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Friday, 17th February 2012

Dear Giedre,

Offshore Electricity Transmission: Consultation on tender exercises under the enduring regime

Thank you for the opportunity to respond to the above consultation, this response is made on behalf of E.ON UK. Please find our responses to the questions below:

Q.2.1 *Do you have any views on the approach outlined in paragraph 2.8, namely to focus on a single OFTO build option and not to develop the early OFTO build option further at this stage?*
At this stage we believe it would be preferable to focus on one OFTO build option for point to point connections, even where additional capacity is installed to accommodate subsequent future generation. However, if more coordinated offshore network design starts to emerge then the early OFTO build option should not be ruled out.

Q3.1 *What are your views on the proposed arrangements for triggering a tender exercise?*
The proposed arrangements for triggering a tender exercise are reasonable, however a degree of flexibility in process would be welcome. From a generator financing perspective, it may not be possible for a generator to commit to construction until an OFTO has been appointed to build the offshore assets and the generator is confident that the appointed OFTO can meet the development timescales for commissioning the wind farm. Ofgem must also understand the cost of building the offshore assets is key to a generators financial investment decision.

Q3.2 *What are your views on whether our proposal on generator security will ensure the appropriate level of commitment from a generator?*
We believe that the proposed generator security arrangements will ensure the appropriate level of commitment from generators, as long as the levels of security required are not prohibitive to the development of projects. Ofgem must ensure a low cost efficient tender process is managed.

Q3.3 *Do you agree with our proposed approach to the tender specification for an OFTO build tender exercise?*
The tender specification is being informed using the appropriate documentation and has the flexibility to include project-specific information considered on a case by case basis. Ofgem must consider who will be responsible for completing the detailed design for the package of works. Any changes to design specifications arising from the consents process need to be factored in – Ofgem need to be flexible in this.

Q3.4 *Are the proposed arrangements for pre-construction works the most appropriate for investors and generators?*
The proposed list of pre-construction works is sufficiently broad to allow for further works, not specifically outlined, to fall under this category. The arrangements whereby generators will be allowed to recover 'efficiently incurred costs' of certain pre-construction works seem reasonable. However, the process for evaluating whether these cost have been incurred efficiently needs to be made clear.

Q3.5 *What other information, if any, in addition to that referred to within the tender specification and pre-construction works sections, would be needed within the data room for the project?*
No other information is necessary – the current minimum data requirements are appropriate.

Q3.6 *What do you think would be the best approach to ensuring bidders have access to and confidence in a seabed survey undertaken by the generator?*
A possibility would be an optional independent peer review of the generators contractors' survey report that can be put in the data room for bidders to consider.

Q3.7 *With reference to the approach to seabed surveys outlined within paragraph 3.22, what might be the best approach to developing an independent generic survey specification that would be acceptable to both generators and potential bidders?*
The seabed survey should be put in the data room with the option for a second opinion to be sought as long as the developer is able to recover the cost. Generators should be able to recover costs regardless of whether they have reached their financial investment decision as the costs have been incurred as a result of the tender process not as a result of trying to obtain consent for the project.

Q3.8 *Do you agree that ensuring procurement is undertaken by the OFTO through the tender process would be the most economic and efficient approach?*
Generator contracts that are entered into early should be transferable. Booking manufacturing slots can be costly and as success in the tender process is not guaranteed this means the bidders will incur costs. Therefore generators should book manufacturing slots if they are needed to deliver a project by a specific date and then transfer them.

Q3.9 *What are your views on whether there are supply chain constraints associated with the manufacture and delivery of some key offshore transmission assets? If there are constraints, do these vary significantly in relation to project design?*
There are supply chain constraints associated with the manufacture and delivery of key offshore transmission assets. Long-lead items and short order windows mean that the effect on project programme can be significant if procurement timescales are not met.
The benefit of co-ordinated networks is that greater capacity can be installed at the outset. The FEED study is an iterative process with interaction between the generator decision on turbines and the subsequent design of the OFTO network. Procurement cannot commence until the detailed design is

firmed up. Ofgem should retain the flexibility for developers to enter into early works to maintain program with the OFTO building the assets, but the complex interactions need to be managed so that program is not adversely impacted. Therefore generator build will be a preference because control over program is needed.

