

**Offshore Electricity Transmission:****Pre-Qualification Document for the Second Transitional Tender Round****Document type: Pre-Qualification Document****Date of publication:** 17 November 2010

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**Overview:**

The regulatory regime for offshore electricity transmission enables the Authority to grant Offshore Transmission Licences on the basis of a competitive tender process. Ofgem E-Serve is responsible for managing this process.

The tender process is run over a number of stages, the first of which is the Pre-Qualification stage where bidders are invited to demonstrate to Ofgem that they have a sufficiently robust track record against a set of pre-defined requirements in order to be invited to participate in subsequent stages. The outcome of Ofgem's evaluation will be the identification of a longlist of such bidders. This Pre-Qualification Document sets out the requirements bidders need to demonstrate in this regard.

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## Document Version History

Version number	Date	List of changes
1	17 November 2010	Pre-Qualification Document published

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## Context

Electricity generated from offshore renewable sources is expected to make an important contribution towards the UK achieving its renewable energy targets by 2020. Fit for purpose offshore electricity transmission infrastructure is required to transfer the electricity generated offshore to the onshore network and ultimately to consumers. It is important that this infrastructure is developed in a timely, secure and cost-effective manner. It should also provide best value to present and future electricity consumers, while reflecting the requirements of generators and ensuring that, as far as possible, offshore infrastructure develops in a co-ordinated manner.

The Department for Energy and Climate Change (DECC<sup>1</sup>) and Ofgem<sup>2</sup> have developed a regulatory regime for offshore electricity transmission. It was consulted on extensively and refined over four years, culminating in a final statement published in June 2009<sup>3</sup>.

A key part of the regime is that Offshore Transmission Licences can be granted following a competitive tender process run by Ofgem, with the Successful Bidder becoming the Offshore Transmission Owner (OFTO). The result will be that the generating assets (offshore wind farms) will be owned and operated by the generator, whilst the Offshore Transmission System, which connects the offshore wind farms to the onshore transmission system, will be owned and managed by the OFTO Licensee.

The Offshore Transmission Licences will place certain rights and responsibilities on OFTOs, including the right to a regulated revenue stream for a period of 20 years in return for the provision of Transmission Services.

The competitive tender process is run over a number of stages, the first of which is the Pre-Qualification stage where bidders are invited to demonstrate to Ofgem that they have a sufficiently robust track record against a set of pre-defined requirements in order to be invited to participate in subsequent stages. The outcome of Ofgem's evaluation will be the identification of a longlist of such bidders.

Tenders in this second transitional tender round will be conducted across two sets of Tender Exercises. The first tranche of Tender Exercises (Tranche A) are commencing today (17 November 2010). The second tranche of Tender Exercises are expected to commence in spring 2012 (Tranche B).

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<sup>1</sup> And its predecessors, the Department for Trade and Industry and the Department of Business, Enterprise and Regulatory Reform

<sup>2</sup> See Appendix 3 for more information on Ofgem.

<sup>3</sup> This can be found via the following link:

[www.ofgem.gov.uk/Networks/offtrans/pdc/cdr/cons2009/Documents1/Main.pdf](http://www.ofgem.gov.uk/Networks/offtrans/pdc/cdr/cons2009/Documents1/Main.pdf)

## 1. Overview of a Tender Exercise and Regulatory Framework

### Section Summary

This section provides Bidders with an overview of the Tender Process Ofgem will follow for this second round of tenders and a high level overview of the regulatory framework for the offshore electricity transmission regime.

### Legal Framework

1.1. The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2010<sup>4</sup> (the Tender Regulations) provides the legal framework for this competitive tender process. These came into effect on 29 July 2010. In accordance with the Tender Regulations, Ofgem has published Tender Rules in order to inform Participants about how Ofgem will run the second transitional tender round and to set out the requirements, expectations and obligations on parties involved.

1.2. Further information on the Tender Regulations and Tender Rules is available on Ofgem's website [www.ofgem.gov.uk](http://www.ofgem.gov.uk).

### Tender Process

1.3. Ofgem has, where practicable, developed the Tender Process in accordance with best practice principles. The key objectives of the Tender Process are:

- the delivery of fit for purpose transmission infrastructure to connect offshore generation;
- the provision of certainty and best value to consumers through the competitive process; and
- attracting new entrants to the sector.

1.4. Ofgem E-Serve, which is the delivery arm of Ofgem, is now launching tenders for the second round of transitional projects. These tenders will be conducted across two tranches of tender exercises. The first tranche of Tender Exercises (Tranche A) are commencing on 17 November 2010. The second tranche of Tender Exercises are expected to commence in spring 2012 (Tranche B). Further information is provided in the Preliminary Information Memoranda (PIMs) published alongside this PQ Document.

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<sup>4</sup> 2010 Statutory Instrument No. 1903

1.5. For the avoidance of doubt, this Pre-Qualification Document applies to the Qualifying Projects in Tranche A only.

1.6. The purpose of these Tender Exercises is to identify new Offshore Transmission licensees to own and manage Transmission Assets which are currently being constructed by the Developers of relevant offshore wind generation projects, known as Qualifying Projects. Information about these Qualifying Projects is available in the PIMs.

1.7. Successful Bidders in this process will be granted an Offshore Transmission Licence by the Authority, which will include an entitlement to an associated 20-year revenue stream in return for purchasing the Transmission Assets from the Developer owning and managing them in accordance with the obligations of the Offshore Transmission Licence.

1.8. The principal stages of a Tender Exercise are illustrated below:



1.9. This PQ Document relates to the first stage of a Tender Exercise, i.e. the PQ Stage. Further detail on the overall Tender Process, including subsequent stages can be found in the Tender Rules.

### **Pre-Qualification Document**

1.10. This PQ Document sets out the requirements which Bidders must demonstrate to Ofgem's satisfaction in this Tender Round in order to progress to the Qualification to Tender (QTT) Stage. These requirements are on a generic basis, and not specific to a particular Qualifying Project. However, Bidders are required to identify those Qualifying Projects that they are interested in bidding for as part of their PQ Submission.

1.11. This document sets out:

- the rules particular to the PQ Stage;
- the timeline for the PQ Stage, including an overview of the key activities and steps;
- the PQ Questionnaire;
- the instructions that apply to the PQ Questionnaire, and the date, time and manner in which a completed PQ Questionnaire must be submitted to Ofgem;
- information available to Bidders to compile their PQ Submissions;
- the criteria against which Ofgem will evaluate PQ Submissions; and
- details of how and when to make the payment for the PQ Stage.

1.12. This PQ Document does not amend anything in the Tender Rules.

### **Right to Vary a Tender Exercise**

1.13. Subject to the provisions of the Tender Regulations, Ofgem reserves the right to vary any element of a Tender Exercise, issue supplementary documentation or make additional arrangements at any time during a Tender Exercise in order to clarify any issue or amend any aspect of the Tender Exercise. Any such variation shall only take effect so as to actually vary the Tender Exercise if subsequently confirmed in writing. This includes where Ofgem determines that it is impracticable to complete any action, or to deliver or publish any document or notice, by the time, date or in the manner specified within the Tender Regulations.

1.14. Any such supplementary documentation issued by Ofgem during a Tender Exercise will be deemed to form part of this PQ Document to the extent indicated in



the amendment. Ofgem may decide to extend a Tender Exercise and postpone any PQ Submission deadline in the event of any such amendment.

