

Introduction and Summary

SP Energy Networks (SPEN) welcomes the opportunity to comment on this enduring regime policy update.

The regime will only be successful if risks are shared equitably between generators and OFTOs. The consultation does not consider re-openers and it is essential for a bidding OFTO that they clearly understand what will trigger re-openers.

We have consistently expressed the view that the most effective offshore solution for the large round 3 development zones would be addressed by a single OFTO either developing the whole zone or a strategic part of the zone. We believe that a process fully driven by developers and the NETSO will lead to a piecemeal approach and is not likely to achieve the optimum solution.

This latest consultation suggests a potential solution to the difficulties managing the price (in the form of the revenue stream) and risk by considering indicative bids. We see merit in a process where the OFTO makes a high level bid, and along with scoring in other important evaluation criteria, takes the role of 'preferred bidder' and develops an offer that better reflects real market price and risk.

Specific Comments & responses to questions

Chapter 4 Triggering the Tender

Do you agree with the proposed approach to initiating the tender process?

It is essential that the tender process is triggered with sufficient time to ensure that the generator's connection date is met. It is therefore important that along with either Ofgem or NETSO, the generator is involved in this process. The NETSO may be better placed to evaluate timescales.

Should there be an earliest or latest point (relative to the connection agreement held by the generator) at which the generator should be required to request an OFTO appointment and when should that be?

The timing of the OFTO appointment should reflect the need to meet the construction required by the generator's connection date.

Do you agree with the proposed amendments to the qualifying project pre-conditions and tender entry conditions for the enduring regime?

We would support simplification and streamlining of the process.

Do you have views on the time of year at which a tender window should be held?

We see the benefit of annual tender windows however believe that the process should remain flexible to allow more tender windows that reflect developer aspirations for connection.

Do you have views on the best method of dealing with contingency costs?

Early OFTO selection clearly leads to increased risk for OFTOs when pricing their revenue stream. Identifying contingency is important in limiting risk premium. Although we recognise that this would complicate the tender process we believe that the OFTO should have the opportunity to include contingency in areas where the cost of risk is excessive or cannot be quantified. This should not be limited to specific elements of the bid. We do however recognise that this leads to uncertainty for the developer; this could be limited by setting a cap to the level of contingency.

What is your view on the capping of the contingency and any associated incentives?

See above

Which items do you consider should be defined as pre-construction costs (and why)?

It is difficult to determine what should and should not be included as allowed pre-construction and flexibility should be maintained. However the OFTO should only be required to re-pay pre-construction costs that are of a standard that benefit the OFTO [?], namely payments should not be made if the OFTO is required to repeat works.

Do you consider that an Ofgem defined, standard pre-construction works transfer agreement is the appropriate vehicle for managing the transfer and payment of pre-construction costs?

Clear terms for the transfer of pre-construction works are essential, in particular the associated liabilities. If these terms are ineffective it may require OFTO to repeat work giving little value to generator's original pre-construction works.

Chapter 5 The Scope of the Tender

Do you agree that the tender specification should be based on the connection application, with information also being provided relating to any pre-construction works undertaken?

We understand that the generator has an important part to play in setting out the determining the connections arrangement. However it is important that the OFTO has the ability to offer other solution that may be more effective. This would be achieved by the provision of variant bids.

It is however important that consideration is given to the onshore impact of variant bids.

Do you agree that bidders should be given flexibility to respond to this specification as they see fit?

As detailed above the OFTO could provide additional variant bids.

Do you agree with our suggestion not to incorporate capacity over sizing into the enduring regime (unless financial commitment is provided for that capacity)?

Although over sizing may not be desirable it is essential that were possible consideration is given to the potential overall design of zone, or part thereof, to ensure that the whole zone is developed in the most effective manner. We believe that in the competitive tendered environment OFTOs will not speculate by building additional infrastructure and therefore consideration should be given to allowing incremental additional capacity to ensure overall efficiency. This could be achieved where a single OFTO develops the infrastructure for the whole, or a strategic part of a zone.

Chapter 6 Facilitating Competition

Do you consider that supply chain exclusivity should be permissible under the enduring regime? If not, do you have proposals for enforceable measures for precluding it?

