

Diana Kennedy
Ofgem
9 Millbank
London
SW1P 3GE

10 March 2010



Dear Diana,

Offshore Electricity Transmission: Consultation on draft Tender Regulations 2010

EDF Energy welcomes the opportunity to respond to this open letter regarding the proposed changes to the 2010 Regulations in respect of the enduring offshore regime.

Further to our previous response on the 2010 Regulations, EDF Energy would like to make the following specific and general comments.

We welcome the amendments compared with the 2009 Regulations, as we support Ofgem's intention to improve clarity and ensure that the tender processes run smoothly. Overall EDF Energy believes that the draft 2010 Regulations, and the relevant amendments, at this stage of the process adequately reflect the policy positions set out in the December consultation.

EDF Energy is pleased to see that the proposed amendments to Part 3, Assessment of costs incurred in connection with pre-construction works, paragraph 3 are sufficiently flexible to allow for the recalculation of costs in instances where there has been a material change from the original information provided to the Authority. Paragraph 5 of Part 3 makes reference to the Authority assessing the economic and efficient costs which 'ought' to have been incurred, but in practice EDF Energy believes the actual costs may differ, owing to circumstances that could not reasonably have been foreseen.

EDF Energy remains concerned that the actual costs incurred by the developers may be more than the Authority's cost assessment, as under these circumstances the developers may have to bear this excess cost themselves. EDF Energy believes the 2010 regulations should be amended to adequately reflect this and eliminate this potential shortfall.

In terms of tender specification process, it is important that participants are given the required flexibility and are not restricted as to the means they use to meet the underlying tender construction specifications. EDF Energy considers it very important that this flexibility is retained and reflected as required in the regulations, in order to enable projects to be delivered in the most efficient manner possible.

EDF Energy agrees that as a matter of policy all bids should be evaluated against the criteria set out in the invitation to tender documentation. This provides for transparency and easy comparability of bids. Against this background variant bids should be considered but only where they will result in a material benefit. In addition the costs of evaluating the variant bids should be borne by the party proposing them and not socialised.



If you have any queries on this response or would like to meet to discuss it further, please do not hesitate to contact Rob Rome on 01452 653170, or myself.

Yours sincerely,

A handwritten signature in black ink, appearing to read "D. Linford".

Denis Linford
Corporate Policy and Regulation Director