### Costs

1.15. Each Bidder will bear its own costs of participating in a Tender Exercise and will be responsible for meeting the costs incurred by Ofgem in administering that Tender Exercise in accordance with the Tender Regulations and as prescribed in the Cost Recovery Methodology<sup>5</sup>. At the PQ Stage, Bidders are required to make a flat payment of £5,000 to Ofgem.

1.16. Ofgem is under no obligation and shall not accept any liability for any costs, expenses, damages or losses incurred by any Bidder, including without limitation any unsuccessful Bidder, in connection with a Tender Exercise.

### Miscellaneous

1.17. Ofgem is not bound to accept any PQ Submission made by a Bidder. If a Bidder withdraws or is disqualified from one or more Tender Exercises or Ofgem cancels a Tender Exercise (in each case in accordance with the Tender Regulations), Ofgem shall not incur any liability for any losses whatsoever (whether in contract, tort or otherwise and including direct, indirect and consequential losses) towards any Bidder or any of their Related Parties.

### Timetable

1.18. The Tender Rules provide the overall timetable for the second transitional Tender Round. The detailed timetable for the PQ Stage is set out below:

<b>Milestone</b>	<b>Date</b>
TR2 Launch Event	17 November 2010
PQ Document and PIMs published	17 November 2010
Deadline for Bidder clarifications to Ofgem	29 November 2010
Submissions due	10 December 2010 (10am)
Evaluation of Submissions (including Ofgem clarifications to Bidders)	13 December 2010 to 13 January 2011
Notify Bidders of outcomes and publish Bidder longlist	24 January 2011

<sup>5</sup> Offshore Electricity Transmission: Cost Recovery Methodology for the Second Transitional Tender Round; published 27 September 2010

1.19. Ofgem reserves the right to vary this timetable at its discretion. Any such variation will be communicated via the Offshore Electricity Transmission Tendering Portal (the Portal). Further information on the Portal can be found in the Tender Rules.

## **Information on Qualifying Projects**

1.20. Ofgem has published initial information on the Qualifying Projects in Tranche A in project-specific PIMs. In addition, Ofgem has published a generic PIM<sup>6</sup>, which provides among other things an overview of the regulatory regime for offshore electricity transmission, key investment highlights and an overview of the Tender Process. These documents are available on Ofgem's website and the Portal.

## **Regulatory Framework**

1.21. The regulatory framework for the GB electricity industry is provided for in a number of instruments including primary legislation, secondary legislation, licences issued by the Authority, industry codes and technical standards.

1.22. An overview of both the regulatory and contractual framework for the offshore electricity transmission regime is provided in the generic PIM published alongside this PQ Document. This includes links to the relevant industry codes and standards. Further detail on the regulatory regime can be found on the Offshore Transmission section of Ofgem's website:

<http://www.ofgem.gov.uk/Networks/offtrans/Pages/Offshoretransmission.aspx>

## **Third Package**

1.23. A package of European legislation on the liberalisation of EU gas and electricity markets (the Third Package) came into force on 3 September 2009. Transposition of the Third Package is the responsibility of the Secretary of State for the Department of Energy and Climate Change (DECC) and is required to happen by March 2011. One of the areas covered by the Third Package is the unbundling of Transmission System Operators which essentially involves the structural separation of electricity generation and/or supply activities from transmission activities (set out in Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 (the Electricity Directive)).

1.24. On 23 September 2010 Ofgem completed a consultation on the certification of Transmission System Operators under the Third Package, including issues arising based on an initial view that the unbundling provisions apply to offshore transmission

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<sup>6</sup> GB Offshore Transmission: Investment Opportunity – Tender Round 2, published 17 November 2010.

projects. The Authority is continuing to liaise with DECC on how these provisions will be implemented in Great Britain.

1.25. All Bidders should make themselves aware of the relevant provisions of the Third Package and are strongly advised to consider the requirements of the Third Package as necessary. In addition to the requirements for unbundling, Participants should make themselves aware of any other obligations that will need to be satisfied by all transmission owners and Transmission System Operators. Ofgem is not able to advise Bidders as to the provisions and impact of the Third Package and encourages Participants to seek appropriate independent legal advice in this respect.

1.26. Further details of the Third Package can be found at paragraphs 3.39 to 3.45 of the Tender Rules.

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## 2. Instructions to Bidders

### Section Summary

This section sets out the instructions to Bidders in respect of the PQ Stage, covering the PQ Questionnaire, PQ Submissions and the clarification process.

### Pre-Qualification Questionnaire

2.1. The PQ Questionnaire, which is included in Section 3, has been produced to enable Ofgem to assess whether a Bidder has sufficient economic and financial standing, management and operational capability and legal standing, based on the Bidder's current standing and track record, to satisfy Ofgem that the Bidder is capable of (i) taking over ownership of the Transmission Assets of the Qualifying Project(s) for which it wishes to be invited to tender and (ii) assuming the responsibilities and duties associated with being an Offshore Transmission licensee.

2.2. As part of this assessment, Ofgem will evaluate a Bidder's financial strength against the total investment the Bidder is proposing and therefore the PQ Questionnaire requires the Bidder to indicate the Qualifying Project(s) for which they wish to be invited to tender. Information on the Initial Transfer Values for the Qualifying Projects in Tranche A can be found in the PIMs.

### Bidder Groups

2.3. Where the Bidder is part of a Bidder Group, this assessment will be based on the current standing and track record of the Bidder Group taken as a whole.

2.4. Questions in the PQ Questionnaire which are required to be completed by the Bidder should be answered by, in the case of a Bidder which is a single entity, that entity, and in the case of a Bidder which is part of a Bidder Group, the lead member of that Bidder Group.

2.5. Certain questions in the PQ Questionnaire require that information be provided in relation to individual members of a Bidder Group, in which case the lead member of a Bidder Group must provide information in relation to each Bidder Group member ensuring that such information is clearly identified as relating to that Bidder Group member.

2.6. Ofgem recognises that in the case of a Bidder Group not every Bidder Group member will, for example, be able to provide examples of experience requested. Ofgem's evaluation will look at the capabilities of the Bidder Group taken as a whole.

## Pre-Qualification Submissions

### PQ Submission Deadline

2.7. All PQ Submissions must be submitted via the Portal no later than 10am on 10 December 2010. The Portal will be closed at this time and no late PQ Submissions will be accepted. All PQ Submissions must be made in the templates provided on the Portal. Ofgem will not accept PQ Submissions in any other form.

2.8. The PQ Submission must be completed in English, including any supplementary supporting documentation.

2.9. Rules on PQ Submissions via the Portal can be found in the Tender Rules.

### Content of PQ Submission

2.10. A compliant PQ Submission must contain the following:

- responses to all requirements set out in the PQ Questionnaire, together with relevant supporting documentation. Responses must be provided in the templates provided on the Portal; and
- confirmation that the PQ Payment of £5,000 has been transferred to Ofgem. Details for making this payment can be found in the Cost Recovery Methodology.

2.11. Where page limits are indicated in the requirements for response, these must be adhered to. Ofgem reserves the right to ignore any additional information submitted in excess of these limits.