In many areas of offshore transmission there is a very limited supply base and we understand that exclusivity could limit this further. However we do not feel that it is appropriate to try to introduce any new limitations. What we believe is important is that the supply base is given sufficient clear views of serious projects, and that they are allowed sufficient time to develop appropriate bids. It is essential that GB is seen as a serious player in offshore infrastructure development when compared with other EU and worldwide projects.

Do you consider that the option of bidding on the basis of indicative costs and tendering after appointment has merit?

We believe that this approach has merit. We have consistently expressed concern regarding timing and the risks associated with developing firm costs in a short timeframe. This approach could provide the opportunity for an OFTO to refine its costs during a 'preferred bidder' stage.

Do you support our minded to position that explicit steps to facilitate new entry should not be included in the enduring regulatory regime?

We agree with Ofgem's position and would emphasise that an attractive regime will attract existing and new entrants to bid.

Should we include provisions in the enduring regime to ensure that access to offshore cable capacity and to offshore cable routes is made available? If so, what form should those provisions take?

We do not believe that this is appropriate and that if effectively designed, the regime will encourage OFTOs to offer capacity. A zonal approach, with strategic development plans would ensure OFTOs offer most effective connections.

Chapter 7 Tender Timings

Do you support, or have alternative, proposals for amending the key stages of, or otherwise stream lining, the tender process?

We would support the proposed changes to the process.

Do you consider that the timings outlined will provide sufficient time for bidders to develop robust tender submissions and Ofgem to assess them?

The robustness of a bid will, to some extent, will be a reflection of the timescale allowed to prepare the bid. An OFTO will not be able to design a connection and secure firm bids from suppliers in the time allowed in the proposed timetable. We do however understand that it is important to generators that the tender process moves quickly. We would therefore re-iterate the importance of high level bids that can select a preferred bidder who would then refine his price and risks in conjunction with the supply chain.

In order to ensure an effective and timely procurement process through the supply chain, how long should the ITT stage last?

As stated above, the timetable could be relatively short if the OFTO has the opportunity to refine costs later in the process.

Chapter 8 Bid Evaluation

In which areas should we allow variant bids?

As we have stated early in our response we believe that OFTOs should be allowed to offer variant bids. Clearly an OFTO must offer a compliant bid however if innovation is to be encouraged then the regime should not 'second guess' where innovation might apply and we do not see the need to limit areas where variants could be offered. The number of variants offered may need to be limited although this would in effect be self regulated due to the cost of developing bids.

How should variants be treated in evaluation?

The measurement of variants should consider both onshore and offshore benefits and balance benefits for consumers and generators.

Do you have a view on the factors we should consider in evaluating bids?

Firstly, the factors for bid evaluation should be made clear to OFTOs.

It is essential that a balance of costs, risk, ability to deliver and the ability to own and operate in the long term

Bidders must be able to demonstrate their capability to construction transmission type assets in challenging environmental and operate these assets over their lifetime.

Chapter 9 Revenue stream and incentive mechanisms

Do you consider that the existing incremental capacity incentives should be amended and, if so, what form should they take?

We believe that OFTO should be able to offer incremental capacity increases and the 20% upper limit would appear reasonable however there should be some discretion around this figure. It is however not clear how the OFTO would recover any associated charges.

How, if at all, should the existing availability incentive be updated for the enduring regulatory regime?

We believe that any incentive mechanism should reflect the security standard to which the connection is designed. Within the enduring regime the OFTO will have the opportunity to consider the impact of this incentive within the infrastructure design, and assuming the OFTO is aware of the implications at time of tender then this can be taken into account in the design and reflected in the cost of risk in the revenue stream.

What is your view of the inclusion of a re-financing claw back mechanism?

We believe that the OFTO will be considering many risks within the bidding process, some of which will relate to financing. The costs of financing will be reflected in the revenue stream and any cost or benefits to which the OFTO is exposed to should not be subject to review.

Do you have evidence of insurance market volatility that suggests that an incentive would be in the interests of consumers?

Although there is little clear evidence at this time, consideration should be given to the lack of maturity associated with insuring offshore transmission assets.

Chapter 10 Responding to future developments

Do you have comments on the practicality of the potential options for dealing with the future developments outlined?

We believe that as the end of the revenue stream approaches the OFTO should have the option to continue acting as OFTO or to surrender the position; this is a difficult area as the impact of the environment and the lifetime of the assets, at this stage is unclear.

Are there other issues regarding future offshore developments which you consider need to be addressed?

See introduction and summary.