Q3.10 *What are your views on the examples of alternative approaches for supply chain engagement under OFTO build outlined in this chapter?*
The alternative approaches create uncertainty for the supply chain, which could increase risk and cost because it is not known who the customer is until the preferred bidder has been selected. Considering the time the tender process takes, the prices obtained may not have sufficient validity to be of any value to bidders.

Q3.11 *Are there any other approaches we should consider under OFTO build to enable the supply chain to be engaged in time to ensure project delivery timescales are met, whilst maximising opportunities for competition through the tender process?*
We have no suggestions at this time.

Q3.12 *Should there be any restrictions on interactions between parties, either before or during a tender exercise in order to ensure fair and effective competition and best value for consumers?*
The existing arrangements limiting contact between developers and bidders is sufficient. Additional restrictions will inhibit the flexibility to deliver projects to required timescales.

Q3.13 *Do you agree that the current 20 year revenue stream provides the best value to consumers under the enduring regime (OFTO build or Generator build)? If not, what alternatives should we consider?*
Consider making the asset life 25 years as opposed to 20 years. This would have a positive effect on the TRS due to longer asset life.

Q3.14 *What are your views on our proposed treatment of risk relating to:*
- delay to licence grant?
- weather delay?
Delay to licence grant: to have prices that are valid at Ofgem's anticipated licence grant date, timescales need to be clear throughout the whole tender process. It must be ensured that the time period between bidders getting prices from the supply chain and the Ofgem appointment process are commensurate with what can be expected from the supply chain. An indexation mechanism would not work as bidders would just start to build in price contingencies for the risk of delay and consumers would be worse off. Therefore Ofgem timescales must line up.

Weather Delay: a risk-share mechanism would be sensible, we would need to understand the proposals in more detail but in principle this seems to be a good idea. Risk sharing should work both ways. The OFTO is able to pass on costs but equally where delay is compounded by the OFTO not following good industry practice they should share the costs resulting in a reduction in the TRS.

Q3.15 *Are there other areas of risk which would be more efficiently managed (for consumers) through a risk sharing mechanism rather than factored into bidders' TRS bids? If so, can you suggest how these risks might be shared?*
Where completion date is delayed by the TO (subject to certain provisions) liquidated damages should be

available. Not just for consumers but for developers/generators who ultimately pay for the cost of risks arising which may have a bearing on competitiveness in the wholesale energy market. Generators only have a contractual relationship with NGET for delivering capacity. A back-to-back agreement is needed between the OFTO, NETSO and generator where if they see a reduction in TRS it flows back to the generator.

Q3.16 *Is the current approach to recovering bid costs appropriate for OFTO build? If not, what alternative approach to recovering bid costs would you recommend?*
The current approach where only the successful bidder is able to recover bid costs is not appropriate for OFTO build due to the added complexity of the process and potential higher costs that may be involved. To encourage competition we would support a percentage of bidder costs being reimbursed. Those costs however, should be recovered through the wider tariff as opposed to the local tariff.

Q3.17 *Are there any aspects of the current transitional arrangements or within the proposals for OFTO build, including revenue term, bid requirements and risk profile, which may prevent access to certain sources of finance in the enduring regime?*
We are not in a position to comment if under the current regime and these proposals whether the OFTO can obtain sources of finance, but we are concerned that there are no incentives other than the TRS that the OFTO delivers to the developers timescales

Q3.18 *Do you have any comments on the issues associated with incorporating a refinancing gain share mechanism and how such a mechanism could be structured?*
We agree with incorporating a refinancing gain-share mechanism so that a. OFTOs are incentivised to refinance post construction and b. any benefits from than can be shared between the OFTO, generator and ultimately the consumer. As with the current cost pass-through arrangements, including the availability incentive, there is currently no link between TRS and charges generators are exposed to. We believe this should be considered alongside any proposals for a gain-share mechanism.

Q3.19 *Do you have any preferences from amongst the options outlined for how the PQ stage should operate?*
We support grouping projects together where possible. However, the process has to be flexible to accommodate individual developers timescales. Clearly Ofgems ongoing engagement with developers will help them group projects into tender rounds where OFTO build is chosen.

Q3.20 *Are there any other ways that a PQ stage might operate in order to meet the objectives set out at the start of the 'Tender stages and timings' section?*
We have no further suggestions at this stage.