2.12. Ofgem reserves the right to amend these requirements during the PQ Stage prior to the PQ Submission deadline.

2.13. Bidders should note that if there is a material change or proposed material change in the information provided in their PQ Submission, or a Bidder becomes aware that information previously submitted is no longer true or accurate, after it has been submitted and prior to the publication of the Bidder longlist, they are obliged to notify Ofgem as soon as reasonably practicable. Where a Bidder notifies Ofgem of such, Ofgem will be entitled to re-evaluate the PQ Submission in light of the change.

## Clarifications

2.14. Ofgem's general approach to dealing with clarifications is set out in the Tender Rules. The following sections sets out Ofgem's approach to clarifications for the PQ Stage.

**Bidder Clarifications**

2.15. Bidders may seek clarifications from Ofgem in relation to any aspect of this PQ Document or the information provided in the PIMs. All such clarifications must be made by no later than 29 November 2010. Any clarification requests submitted after this point cannot be assured of receiving a response prior to the PQ Submission deadline.

2.16. Ofgem will endeavour to provide a response as soon as reasonably possible, although the timeframe within which it will respond will vary on a case-by-case basis depending on the nature of the clarification requested.

2.17. Ofgem may, where appropriate, forward a Bidder's clarification request to the relevant Developer or to another third party (for example NGET) as appropriate. Where it does so, the identity of the Bidder that raised the clarification will remain confidential. In such an instance Ofgem will act as the intermediary in any clarification request, i.e. the details of the clarification and the response to it, will be managed and provided by Ofgem.

2.18. Ofgem's default position is, for reasons of transparency and fairness, to make responses to Bidder clarifications available on the Portal to all Bidders. Where Ofgem considers that a Bidder's clarification is sufficiently specific and confidential, Ofgem may at its discretion opt to provide its response solely to that Bidder.

**Ofgem Clarifications**

2.19. In addition, Ofgem may issue a clarification request to a Bidder during the evaluation of PQ Submissions, for example where a response is unclear. Bidders must respond to clarification requests issued by Ofgem within the period specified. Failure by a Bidder to respond to a clarification request within the period specified risks the issue under clarification or the clarification response submitted late not being considered as part of Ofgem's evaluation of their PQ Submission.

## 3. Pre-Qualification Questionnaire

### Section Summary

This section is the PQ Questionnaire.

3.1. This PQ Questionnaire is for Tender Exercises in Tranche A of the second transitional Tender Round. It sets out the information that Bidders are required to return in their PQ Submission.

3.2. All questions are numbered. Bidders should provide responses to these questions in the corresponding numbered response template on the Portal.

3.3. The PQ Questionnaire is structured into the following sections:

Section 1	Identification Information
Section 2	Organisational Structure
Section 3	Economic and Financial Standing
Section 4	Management and Operational Capability
Section 5	Legal Standing, Pending Litigation and Conflicts of Interest
Section 6	PQ Certificate
Section 7	Confidentiality (this section is not subject to evaluation)

3.4. The requirements for Sections 1 to 6 of the PQ Questionnaire are set out below.

3.5. Where a Bidder is providing appendix documentation in support of any response to this PQ Questionnaire, they should be clearly referenced in the text of the PQ Submission.

## Section 1: Identification Information

Where the Bidder is part of a Bidder Group, the below details should be provided for each Bidder Group member.

[1A]	Name of Bidder:	
[1B]	Provide details of registered office, trading address, registered number and date of registration of company. If not a company, provide status of organisation, including details of the trading address. Where the address provided is not in Great Britain, provide an address in Great Britain for the service of documents.	
	Registration number:	
	Registered office address:	
	Trading Address:	
	Telephone number:	
	Fax number:	
	Date of registration:	
[1C]	Provide details of the Bidder's legal, financial, technical, communications, or other key professional advisers in relation to Tender Round 2.	
	Legal:	
	Financial:	
	Technical:	
	Communications:	
	Other:	

## Section 2: Organisational Structure

Where the Bidder is a Bidder Group, please ensure that you provide details for each Bidder Group member as set out in the table format below.

[2A]	Please provide the following details.	
	Bidder's full registered name	
	Registered number or identification (if applicable):	
	Full names and addresses of Bidder's current directors (including any shadow directors within the meaning of section 251 of the Companies Act 2006):	
	Authorised signatories:	
	Principal shareholders:	
	Address of registered office:	
	Place of incorporation (or equivalent)	
	Legal status of bidder (public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (in which case it should give details of its legal status):	



[2B]	Please provide as applicable the relevant requested details in the boxes below:
<p>Holding company or parent undertaking (if applicable) including details of such Bidder's and Bidder Group member's position in the relevant group structure:</p>	
<p>If not already given above, provide Bidder's and Bidder Group member's name, registered number and registered office (or equivalent), place of incorporation, the names of such Bidder's and Bidder Group member's current directors, principal shareholders and, if different, owners of the ultimate holding company or parent undertaking:</p>	
[2C]	Where any person (other than a person whose name is given in response to question [2B] holds 20% or more of any class of shares of a Bidder (or if a Bidder Group, any of its members), please provide for each person:
Name of person:	
Address:	
Number of shares held as percentage of the aggregate number of shares of that class represented by such shareholding:	
[2D]	Where the Bidder (or if a Bidder Group, any of its members) is neither a body corporate nor a sole trader, the Bidder shall provide the name(s) and address(es) of the person or persons in whom effective control of the Bidder or Bidder Group member rests.
Name:	
Address:	
[2E]	Particulars of any licences under the Electricity Act 1989 (as amended) or Gas Act 1986 (as amended) held, applied for (whether or not successfully), or intended to be applied for by the Bidder, any member of its Bidder Group or (so far as is known to the Bidder) by any Related Party to the Bidder or any Bidder Group members.
[2F]	The proposed shareholding and funding structure for the Bidder.
[2G]	Details of the Bidder's VAT number (if any).

### Section 3: Economic and Financial Standing

Developers have provided Ofgem with cost information in respect of their Qualifying Projects. Details of the Initial Transfer Values are provided in the project-specific PIMs published alongside this document. Responses to the following questions on economic and financial standing should be answered with reference to these Initial Transfer Values.

Where a question is not relevant to the Bidder's proposed approach to funding, this should be appropriately indicated by responding in this Questionnaire with '*not applicable*'.

When responding to the questions in this section, Bidders should refer to the notes provided at the end of section.

For all questions in this section, where the Bidder is a Bidder Group, details should be provided for the relevant Bidder Group member(s).

