

Introduction and Summary

SP Energy Networks (SPEN) welcomes this policy update and final consultation. Although we may not agree with a number of elements of the regime the clarity this document brings enables us to more clearly understand the risk and opportunity Offshore Transmission offers SPEN.

We continue to believe that risks should be shared equitably between generators, consumers and the OFTO, and we remain concerned that the regime as it stands unfairly penalises the OFTO in some areas. The lack of clarity on the initiation of re-openers will result in less effective bids as OFTO seek to mitigate unknown events.

As we have stated on many occasions recently that the success of delivering renewable generation targets will be significantly impacted by how effective this regime is in managing the connection of the round 3 development zones. As the regime stands the success relies on the developer led approach along with the managing of the tender and licence grant process by Ofgem. If it is to succeed then the developers, GBSO and Ofgem must ensure that their actions result in a single OFTO developing the infrastructure and connections for the whole of a round 3 development zone.

Many of the specific comments echo our views in earlier consultations.

Specific Comments & responses to questions

Chapter 4 Background and Policy

As we have stated in the introduction the ability of the regime to make effective connection of the round 3 development zones wind farms is essential. We continue to believe that the development zones should be developed by a single OFTO and question whether this the actions of GBSO and developer will lead to. As a potential OFTO for these development zones we are keen to see this work in practice and would ask the Ofgem, developers and GBSO ensure the application process and subsequent tendering facilitates this. This will require flexibility by Ofgem during the tender process to allow the preferred bidder to secure contracts pre and post licence award, and to revisit revenue streams as further phases of a development zone near construction and require connections and additional infrastructure. As the regime stands its success relies on how the developer makes application for connection, how the GBSO considers connection options and most importantly how Ofgem handle the adjudication, licence award and future administration of the licence.

Question 1 Supply chain and skills capacity

The supply chain and skills capacity will have a significant influence on the success of offshore transmission and meeting the government targets. The capability of potential OFTO to construct, operate and maintain transmission networks should be a significant factor in determining a preferred bidder. The engagement of the supply chain is crucial and the bidding OFTOs must be allowed sufficient time to ensure that effective arrangements are in place, this will be most effective at preferred bidder stage where contracts can be finalized.

Again, where an OFTO is providing phased connection for the whole of a development zone then the OFTO will have the opportunity to plan the supply chain engagement better and develop the right organization with the requisite skills to serve the offshore transmission system.

Chapter 5 EU Third Energy Package & Unbundling

We note that this chapter sets out the position that generators will be able to bid for OFTO licences and then ‘unbundle’ as appropriate once the legislation is in force. However, we are disappointed not to find any mention of the derogation mechanisms mentioned in the draft legislation other than the three main proposed options. There is also no analysis of the System Operator, Transmission Owner or Transmission Operator roles as set out in the legislation. These aspects of the legislation will have a considerable impact on the ability of generators or other prospective bidders to participate in the offshore transmission regime.

Chapter 6 – The Regulatory Proposals

End of the regulated revenue stream – In the November consultation one criteria for the option of extending the revenue stream was whether the OFTO ‘wanted to continue its role, the November consultation did not expand on the implications of the OFTO not wishing to proceed, and there is no further detail within the final proposals. We would seek clarity.

Unknown Unknowns – we continue to have concerns in this area and do not believe that the availability of tested insurance products or mitigation by operating practices give potential OFTO confidence that unknown situations can be effectively addressed. Ofgem considering exceptional events (with no definitions) on a case by case basis will cause a diligent OFTO considerable concern.

Performance Obligation and Operational Incentives – It is essential that any operation incentive arrangement takes full consideration of:

The infancy of offshore transmission and the lack of robust knowledge of the performance of offshore assets, in particular cables

The offshore criteria in GBSQSS does not allow for redundancy of offshore cables mainly as a result of the high cost of implementation and any associated faults should not become a disproportionate penalty to OFTOs.

We welcome the view that this will be considered on a case by case basis.

We also note that it is proposed that a case by case approach to profiling of the availability incentive will be taken, taking into account the views of the generator (6.56). We would expect that any such bespoke arrangements are notified to prospective bidders well in advance of the tendering process.

Performance Bonds and Securities – If this is made clear at the time of tendering an OFTO will take consideration of this.

Tender Process – The indicative dates on the flow diagram may apply to the transitional regime, but are impractical for the enduring regime. For enduring regime projects, particularly round 3 development zones, there will be significant time and resource required to design the offshore transmission system, tendering will require significant negotiation with the supply chain for what will be extremely high value contracts (as well as EU procurement activities). The ITT and ‘preferred bidder to licence grant’ phase will take considerably longer than the times within the programme if robust bids are to be submitted.

Question 2

a) known unknowns –

Refinancing – we believe that OFTO should be the primary beneficiary of refinancing, if a sharing mechanism is imposed then this should be clear at the pre-tender stage to allow the OFTO to take consideration of this when bidding.

Incremental Capacity Increases – we continue to agree that incremental capacity increases up to 20% of the initial capital cost (now clarified) before retendering is a

reasonable position, and note that this is now clearly recouped by an uplift in the revenue stream negotiated as part of a price control re-opener. We would seek clarity on the period over which the additional revenue will be recovered and any the impact of the end of the revenue stream. We also note the potential for revenue driver for incremental capacity and would seek further clarification on how this might work.

Decommissioning – The requirement for decommissioning has been an area of concern for OFTOs and we welcome the use of a pass through arrangement however again we would seek clarification of the ‘conditional’ nature of the pass through.

- b) OFTO of Last Resort – We welcome the clarification in this area. We believe that it is probably appropriate that OFTOs are the first to be considered as an OFTO of last resort over onshore TO. We welcome the statement that the impact on a TO to continue its existing activities will be a consideration and also the reference to a right of appeal. We continue, however, to have concerns about the very significant impact that the imposition a large offshore transmission network could have on an OFTO or TO, should Ofgem direct this.
- c) Business Separation – We support the proposals for appropriate business separation requirements to apply to NGET. It is important to note that such requirements in existing transmission licences are intended to address information and operational separation from competitive activities in the same group, not separation between transmission operation and affiliated transmission owners. Also, the provisions would need to apply during the bidding process (i.e. prior to the award of an OFTO licence to an affiliated entity) as well as subsequently. These points should be taken into account in drafting new business separation provisions.

Question 3 - Legal Drafting

This will be the first time many users have had the opportunity to comment on the detail of the ‘special conditions’ and we are concerned that these have only been available at this late stage. Although, we note that significant progress has been made in developing the licence drafting, some areas still remain to be fully set out (such as in relation to post-construction refinancing). We have not made a detailed assessment of the current licence drafting. However, we have found some apparent anomalies, such as a formula for base revenue (“BRT” in special condition C2 that includes the term CRAV, but this appears to be changed to CTV in the definitions. We are slightly concerned that in paragraph 6.48 of the main document the term “excluded services” appears to be confused with “de minimis” services.

Chapter 7 – The Standard Framework Proposals

We support the change in requirement for busbar redundancy.

Question 4 Implementation Plan – The table in 7.62 clearly sets out activities that need to be carried out by each party. The table illustrates the huge amount of work to be undertaken in the forthcoming months, particularly by Ofgem and DECC. There will be significant effort required by existing GBSO, TOs and DNOs to become familiar with the significant changes to codes that have not gone through what would be the normal governance processes.

Question 5 - No Comment

Question 6 – No comment