Q3.21 *Do you have any preferences from the options outlined for how the ITT stage might operate?*
The price certainty of Option 1 is attractive however, Option 3 is more commensurate with developers programmes. The technical and financial split with bidders being involved in design earlier is important for the front end design process for a wind farm which is important for the selection of turbines. Licence award needs to coincide with developers FID. Crucial to this is understanding delivery timescales for OFTOs and if they're commensurate with developer's requirements. Securing factory slots etc is important if the preferred bidder is to meet the developer's requirements. Option 1 may naturally become Option 3 however, Ofgem recognises this through its ability to delay stages of the tender process if necessary.

Q3.22 *Are there any other ways that the ITT stage might operate to ensure its efficiency and effectiveness?*
No other suggestions at this stage.

Q3.23 *What are your views on the proposals for involving generators in evaluation of bids? In particular, what key technical aspects of bids would be most important for generators to evaluate?*
It is essential for the design of assets (both of the OFTO and wind farm) that generators are involved in the evaluation of bids because of the iterative process of design, and the procurement of turbines which have an implication on the OFTOs assets.
The activities involved in the development of a project can be very resource intensive for developers and bidders therefore anything to minimise the burden of effectively working with two or more bidders would be welcome.
The ability for the identity of bidders to be anonymous at this stage may be hard to achieve and impractical. It is inefficient for Ofgem to act as an intermediary on design issues.

Q3.24 *What are your views on the proposals for involving NETSO in evaluation of bids? In particular, what key technical aspects of bids are most important for NETSO to evaluate?*
The NETSOs involvement in the evaluation of bids is key. As the host onshore TO they need to evaluate the impact of the project on their network.
However, this may in turn put a strain on the NETSO's resources resulting in increased costs. Key technical aspects would include technical design of the transmission assets, onshore substation construction and whether proposals are compliant with relevant industry codes.

Q3.25 *Are there areas on which you think allowing variant bids under OFTO build would add value to the process and to consumers?*
The circumstances under which variant bids are to be allowed should be clearly outlined. Allowing some variant bids for elements within the scope of the tender specification could introduce more innovation and competition to the process.

Q3.26 *What are your views on generators recovering efficiently incurred pre-construction costs at the point at which the transmission construction works are completed?*
Generators should be able to recover costs upon granting of the licence rather than upon completion of construction works. The process for evaluating whether costs have been incurred efficiently needs to be made clear. A transfer agreement needs to be entered into upon licence award and we would expect the sums to be paid for by the OFTO who would recover them when the TRS commenced. Failing this, if the generator is made to wait, then interest should be paid on the sums owed. There is no justification for making developers wait to recover their costs.

Q3.27 *Do you have any early views on the appropriateness of design incentives for transmission asset lifecycle design, e.g. transmission availability, quality of installation and transmission losses?*
It is difficult to comment until further details become available.

Q3.28 *What are your views on whether the current approach to indexation, and in particular the proportion of the TRS subject to indexation, provides the best value to consumers? How might any alternative approaches be managed?*
Using RPI as an inflator may not be the most appropriate approach to indexation if we wish to provide

best value to customers. RPI tends to be used as an inflator because it increases costs.

Q3.29 *Do you agree that additional delivery incentives for OFTOs are not necessary?*
We totally disagree; additional incentives are needed for OFTOs to deliver the transmission assets on time. As mentioned previously, liquidated damages should be available not just for consumers but for developers/generators who ultimately pay for the cost of risks arising which may have a bearing on competitiveness in the wholesale energy market. Incentives on OFTOs to complete construction are insufficient given their ability to pass through certain costs i.e. weather related delay. Secondly the reference to liquidated damages is erroneous as typically a generator cannot benefit from liquidated damages from NGET. Cost of credit security under the STC isn't strong enough. As E.ON has commented in the past, more broadly, connection terms should move to a commercial relationship as any you might be reasonably expected to obtain from the market. While a regulated approach has benefits to the cost of capital post construction, the OFTOs need to be appropriately incentivised through proportional liquidated damages to generators. From the developers point of view, the OFTO build option should be akin to a procurement exercise with the benefits of lower risk and a regulated framework for the life of the asset.

Q3.30 *What are your views on what approach to decommissioning of assets would provide best ongoing value to consumers?*
We reserve our position on this until further detail is available.

Q4.1 *What are your views on whether there are benefits under Generator build to the generator undertaking the seabed survey against a comprehensive generic survey specification agreed by industry?*
We question the need for a generic survey specification. We do not believe it is necessary or appropriate. Generators will make surveys available in the data room. These can be peer reviewed if the costs can be recovered.