[3A]	Identify the Qualifying Project(s) for which the Bidder wishes to be invited to tender and the aggregate of the Initial Transfer Values.	
Qualifying Project	Indicate 'Yes' or 'No' where Bidder wishes to be invited to tender	Aggregate of Initial Transfer Value (£ million)
Gwynt y Mor:		£305.7
Lincs:		£310.5
London Array (Phase 1):		£475.7
Total Aggregate of Initial Transfer Values:		<b>£</b>

[3B]	Where the Bidder proposes to fund the Qualifying Project(s) identified in response to 3(A) using Corporate Finance, provide evidence to demonstrate that the net assets of the Bidder are equal to or more than 120% of the aggregate of the Initial Transfer Values. The net assets should be consistent with the latest audited accounts and/or adjusted for any significant changes since that balance sheet date.
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[3C]	Where the Bidder proposes to fund the Qualifying Project(s) using external finance, identify the proposed debt and equity split.
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[3D]	Where the Bidder has responded to [3C], provide evidence to demonstrate that the Bidder has the ability to secure Debt Finance and Equity Finance which in aggregate is equal to or more than 120% of the aggregate Initial Transfer Values for the Qualifying Project(s) identified in response to [3A].
[3D.I]	Where <b>Debt Finance</b> is proposed, the Bidder must provide evidence of its track record for its proposed funding structure identified in response to question [2F] using <b>one</b> of the following:

[3D.i]	<p>A proven track record in the last five years of raising debt totalling at least 100% of its proposed debt finance requirement identified in response to [3C]. Evidence of raising debt finance in the last five years should provide information as to:</p> <ul style="list-style-type: none"> <li>▪ The name and type of project for which the finance was raised;</li> <li>▪ The amount of finance raised, and when it was raised;</li> <li>▪ Role of Bidder (or Bidder Group member) in raising finance;</li> <li>▪ Details on the form of finance raised including, but not limited to the following: <ul style="list-style-type: none"> <li>○ The form of finance raised, including the nature of the providers of the debt finance, the term of the debt and the identified sources of repayment;</li> <li>○ The timescale for the successful issue of such finance; and</li> <li>○ Details of any equity provision.</li> </ul> </li> </ul> <p><b>Or</b></p>
[3D.ii]	<p>A proven track record in the last five years of investing in infrastructure assets or businesses with existing debt totalling at least 100% of its proposed debt finance identified in response to [3C].</p> <p><b>Or</b></p>
[3D.iii]	<p>A comfort letter from one or more acceptable independent financial institutions (for example one having at least an 'A' credit rating or equivalent from a recognised credit agency) stating its/their intent to provide debt finance to the relevant Qualifying Project(s) which states:</p> <ul style="list-style-type: none"> <li>▪ The level of support being provided (whether for all or a proportion of the funding requirement);</li> <li>▪ Availability of funds and period of availability;</li> <li>▪ Source of funds, with detail of where new funds may be raised;</li> <li>▪ Key terms and conditions of finance; and</li> <li>▪ Any relevant approvals which have already been achieved.</li> </ul>
Please indicate which item you have responded to and list details of the supporting documentation you have provided:-	
Question answered. Please insert into square bracket:	[]
Response:	
Please list supporting documentation provided:	
[3D.II]	<p>Where <b>Equity Finance</b> is proposed, the Bidder must provide evidence of its track record for its proposed funding structure identified in response to question [2F] using <b>one</b> of the following:</p>
[3D.iv]	<p>(i) Net assets of at least 100% of its proposed equity investment identified in response to [3C]. The net assets of the Bidder (or if a Bidder Group, the net assets of the Bidder Group members as a whole) should be reconciled to the latest audited accounts and adjusted for any significant changes since that balance sheet date.</p>

	<b>Or</b>
[3D.v]	<p>(ii) A proven track record in the last five years of raising equity totalling at least 100% of its proposed equity investment identified in response to [3C]. Evidence of raising equity finance in the last five years should provide information as to:</p> <ul style="list-style-type: none"> <li>▪ The name and type of project for which the finance was raised;</li> <li>▪ The amount of finance raised, and when it was raised;</li> <li>▪ Role of Bidder (or Bidder Group member) in raising finance;</li> <li>▪ Details on the form of finance raised including, but not limited to the following: <ul style="list-style-type: none"> <li>○ The form of finance raised; and</li> <li>○ The timescale for the successful issue of such finance.</li> </ul> </li> </ul> <p><b>Or</b></p>
[3D.vi]	<p>(iii) A comfort letter from one or more acceptable entities (for example having at least an 'A' credit rating or equivalent from a recognised credit agency) stating its/their intent to provide equity finance to the relevant Qualifying Project(s) which states:</p> <ul style="list-style-type: none"> <li>▪ The level of support being provided (whether for all or a proportion of the funding requirement);</li> <li>▪ Availability of funds and period of availability;</li> <li>▪ Source of funds, with detail of where new funds may be raised;</li> <li>▪ Key terms and conditions of finance; and</li> <li>▪ Any relevant approvals which have already been achieved.</li> </ul>
Please indicate which item you have responded to and list details of the supporting documentation you have provided:-	
Question answered. Please insert into square bracket:	[ ]
Response:	
Please list supporting documentation provided:	
[3E]	<p>Provide copies of the last three years' audited financial accounts (or equivalent) for the Bidder, or for the period that is available if trading for less than three years. If the Bidder is part of a Bidder Group, provide this information for each member of the Bidder Group and (where applicable) the ultimate holding company/parent entity (or equivalent legal body) of each such entity.</p> <p><i>(Please list below supporting documentation provided).</i></p>
[3F]	<p>Provide a statement, as at the date of the Bidder's most recent annual report and accounts, of any contingent liability or loss (where not otherwise reported) that would require disclosure in accordance with International Accounting Standard 10.</p> <p><i>(Please list below supporting documentation provided).</i></p>

[3G]	If at the time of the PQ Submission the Bidder's most recent audited balance sheet is more than ten months out of date, provide a copy of the Chairman's half-yearly statement (if available) and a statement signed by the Director responsible for financial matters setting out any known significant changes in the current financial position from the last available audited balance sheet.

### **Notes to Section 3 of this PQ Questionnaire**

*Bidders should take into consideration the following notes when responding to this section:*

*(i) If the assessment of the Bidder or Bidder Group member (as appropriate) is to be based on the parent company/group, the Bidder or Bidder Group member (as appropriate) will need to demonstrate that the parent company/group will further participate in the process. This should be evidenced by the provision of letters of support at an appropriate level offering unqualified guarantees in a form satisfactory to Ofgem.*

*(ii) When submitting financial statements disclosed in foreign currencies, Bidders are required to translate the accounts into English and submit an English version with their PQ Submission. The balance sheet should be translated into Pound Sterling at the prevailing closing exchange rate at the balance sheet date and the profit and loss statement should be translated into Pound Sterling at the average annual exchange rate for the financial statement year presented. Bidders should clearly disclose in their PQ Submission the exchange rates applied.*

*(iii) Where there has been a significant reduction in either net assets or exchange rates since the latest balance set date such that the net assets do not meet the 120% requirement in [3B], the impact and reason should be disclosed.*

## Section 4: Management and Operational Capability

The response to this section should be no longer than 10 sides of A4 in total, excluding any policies uploaded to support question [4E].

