accurate to phrase investment (in the generator sector) as having not been deterred by the regime, rather than actively been encouraged by the regime. BWEA agrees that new investment may well be attracted into the transmission sector, but that this is somewhat at the expense of the generator community.

The impact assessment also notes that "*The tangible benefits of this for offshore transmission will be evident through measurable efficiencies...*" The "*measurable efficiencies*" referred to are an estimate of savings achieved in PFI projects which the assessment concedes is not a direct comparison with the OFTO regime and is counterfactual of the present arrangements. There is no indication that these benefits will actually be measurable as the regime progresses. Therefore we consider it more appropriate to refer to these benefits as estimates rather than something which can be reliably and accurately quantified.

BWEA scenario-based walk-through

BWEA has conducted its own scenario-based walk-through on some hypothetical Round 3 projects. We found it very useful and would encourage a repeat exercise encompassing all stakeholders.

Some key points arising (and not covered above) are:

- BWEA would recommend that grid connection applications can, if so desired by the generator, be made at the preferred bidder stage for ZDA award. This is a matter for NGET and The Crown Estate.
- The level of clarity over what costs are recoverable from the OFTO. Does Ofgem need to dictate this or will it be negotiable? To what extent does the developer have visibility of the trade-off between seeking to recover the costs and these being reflected back to the generator in TNUoS charges?
- The point at which orders can be placed for, in particular, DC equipment, is a rate-determining step. It is difficult to ensure timely delivery if this signal needs to wait for both the appointment of an OFTO and consents.
- For Round 3 projects requiring design work by the OFTO and a supply chain offer to the OFTO, a year-long tender is probably insufficient and could easily slip to 18-21 months.
- The PQQ stage could be generic (an OFTO only need qualify once in support of any bid) and performed in advance. Hence, this month long stage could be severed from the defined tendering process with some time efficiency.
- There will be a need to develop project milestones between the generator, OFTO and GBSO to co-ordinate works and review points of “no return” on investments. There will be a need to agree how this is managed before, during and after OFTO appointment. Plans could change, for instance, during the year (plus) tender process.
- Is there scope to alter the weighting given to selection criteria for the Round 3 projects? For instance can engineering design and competence be given a higher weighting for tenders against limited technical specifications?