Q4.2 *Do you agree with the approach that Ofgem continues to run tender rounds for groups of projects, not necessarily limited to one per year, or would you recommend an alternative approach?*
In principle, we generally support grouping where possible. However, subject to what decision is taken on full commencement of the regime, it will be important for an OFTO to be in place for when the licence needs to be in place.

Q4.3 *Do you think there are further efficiencies we could make to the tender process and the transaction procedures for Generator build which would increase their efficiency and provide greater certainty to bidders and funders?*
At the ITT stage we cannot see any benefit in anonymising the identity of bidders and this should therefore be made known to developers at the ITT stage. Although Ofgem facilitate the process we cannot see a reason why developers and bidders cannot be free to manage the process up to the point where the tender submission is made to Ofgem.

Q4.4 *Are there any changes to the information supplied in the data room which would improve the efficiency of the process for Generator build?*
No other information is necessary – the current minimum data requirements are appropriate.

Q4.5 *What are your views on the benefits of involving generators in evaluation of bids as outlined in this section?*
We generally support the involvement of generators in the evaluation of bids particularly on the technical aspects indentified by Ofgem in the consultation.

Q4.6 *Do you have any suggestions on amendments which would improve the efficiency of the process for finalisation of transfer documentation and which would maximise value to consumers?*
Developers need the freedom to decide how to structure the transfer process. Earlier and deeper engagement between developers and bidders is needed to think of alternative structures that provide better value for consumers.
An alternative could be for developers to set up separate holding companies for their offshore assets. All assets and contracts with third parties for equipment and consents would be held by this entity which would be transferred in its entirety once the OFTO is appointed. This would reduce the complexity involved in the transfer process and there may be tax advantages.

Q4.7 *What do you consider might be the implications of a share sale approach as opposed to a transfer of assets as has been seen to date?*
There are advantages to a share-sale approach such as reduced third party consents required, easier transfer of assets, and there may be a difference in tax implications.

Q4.8 *Do you agree that the current split between costs priced into the TRS and those allowed as pass throughs provides best value for consumers?*
Broadly yes, subject to our comments on the terms on which connections are built.

Q4.9 *Are there any aspects of the current arrangements for transitional tender exercises or within the changes we have proposed above, including revenue term, bid requirements and risk profile, which may prevent access to certain sources of finance under Generator build?*
We reserve our position on this until further detail is available.

Q4.10 *Do you have any comments on the issues associated with incorporating a refinancing gain share mechanism for Generator build and how such a mechanism could be structured?*
We agree with incorporating a refinancing gain-share mechanism so that a. OFTOs are incentivised to refinance post construction and b. any benefits from than can be shared between the OFTO, Generator and ultimately the consumer. As with the current cost pass-through arrangements, including the availability incentive, there is currently no link between TRS and charges generators are exposed to. We believe this should be considered alongside any proposals for a gain-share mechanism.

Q5.1 *Are you satisfied with the practical relevance of our definition of the terms 'phase' and 'stage'?*
Yes we are satisfied with the practical relevance of the definitions of the terms 'phase' and 'stage'.

Q5.2 *What are your views on the measures we propose to determine whether a stage or phase within a site/zone qualifies for a single tender exercise?*
Where phases of projects are being delivered to different timescales, and are not electrically linked but may have some areas of common curtilage i.e. onshore substation, Ofgem needs to recognise that splitting the tender exercise will add complexity and a degree of risk to bidders in the first and subsequent stages.

Q5.3 *What are your views on whether running a separate tender exercise for each phase within a site/zone would best meet the objectives of the enduring regulatory regime?*
A separate tender exercise is the right thing to do where one can discreetly define the assets and number of phases where they are concurrent. However, this approach needs to be consistent with Ofgem's forthcoming proposals for a coordinated network. Under the current arrangements this approach is likely to curb strategic investment ahead of need, as for many Round 3 zones, point to point connection is not the most efficient outcome, and instead an offshore network is likely to offer a lower cost solution to the generator and customer. Clearly Ofgem are concerned about anticipatory investment and the risk of stranded assets. Whilst Ofgem need to be mindful of this, nevertheless 5.11 appears to be to be at odds with 2.20 and 2.22, and unless modified, is unlikely to realise the benefits of offshore networks in UK waters, potentially as a first step to greater interconnection, especially if the design was "supergrid ready".

I hope the above comments prove helpful.

Yours sincerely,

Leonida Bandura
Project Developer