[4A]	<p>Provide between <b>three</b> and <b>five</b> examples of the Bidder's experience obtained in the past five years in infrastructure asset ownership and/or management. The response should include:</p> <ul style="list-style-type: none"> <li>▪ details of the assets owned or managed (including type and value);</li> <li>▪ the period over which the asset(s) has/have been in ownership and/or under management; and</li> <li>▪ the managerial roles and responsibilities undertaken by the Bidder.</li> </ul>
Example 1:	
Example 2:	
Example 3:	
Example 4:	
Example 5:	
[4B]	<p>Using the examples provided in response to [4A], provide details of the experience that the Bidder has of managing infrastructure to specified operational performance standards.</p>
[4C]	<p>Using the examples provided in response to [4A], provide details of the experience that the Bidder has in obtaining and managing the necessary resources and/or contracts to undertake operation and maintenance of infrastructure assets or businesses.</p>
[4D]	<p>Using the examples provided in response to [4A], provide details of the experience that the Bidder has in engaging with external stakeholders to undertake the management of infrastructure assets or businesses.</p>
[4E]	<p>Using the examples provided in response to [4A], provide details of the experience that the Bidder has in the implementation of business systems that ensure compliance with regulatory and statutory requirements (including health and safety and environmental). Copies of relevant main policy documents should be uploaded to the Portal to support this response.</p>

## Section 5: Legal Standing, Pending Litigation and Conflicts of Interest

[5A]	Provide <b>one</b> of the following:
[5A.i]	<p>a statement identifying any existing conflicts of interest of which the Bidder or any Bidder Group member is aware or any potential conflicts of interest which could arise if the Bidder (or if a Bidder Group any of its members) is selected as a Qualifying Bidder, Preferred Bidder, Reserve Bidder or Successful Bidder, including with respect to:</p> <ul style="list-style-type: none"> <li>▪ the business separation requirements set out in the standard conditions and the OFTO-specific conditions<sup>7</sup> of the Offshore Transmission Licence,</li> <li>▪ the requirements of the EU Second Package (Directive 2003/54/EC of the European Parliament and the Council) and</li> <li>▪ any conflicts of interest arising as a result of any Developer bidding for its own assets,</li> </ul> <p>Also provide a methodology statement setting out the procedures adopted to manage these conflicts during the second transitional Tender Round and the procedures which would be adopted if the Bidder was selected as an OFTO.</p> <p><b>Or</b></p>
[5A.ii]	a statement signed by a duly authorised officer of the Bidder that there are no such conflicts of interest.
Please indicate which item you have responded to and list details of the supporting documentation you have provided:-	
Question answered. Please insert into square bracket:	<input type="checkbox"/>
Please list supporting documentation provided:	
[5B]	Provide <b>one</b> of the following:
[5B.i]	<p>details of any actual, pending or threatened regulatory enforcement action taken against the Bidder (and if a Bidder Group any of its members) in any sector.</p> <p><b>Or</b></p>
[5B.ii]	a statement signed by a duly authorised officer of the Bidder that there is no such actual, pending or threatened regulatory enforcement action taking place.
Please indicate which item you have responded to and list details of the supporting documentation you have provided:-	
Question answered. Please insert into square bracket:	<input type="checkbox"/>
Please list supporting documentation provided:	

<sup>7</sup> In the Offshore Transmission licence, these are Amended Standard Conditions E12-A1 to E12-J10.

[5C]	Provide <b>one</b> of the following:
[5C.i]	Particulars of any criminal convictions of the Bidder, any Bidder Group member and any person specified by the Bidder or any Bidder Group member in response to questions 2(A) to 2(D) (other than offences under the Road Traffic Offenders Act 1988 or convictions in respect of which the person has become rehabilitated under the Rehabilitation of Offenders Act 1974).
[5C.ii]	a statement signed by a duly authorised officer of the Bidder that there are no such convictions.
Please indicate which item you have responded to and list details of the supporting documentation you have provided:-	
Question answered. Please insert into square bracket:	<input type="checkbox"/>
Please list supporting documentation provided:	
[5D]	Provide <b>one</b> of the following:
[5D.i]	to the extent not already disclosed as part of the Bidder's answers to the PQ Questionnaire, particulars of whether during the last six years, any prosecutions have been instigated or threatened, cautions given, notices served or other action taken against the Bidder or individuals related to the Bidder (and if a Bidder Group any of its members) for whom any details are required to be provided in response to the questions under section 2 of this PQ Questionnaire for contraventions of environmental legislation (including town and country planning legislation) including in the case of prosecutions details of charges, dates and venues of hearings, verdicts of the court and penalties, if found guilty.
[5D.ii]	a statement signed by a duly authorised officer of the Bidder that there are no such prosecutions.
Please indicate which item you have responded to and list details of the supporting documentation you have provided:-	
Question answered. Please insert into square bracket:	<input type="checkbox"/>
Please list supporting documentation provided:	
[5E]	Provide <b>one</b> of the following:
[5E.i]	details of the circumstances of any licences granted under the Electricity Act 1989 (as amended) or Gas Act 1986 (as amended) which have been revoked or where an application was not successful.
[5E.ii]	a statement signed by a duly authorised officer of the Bidder that there are no such licences that have either been revoked or where an application was not successful.
Please indicate which item you have responded to and list details of the supporting documentation you have provided:-	
Question answered. Please insert into square bracket:	<input type="checkbox"/>
Please list supporting documentation provided:	



**Section 6: PQ Certificate**

Each Bidder must have a duly authorised officer of the Bidder indicate his or her confirmation of statements a) to h) below by **initialling** next to those statements and **signing** where indicated below. Initialled and signed copies must then be uploaded on to the Portal as part of a Bidder's Pre-Qualification Submission. In relation to statement (c) only, if the duly authorised officer is not able to confirm this statement (c) then he or she need not initial this statement provided that the Bidder provides a written description of the reasons why the duly authorised officer cannot give such confirmation.

"I, acting as a duly authorised officer of \* \_\_\_\_\_ and on behalf of\*\* \_\_\_\_\_, hereby confirm that:

(a) the information provided in this PQ Submission is true, accurate and complete;	<b>Initial below:</b>
(b) neither* _____, nor any of [its / their] Related Parties has breached any applicable legislation or regulations including any provision or requirement of the Tender Regulations, the Tender Rules or the PQ Document in preparing or making this PQ Submission;	<b>Initial below:</b>
(c) the Bidder is not aware of any application to place the Bidder (or where relevant any Bidder Group member or the shareholders of any of the foregoing) in liquidation, administration or receivership, or to commence any analogous process or proceeding in any jurisdiction, and that no such process has been commenced;	<b>Initial below:</b>
(d) the Bidder is acting as a principal in the Tender Exercise and not as an agent for any undisclosed person and the Bidder (and where relevant each Bidder Group member) has expressly authorised me to act on their behalf in making this PQ Submission;	<b>Initial below:</b>
(e) the Bidder (and where relevant each Bidder Group member) hereby consents to the disclosure by Ofgem to Ofgem's Related Parties for the purposes of the second transitional Tender Round of any information given to Ofgem either before or during the second transitional Tender Round by such Bidder or Bidder Group member;	<b>Initial below:</b>
(f) the Bidder (and where relevant each Bidder Group member) hereby confirms that they have considered the implications of the Third Package and understands that, if appointed as Preferred Bidder or Reserve Bidder and if the unbundling provisions of the Third Package, or where appropriate, the relevant provisions of the relevant implementing legislation, apply to the Qualifying Project(s) they wish to be invited to tender for, they will be required to comply with the provisions of the Third Package, or where appropriate, the relevant provisions of the relevant implementing legislation, by the time set out in relevant Articles of the Electricity Directive so far as they relate to full ownership unbundling set out in Article 9.1 of the Electricity Directive or one of the alternative models provided for in Article 13, Chapter V or Article 9.9 of the Electricity Directive;	<b>Initial below:</b>
(g) the Bidder understands the obligations of an OFTO to comply with conditions in the Offshore Transmission Licence; and	<b>Initial below:</b>
(h) the Bidder understands that knowingly or recklessly making a false, incomplete, or misleading statement in support of this PQ Submission may lead to the grant of the licence being refused or revoked if the Bidder reaches these relevant stages in the process, and may result in criminal proceedings being instituted under section 39 of the Electricity Act 1989 (as amended).	<b>Initial below:</b>

Signed: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Position: \_\_\_\_\_  
 Dated: \_\_\_\_\_

\* insert name of Bidder (if a Bidder Group, the lead member of the Bidder Group)  
 \*\* insert name of Bidder and each of the bidder Group members if applicable  
 \*\*\* insert the names of each of the other Bidder Group members if applicable

## Section 7: Confidentiality

Bidders are reminded that information provided in response to this section of the PQ Questionnaire will not be evaluated by Ofgem.

