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Sam Cope  
Ofgem E-Serve  
9 Millbank  
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Dear Mr. Cope

**Offshore Electricity Transmission: An Open Letter on the Enduring Regime – DONG Energy's Response**

Thank you for the opportunity to comment on the approach to further define the OFTO Enduring Regime and changes for the second transitional tender process. DONG Energy, whose comments I'm putting forward here, recognises the importance that the enduring regime will have for the development of the offshore wind business in UK waters and for the achievement of the Government's 2020 target. Since the first enduring tender process should start in summer 2010, it is necessary to develop the regulation in a clear and efficient manner. This will facilitate the process and provide confidence to the offshore investors that the proposed approach will deliver the transmission assets needed for their projects in an efficient and timely manner.

We generally agree with the approach proposed by Ofgem in the letter to determine the most optimal enduring regime and agree that these are key themes to be addressed in order to deliver a sound and effective set of regulations. However, we think that flexibility should also be one of the main drivers for the development of the process. This is necessary due to the different projects that will be treated under the enduring regime. For example, requirements for the Round 3 projects (timescale, size of the projects, supply chain commitment, etc) are different from those for the Round 1 and 2 project extensions and both differ from that needed by later Round 2 projects. Round 1 and 2 project extensions are required by Crown Estate to achieve full operation by the end of 2016 and this implies a very tight timescale and an aggressive approach to be followed for their development. On our view is that the current enduring regime does not facilitate this process, as it adds further complexity and risk and is likely to cause delay. Developers of these projects should be able to design and construct the offshore transmission assets before handing them over to the appointed OFTO: this can be achieved either by extending the transitional regime or by allowing a more flexible enduring process.

Moreover, we do not fully agree with Ofgem's intent to focus on refinements rather than on wholesale changes. If the review identifies that a completely new approach is required (for instance for Round 3) then that may require a more extensive change that nevertheless should be considered for the future. Statements made by the opposition Conservative party also seem to suggest a different approach to the current enduring model. We also think that

different issues addressed in previous documents need an extensive review or to be re-defined based on the lessons learned from the transitional tender process and to the development of the offshore wind business in the UK, as previously mentioned.

With respect to the key themes that will be analysed in the consultation, we would like to bring forward the comments listed below.

#### Timing of OFTO appointment

We appreciate the flexibility that the approach proposes to allow the developer to decide when to appoint the OFTO (early vs late appointment). However, this implies a very different approach to OFTO appointment as a “firm fixed price” tender cannot be made by an OFTO at an early stage and leads to a “partnership” type arrangement which could use a more open book structure as the projects are developed. We can already see that the transitional project process now acknowledges that preferred bidders may change their prices following the proposed “on-hold” period before appointment (which in some cases lasts for up to a year). Conversely, the late appointment process will only work where the developer has done much of the development work itself (and this feeds into the treatment of pre-construction costs discussed below).

We acknowledge that User commitments will also need to be revised, but question how this fits with the current process for changing the methodology used by NGET in its “final sums” and “generic” methodologies. In the past NGET has made unilateral changes to its policies, albeit following public consultation. We note that the current IGUCM approach used NGET may lead to very high offshore commitments which may cause some projects to be delayed.

#### Treatment of pre-construction costs and tender information

We would be interested in Ofgem’s approach to provide an envelope of developer pre-construction works and we will comment on that when more details will be provided

#### Treatment of future capacity increases

We consider this issue to be very important, especially when very large sites will be developed. The review should consider approaches that allow developers to choose among a wide range of possibilities, since different issues will arise for different projects, i.e. we think it will be difficult to make a model that works for all cases, as the current 20% rule has been shown to be incorrect almost before it was implemented.

#### Risk Management, Refinancing and Incentives

We will comment on this when more details will be provided in the consultation.

#### The Role of the NETSO

We acknowledge the importance of cooperating with the NETSO and we will support any proposal which will enhance this aspect and facilitate the development of offshore sites. The current DECC consultation on transmission access review has indicated a preference for “connect and manage” and we think that the review should consider how this principle could be applied for offshore networks.

#### Qualifying Project Pre-Conditions and Tender Entry Criteria

We agree that this needs to be reviewed, but are puzzled by the comment in your open letter that you will “review the effectiveness [of how developers] signal their commitment prior to the commencement of the tender process. This is necessary to mitigate the risk that costs are incurred inefficiently or, at worst, a stranded asset is constructed.” We do not see

how commitments made (or not made) before the tender starts can result in inefficient costs or stranded assets, as these will be incurred only after the tender finishes and works starts. Furthermore the developer is not committed to proceeding with its project but does have to secure and pay for abortive tender costs should it withdraw.

#### Stages and Timing of the Tender Process

As we discussed in our responses to previous consultations, we consider that a tender process for the enduring regime will require a considerably longer time than the transitional tender process, i.e. OFTO bidders will have to design the transmission asset. This should be recognised in the development of the regime together with the fact that this should not cause delay to generator's programmes. Providing certainty to developers is a key element for a timely and efficient delivery of offshore wind installations.

#### Assessment of the Tender Process (including treatment of losses)

We agree with most of the issues raised for this point. The involvement of the NETSO and the developers is a relevant aspect in the process of selecting the OFTO, since they are the two parties to which the appointed OFTO will have to relate. Besides, we acknowledge the fact that the assessment of the potential OFTO during the tender should be based not only on financial aspects, but on other issues. Electrical losses are one of them, but elements such as capability and previous experience are key factors to be taken into account. We look forward to comment on this issue when an approach will be defined in the consultation.

#### Supply Chain and Competition

No further comments at this stage.

#### Other Issues

Finally, we would like to bring forward once again our proposal to allow generators to build their own offshore transmission assets, commission them and then hand it over to the appointed OFTO. The opportunity for each developer to choose this approach among the others will add flexibility to the regulation and will not break any rules of the Third Package. Moreover, it will give more confidence to developers about their timescales for the commissioning of the whole wind farm, it will avoid any delays that the current OFTO regime may cause and will deliver an asset which will be fit-for-purpose since it will be based on developers' requirements together with the NETSO's. The pros and cons of this should be assessed as part of this review

We consider this consultation to be a fundamental step for achieving an efficient and functional network which will facilitate the achievement of the 2020 target. Therefore we are looking forward to evaluate and comment on the approach that Ofgem will consult on by the end of December, although we consider a reviewing period that includes Christmas holiday to potentially affect industry's work that can be done for such an important issue, as last year consultation process showed.

Yours sincerely,



Jesper Krarup Holst  
Senior Manager