

Siobhán Carty
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Dear Siobhán,

Response to Consultation on Certification of Transmission System Operators Under the Third Package

As one of the three successful bidders in the first OFTO tender round, and as a company with a particular focus on offshore transmission in general and the OFTO regime in particular, we were very interested to read your consultation and we welcome the opportunity to comment. We have provided responses to those questions which most specifically relate to the offshore regime.

Response to specific questions

Chapter Two Q4. Do you agree that OFTOs should require certification with respect to the unbundling provisions and be obliged to comply with the ownership unbundling model (with the possible exceptions noted below)?

We strongly support the view that OFTOs fall within the unbundling requirements of the Third Package and therefore that OFTOs (and potential OFTOs) require certification. We believe very strongly that the only acceptable model should be that of full ownership unbundling. For potential OFTOs entering the Ofgem tender process, certification (or confirmation that any certification requirements can be met) should be a prerequisite of participation in the tender process.

We strongly support Ofgem's view that for TSOs which existed prior to the 3rd September 2009, the acquisition of a discreet offshore transmission asset should not be considered to be part of an existing TSO's network. Furthermore, given that all TSOs who own offshore transmission assets are required to be separately licenced entities, we do not see that there should be a distinction as to whether the assets connect to the existing TSO's network or not. We are firmly of the view that the acquisition of any offshore network (or onshore for that matter) whether connected to the TSO's existing network or not, should be considered a "new transmission system" and require full ownership unbundling.

In the case where an offshore transmission system was operational by the 3rd September 2009 and in the ownership of a vertically integrated undertaking, in principle we see no alternative but for either divestment or ownership unbundling. In practice, we believe that no such circumstance will exist in Great Britain following the completion of the first Transitional Tender Round.

In the case where the offshore transmission system has not been constructed by the 3rd September 2009, then it is clear that such assets will need to be owned by an OFTO appointed through a tender process, and therefore as outlined above compliant with the certification requirements.

Chapter 3 Q5. Do you consider the arrangements relating to the Scottish electricity transmission companies guarantee more effective independence of such licensees from the vertically integrated undertakings of which they are part then the provisions of the ITO model?

The BETTA arrangements provide in many areas arrangements at least as effective as those required under the ITO model. However we believe that there are still areas where the arrangements may fall short of the ITO model or where there is insufficient transparency for the industry to gain comfort that appropriate arrangements are in place.

In terms of meeting the high level obligations of the ITO model such as:

- Technical, physical and financial resources
- Independent decision-making rights
- Independence of staff and management
- Supervisory board
- Compliance Officer

we believe that there is insufficient transparency or available detail relating to the current arrangements at this time to form a definitive view.

As part of undertaking the assessment for certification, we would expect Ofgem to provide a further public consultation detailing:

- The specific requirements of the ITO model being considered.
- The associated licence provisions and whether these place sufficient obligations on the TSO to meet the requirements of the ITO model.
- Details of how the licence requirements are proposed to be met by the organisations.
- Details of organisational structures and any other practical implementation issues.
- The compliance regime and public reporting requirements.

We believe this would then form the basis of a more objective response.

I hope you find this consultation response useful and if you would like to discuss this further please do not hesitate to contact me.

Yours sincerely,



Chris Veal
Managing Director