[6]	<p>The Freedom of Information Act 2000 provides a general right of access to all information held by public authorities. Ofgem is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.</p> <p>The Bidder should identify which part(s) of its PQ Submission are provided in confidence and provide reasons why it considers the information is eligible for exemption under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and should therefore be kept confidential. Ofgem is not bound by any such statement but will take them into account in considering whether an exemption applies.</p>
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Section of PQ Submission provided in confidence	Reason(s) for exemption under Freedom of Information Act 2000

## 4. Evaluation of PQ Submissions

### Section Summary

This section sets out how Ofgem will evaluate PQ Submissions made by Bidders. This includes the evaluation criteria Ofgem will apply and the process it will follow to evaluate bids.

### Introduction

4.1. The purpose of the PQ Stage is to identify those Bidders that can demonstrate they have a robust track record in a number of areas which are relevant to being appointed as an OFTO. Evaluation will be on a generic basis and not specific to a particular Qualifying Project. However, as part of their PQ Submission, Bidders are required to identify those Qualifying Project(s) for which they would like to be invited to tender as this will inform the evaluation of the economic and financial standing.

4.2. The conclusion of Ofgem's evaluation will be the identification of a longlist of Qualifying Bidders who will be invited to participate in the QTT Stage of a Tender Exercise. The QTT Stage will be on a Qualifying Project specific basis.

### Evaluation Process

4.3. Ofgem will conduct its evaluation over the following sequential stages:

(i) an assessment of completeness;

(ii) an assessment of compliance; and

(iii) evaluation of compliant PQ Submissions in accordance with the evaluation criteria.

4.4. In addition to providing information in response to these questions, Bidders are required to sign and return the PQ Certificate (included at Appendix 1).

### Assessment of Completeness

4.5. Prior to the formal evaluation process and following receipt of the PQ Submissions, Ofgem will undertake a completeness check of the information received. If this check identifies any omission(s) in the information required to be provided, Ofgem will notify the Bidder, who will be given a period of time (to be notified by Ofgem) in which to rectify the omission(s). In this event, Ofgem will only commence evaluation of the PQ Submission following receipt of the requested information.

4.6. Ofgem reserves the right to decline to consider a Bidder's PQ Submission if any omitted information requested is not provided within the required time.

### **Assessment of Compliance**

4.7. Following the completeness check, Ofgem will assess whether PQ Submissions received are compliant. A PQ Submission will be considered compliant if all the information requested under paragraph 2.10 is provided.

4.8. Ofgem reserves the right to decline to consider a Bidder's PQ Submission if does not comply in any material respect with the requirements specified in this PQ Document.

### **Evaluation Criteria**

4.9. Section 3 of this PQ Document is the PQ Questionnaire. Ofgem will evaluate responses to the requirements in the PQ Questionnaire on a pass/fail basis. In order to qualify for the next stage, a Bidder must meet all the criteria.

4.10. The evaluation criteria for each section of the PQ Questionnaire are as follows:

#### **Section 1: Identification Information**

4.11. In order to meet this criterion, a Bidder must provide details and evidence of its identity as requested in the PQ Questionnaire.

#### **Section 2: Organisational Structure**

4.12. In order to meet this criterion, a Bidder must provide details and evidence of its ownership and organisational structure as requested in the PQ Questionnaire.

#### **Section 3: Economic and Financial Standing**

4.13. In order to meet this criterion, a Bidder must demonstrate that it has the necessary financial strength to be considered viable to support its proposed expenditure on the basis of the aggregate of the Initial Transfer Value(s) for the Qualifying Project(s) for which the Bidder wishes to be invited to tender. This expenditure level is based on the Initial Transfer Value(s) for the Qualifying Project(s) as set out in the project-specific PIMs published alongside this document.

4.14. The financial solvency and strength of each Bidder will be assessed through consideration of its PQ Submission, along with analysis of the Bidder's annual reports and accounts submitted for the three most recent years and any interim accounts and/or public announcements submitted. Searches of news information sources and credit ratings may also be undertaken to highlight any issues that are not brought to

the attention of Ofgem by the Bidder's responses to the PQ Questionnaire and the supporting documents provided. Where such information raises material concerns, Ofgem reserves the right to request further information from the Bidder and/or the parent company/group (as appropriate). Where this information is not forthcoming, Ofgem reserves the right to fail the Bidder against this criterion.

#### **Section 4: Management and Operational Capability**

4.15. In order to meet this criterion, a Bidder must demonstrate that it has the necessary expertise to own and manage a regulated infrastructure or essential services asset of a similar size and complexity to the Qualifying Project(s) it wishes to be invited to tender for.

#### **Section 5: Legal Standing, Pending Litigation and Conflicts of Interest**

4.16. In order to meet this criterion, a Bidder must demonstrate that it meets the minimum legal requirements in order to be granted an OFTO licence; that it is not involved in relevant material litigation; and that it does not have any potential conflicts of interest which materially detract from its ability to tender for, own and manage the Transmission Assets of the Qualifying Project(s).

4.17. Where conflicts of interest do exist, Ofgem will take into account the Bidder's methodology statement for managing these conflicts in its evaluation. Ofgem may also request further information from the Bidder in respect of any statement provided as necessary as part of its evaluation.

#### **Section 6: PQ Certificate**

4.18. In addition to demonstrating that they pass the minimum requirements set out above, a Bidder is required to return a signed copy of the PQ Certificate confirming the statements contained therein. Where a Bidder that is not able to satisfy these requirements, Ofgem reserves the right to reject the Bidder's PQ Submission.

#### **Section 7: Confidentiality**

4.19. Information is requested on confidentiality issues only – this section is not subject to evaluation.

## Appendices

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## Appendix 1 – Disclaimer and Notices

### **Non-reliance, Accuracy of Information and Exclusion of Liability**

1.1. It is the responsibility of each Bidder to ensure that it has all of the information it needs to prepare its PQ Submission.

1.2. While information provided by Ofgem and/or its Advisers in this Pre-Qualification Document or otherwise in relation to the Tender Round has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. Neither Ofgem nor any of its Advisers make any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the information provided by it or its Advisers in this Pre-Qualification Document or otherwise in relation to the Tender Round or any information provided by Developers through Data Rooms or otherwise. Ofgem and its Advisers expressly disclaim any and all liability (other than in respect of fraudulent misrepresentation) based on or relating to any such information or representations or warranties (express or implied) contained in, or errors or omissions from, the information or based on or relating to its use by a Bidder and/or any other interested party.

### **Use of Information**

1.3. This Pre-Qualification Document is not intended to provide the basis of any investment decision, nor are they intended to be considered as an investment recommendation by Ofgem or by any of its Advisers. Each Bidder and any other interested party must make its own independent assessment of the Qualifying Project(s) after making such investigation and taking such professional advice as it deems necessary.

1.4. The material in this Pre-Qualification Document is not and should not be regarded as legal or professional advice. Bidders and other interested parties should seek their own legal or other professional advice where appropriate.

1.5. Nothing in this Pre-Qualification Document is intended to, or shall be deemed to establish any partnership or joint venture between Ofgem and any Bidder.

1.6. Advisers acting for Ofgem in relation to the Tender Round will not regard any Bidder or other interested party as their client or be responsible to anyone other than Ofgem for providing the protections afforded to their clients or for advising any other person on the Tender Round or any matter related to it.

## Freedom of Information

1.7. The Freedom of Information Act 2000 provides a general right of access to all information held by public authorities. The Environmental Information Regulations 2004 provide a general right of access to all environmental information held by public authorities. Ofgem is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. Developers should identify which parts, if any, of the information which they provide to Ofgem, either before or during the Tender Round, are provided in confidence and provide reasons why they consider the information is eligible for exemption under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 and should be kept confidential. Participants should identify which parts, if any, of their Submissions are provided to Ofgem in confidence and provide reasons why they consider the information is eligible for exemption under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 and should be kept confidential. Ofgem will take any such statement of confidentiality into account in considering whether an exemption applies, but Ofgem is not bound by any such statement.

1.8. Although Ofgem is not under any statutory obligation to consult with a Participant or Developer in relation to requests for information made under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, Ofgem will endeavour to inform the relevant Participant or Developer of requests wherever it is reasonably practicable to do so. However, all decisions in respect of disclosure of information will be made at the sole discretion of Ofgem regardless of whether or not a Participant or Developer has identified any information as being in its opinion eligible for exemption. For further information and guidance, Participants' and Developers' attention is drawn to the Lord Chancellor's Code of Practice issued under Section 45 of the Freedom of Information Act 2000<sup>8</sup>.

## Data Protection

1.9. In participating in the Tender Round, Bidders must comply with the Data Protection Act 1998 and all relevant regulations, together with any codes of conduct and guidance issued by the Information Commissioner and must not do or cause or permit to be done anything which may cause or otherwise result in a breach by Ofgem of such requirements. BravoSolution UK Ltd, on behalf of Ofgem, will collect, hold and use personal data obtained from and about Bidders. In order to participate in the Tender Round, Bidders must agree to such data being collected, held and used.

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<sup>8</sup>see <http://www.dca.gov.uk/foi/codesprac.htm>



## **Confidentiality and Publicity**

1.10. Qualifying Bidders will be required (before receiving the relevant Information Memoranda at the Qualification to Tender Stage) to sign a confidentiality agreement with the Developer of each relevant Qualifying Project. Such confidentiality agreement can be downloaded from the Portal. Qualifying Bidders and Developers must comply with their obligations under such agreements and procure compliance by their directors, employees, advisers, subcontractors, etc., as provided for under such agreements.

1.11. Bidders shall not undertake (or permit to be undertaken) at any time during the Tender Round any publicity activity with any section of the media in relation to any Qualifying Project(s) other than with the prior written agreement of Ofgem. Such agreement shall extend to the content of any publicity. In this paragraph the word 'media' includes (without limitation) radio, television, newspapers, trade and specialist press, the internet and e-mail accessible by the public at large and the representatives of such media.

## **Copyright**

1.12. The information contained within this Pre-Qualification Document is subject to Crown copyright protection unless otherwise indicated. The Crown copyright protected material may be reproduced free of charge in any format or medium provided it is reproduced accurately and not in a misleading or derogatory manner. Where any of the Crown copyright material in this Pre-Qualification Document is being published or copied to others, the source of the material must be identified and the copyright status acknowledged.

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## Appendix 2 - The Authority's Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority (the Authority), the regulator of the gas and electricity industries in Great Britain. This appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute (such as the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Acts of 2004, 2008 and 2010) as well as arising from directly effective European Community legislation.

1.3. References to the Gas Act and the Electricity Act in this appendix are to Part 1 of those Acts.<sup>9</sup> Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This appendix must be read accordingly.<sup>10</sup>

1.4. The Authority's principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems. The interests of such consumers are their interests taken as a whole, including their interests in the reduction of greenhouse gases and in the security of the supply of gas and electricity to them.

1.5. The Authority is generally required to carry out its functions in the manner it considers is best calculated to further the principal objective, wherever appropriate by promoting effective competition between persons engaged in, or commercial activities connected with,

- the shipping, transportation or supply of gas conveyed through pipes;
- the generation, transmission, distribution or supply of electricity; and
- the provision or use of electricity interconnectors.

1.6. Before deciding to carry out its functions in a particular manner with a view to promoting competition, the Authority will have to consider the extent to which the interests of consumers would be protected by that manner of carrying out those functions and whether there is any other manner (whether or not it would promote competition) in which the Authority could carry out those functions which would better protect those interests.

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<sup>9</sup> Entitled "Gas Supply" and "Electricity Supply" respectively.

<sup>10</sup> However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

1.7. In performing these duties, the Authority must have regard to:

- the need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- the need to secure that all reasonable demands for electricity are met;
- the need to secure that licence holders are able to finance the activities which are the subject of obligations on them<sup>11</sup>; and
- the need to contribute to the achievement of sustainable development.

1.8. In performing these duties, the Authority must have regard to the interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.<sup>12</sup>

1.9. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

- promote efficiency and economy on the part of those licensed<sup>13</sup> under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity; and secure a diverse and viable long-term energy supply, and shall, in carrying out those functions, have regard to the effect on the environment.

1.10. In carrying out these functions the Authority must also have regard to:

- the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.11. The Authority may, in carrying out a function under the Gas Act and the Electricity Act, have regard to any interests of consumers in relation to communications services and electronic communications apparatus or to water or sewerage services (within the meaning of the Water Industry Act 1991), which are affected by the carrying out of that function.

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<sup>11</sup> Under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Acts in the case of Electricity Act functions.

<sup>12</sup> The Authority may have regard to other descriptions of consumers.

<sup>13</sup> Or persons authorised by exemptions to carry on any activity.

1.12. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation<sup>14</sup> and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

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<sup>14</sup> Council Regulation (EC) 1/2003.

## Appendix 3 - Glossary

**"Advisers"** means in relation to Ofgem, its employees, officers, directors, officials, insurers, agents, consultants, advisers, contractors or sub-contractors (of any tier).

**"Authority"** means the Gas and Electricity Markets Authority;

**"BAFO"** means the best and final offer that may be requested by Ofgem from some or all of the Qualifying Bidders;

**"BAFO Document"** means, in respect of a particular Qualifying Project, the document which will be delivered to each Qualifying Bidder invited to submit a BAFO and which sets out the rules and requirements of the BAFO stage;

**"BAFO Stage"** means the period starting from the distribution of the BAFO Document to selected Qualifying Bidders by Ofgem, and including BAFO preparation, submission and evaluation, and ending when a Preferred Bidder is selected;

**"BAFO Submission"** means a selected Qualifying Bidder's response to the BAFO Document;

**"Bid"** means each bid submitted to Ofgem in response to an ITT Document;

**"Bidder"** means any person who makes a PQ Submission;

**"Bidder Group"** means two or more persons acting together as a consortium for the purposes of any PQ Submission to Ofgem in accordance with the Tender Regulations;

**"Corporate Finance"** means any finance provided by the company without recourse to external parties, e.g. intercompany loans, where the shareholders or parent company are the sole source of finance;

**"Cost Recovery Methodology"** means the Cost Recovery Methodology for recovering Ofgem's tender costs relating to the second transitional Tender Round, published separately by Ofgem;

**"Data Room"** means, in respect of a Qualifying Project, an electronic data room populated by Ofgem with information provided by the relevant Developer which is made available to applicable Qualifying Bidders through the Portal;

**"Debt Finance"** means non-recourse or limited recourse senior debt finance;

**"Developer"** means the person falling within sub-sections 6D(2)(a) and (4) of the Electricity Act which has developed or is developing an offshore generating station which requests that Ofgem commences a Tender Process in respect of a proposed project;

**"Electricity Act"** means the Electricity Act 1989 as amended from time to time;

**"Equity Finance"** means any direct equity and mezzanine finance;

**"Information Commissioner"** has the meaning given to that term in the Data Protection Act 1998 as amended from time to time;

**"Initial Transfer Value"** means the initial transfer value for a Qualifying Project as set out in the PIM for that Qualifying Project;

**"ITT Document"** means, in respect of a particular Qualifying Project, the documentation, which will be made available to each Qualifying Bidder invited to make an ITT Submission for that Qualifying Project and which sets out the rules and requirements of the ITT Stage;

**"ITT Stage"** means the period starting from the distribution of the ITT Documentation to Qualifying Bidders by Ofgem, and including tender preparation, Submission and evaluation, and ending when either a Preferred Bidder is selected and notified, or a BAFO Stage is commenced;

**"NGET"** means National Grid Electricity Transmission PLC.

**"Offshore Transmission Licence"** means a licence granted pursuant to section 6(1)(b) of the Electricity Act in relation to the transmission of electricity offshore, where offshore means:

- (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea;
- (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964
- (c) waters within an area designated under section 84(4) of the Energy Act 2004.

**"Offshore Transmission System"** means the onshore and offshore transmission system in respect of which an Offshore Transmission Licence is (or is to be) granted or anything which forms part of that system;

**"Ofgem"** means the office of Gas and Electricity Markets;

**"OFTO"** means the holder of an Offshore Transmission Licence;

**"Participant"** means a Bidder, a Qualifying Bidder, a Preferred Bidder, a Reserve Bidder and/or a Successful Bidder (as applicable);

**"Portal"** means the Offshore Transmission Electronic Tendering Portal described in section 4 of the Tender Rules;

**"Preferred Bidder"** means, in relation to a Qualifying Project, the Qualifying Bidder determined by Ofgem, in its sole discretion and following its evaluation of the Bids received (and any BAFO Submissions requested), as the Qualifying Bidder to which it intends (subject to the satisfaction of the conditions specified by Ofgem) to grant the Offshore Transmission Licence;

**"Preliminary Information Memorandum"** or **"PIM"** means the preliminary information memorandum provided to via the Portal which contains high level information in relation to a Qualifying Project;

**"Pre-Qualification Certificate"** or **"PQ Certificate"** means the certificate set out in Appendix 1 to this Pre-Qualification Document;

**"Pre-Qualification Document"** or **"PQ Document"** means the documentation prepared and issued by Ofgem for the purpose of selecting a longlist of Qualifying Bidders to progress to the QTT Stage and which sets out the rules and requirements of the PQ Stage;

**"Pre-Qualification Payment"** or **"PQ Payment"** means the payment to be made by the Bidder to the Authority at the PQ Stage, as described in paragraph 1.13 to this Pre-Qualification Document and in accordance with the Cost Recovery Methodology for the Second Transitional Tender Round;

**"Pre-Qualification Questionnaire"** or **"PQ Questionnaire"** means the PQ Questionnaire published by Ofgem at the PQ Stage, as part of the PQ Documentation, to entities that have registered on the Portal;

**"Pre-Qualification Stage"** or **"PQ Stage"** means the period starting from the publication of the PQ Documentation, including the preparation, submission and evaluation of PQ Submissions and ending once Ofgem has published the longlist of Qualifying Bidders who are invited to participate in the QTT Stage;

**"Pre-Qualification Submission"** or **"PQ Submission"** means a Bidder's response to the PQ Document;

**"Qualifying Bidder"** means a Bidder or Bidder Group invited to make a QTT Submission or an ITT Submission;

**"Qualifying Project"** means an offshore generating project in respect of which Ofgem determines that the Developer has satisfied the Qualifying Project requirements described in paragraph 5.6 of these Tender Rules or which Ofgem determines at its discretion (exercised in accordance with the Tender Regulations) that the Developer will use its reasonable endeavours to satisfy the relevant Qualifying Project requirements within a period specified by Ofgem;

**"Qualification to Tender Document"** means the document prepared and issued by Ofgem for the purpose of selecting Qualifying Bidders to progress to the ITT Stage and which sets out the rules and requirements of the QTT Stage;

**"Qualification to Tender Stage"** means the period starting from Ofgem publishing the longlist of Qualifying Bidders who have prequalified, including the preparation, submission and evaluation of QTT Submissions and ending once Ofgem has notified the Qualifying Bidders of its shortlist of Qualifying Bidders for Qualifying Projects to progress to the ITT Stage;

**"Qualification to Tender Submission"** means a Qualifying Bidder's response to the QTT Document;

**"Related Party" or "Related Parties"** in relation to a Bidder (or any member of a Bidder Group) who is a principal undertaking, means a parent or subsidiary undertaking of the principal undertaking or a subsidiary undertaking of the parent undertaking of the principal undertaking, in each case within the meaning of section 1162 of the Companies Act 2006; and in relation to any Bidder (or any member of a Bidder Group) means a connected person of the Bidder (or member of a Bidder Group) within the meaning of section 286 of the Taxation of Chargeable Gains Act 1992;

**"Reserve Bidder"** means the Qualifying Bidder determined by Ofgem, in its sole discretion and following its evaluation of the Bids received (and any BAFO Submissions requested), as the second choice Qualifying Bidder to which Ofgem would consider granting the Offshore Transmission Licence should Ofgem ultimately decide not to grant the Offshore Transmission Licence to the Preferred Bidder;

**"Successful Bidder"** means a Preferred Bidder to which Ofgem has determined to grant an Offshore Transmission Licence;

**"Tender Exercise"** means the competitive process run by Ofgem in order to identify a Successful Bidder to be granted an Offshore Transmission Licence in relation to a particular Qualifying Project;

**"Tender Process"** means the competitive process run by Ofgem in order to identify a Successful Bidder to be granted an Offshore Transmission Licence in relation to a particular Qualifying Project;

**"Tender Regulations"** means the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2010;

**"Tender Round"** means the Tender Processes or Tender Exercises run by Ofgem in order to identify Successful Bidders to be granted Offshore Transmission Licences in relation to Qualifying Projects;

**"Tender Rules"** means these rules published by Ofgem pursuant to regulation 9(4) of the Tender Regulations (as amended by any documents subsequently issued by Ofgem in connection with the Tender Round or a Tender Exercise or Tender Process);

**"Transmission Assets"** has the meaning given in paragraph 1(3)(a) of Schedule 2A to the Electricity Act; and

**"Transitional Regime"** means Tender Rounds for the grant of Offshore Transmission Licences where the Transmission Assets have been or are being constructed by Developers, and where the Developer meets certain Qualifying Project requirements to the satisfaction of the Authority.