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17th February 2012

To whom it may concern:

**Energy Networks Association OFTO Forum –
Response to consultation on tender exercises under the ensuring regime**

Energy Networks Association (ENA) is the industry body for UK electricity and gas distribution and transmission companies.

This response to Ofgem's consultation on tender exercises under the enduring regime is submitted by ENA and is in addition to and in support of the individual responses of the members of the ENA's OFTO Forum.

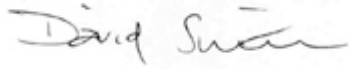
In developing this response in collaboration with the members of the OFTO Forum some high-level common themes have emerged. These are listed below:

- ENA and the members of the OFTO Forum agree in principle that Ofgem should:
 - pursue the development of a single OFTO build model;
 - make provision for the recovery of OFTO bidder costs;
 - allow for OFTO engagement in procurement; and
 - allow longer periods of PQ validity.
- ENA and the members of the OFTO Forum believe there is still work to do on some matters necessary to make the OFTO build model workable, such as:
 - the extent of supply chain involvement in bidder groups;
 - development of information requirements & specifications for data exchange prior to and during the tender process (e.g. tender specification, seabed surveys).
- ENA and the members of the OFTO Forum believe that there are areas where consensus of views are not essential (e.g. in areas such as cost indexation, allocation of risk, licence period duration etc) and these different views should be welcomed as they are symptomatic of the innovative approaches being taken by OFTO bidders – driving competition and providing value to generators and consumers.

In addition to the detailed responses to the consultation questions (see appendix 1 of this letter) we would like to take this opportunity to invite Ofgem's Offshore Enduring Regime Team to join the ENA OFTO Forum at one of their upcoming meetings to discuss in more detail the content of the consultation document and (when available) Ofgem's initial thoughts regarding the consultation responses received.

If you would like to do so please get in touch with Richard Le Gros, Secretary to the OFTO Forum at ENA, on 0207 706 5132 or richard.legros@energynetworks.org.

Regards,

A handwritten signature in black ink that reads "David Smith". The signature is written in a cursive style with a horizontal line underlining the name.

David Smith • Chief Executive, Energy Networks Association

Appendix 1 – ENA OFTO Forum responses to consultation on tender exercises under the ensuring regime

Question 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?

Answer 2.1: ENA considers that the focus should be on developing a single OFTO build option.

Question 3.1: What are your views on the proposed arrangements for triggering a tender exercise?

Answer 3.1: ENA considers that tenders should at least open at, or preferably some time prior to, the generator's planning consent application.

Question 3.2: What are your views on whether our proposal on generator security will ensure the appropriate level of commitment from a generator?

Answer 3.2: ENA agrees that Ofgem should ensure there is a provision for OFTO bidders to recover their costs if the tender process does not proceed.

Question 3.4: Are the proposed arrangements for pre-construction works the most appropriate for investors and generators?

Answer 3.4: ENA agrees with the proposed arrangements for pre-construction works.

Question 3.6: 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?

Answer 3.6: ENA suggests that if Ofgem wish to define a specification or high-level principles for generator surveys prior to tender, the ENA OFTO Forum could usefully lead the development of such a specification on behalf of OFTOs.

Question 3.7: 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?

Answer 3.7: As per our response to Q3.6 above, the ENA OFTO Forum could usefully lead the development of such a specification on behalf of OFTOs.

Question 3.8: Do you agree that ensuring procurement is undertaken by the OFTO through the tender process would be the most economic and efficient approach?

Answer 3.8: ENA strongly agrees that OFTOs should carry out all procurement through the tender process. We believe that this will allow OFTO bidders to produce safe, economic and efficient solutions and allow maximum value to be gained from long-term arrangements with the supply chain. In addition this will allow for further differentiation amongst OFTO bids and drive innovation and competition.

Question 3.9: 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?

Answer 3.9: ENA agrees that whilst currently there are some supply chain constraints, indications for availability of transmission equipment (AC and DC) in the near future are encouraging.

Question 3.10: What are your views on the examples of alternative approaches for supply chain engagement under OFTO build outlined in this section?

Answer 3.10: ENA does not favour the alternative approaches to supply chain engagement suggested.

Question 3.12: 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?

Answer 3.12: ENA believes that post-tender interaction between the involved parties (generators/bidder consortia/suppliers) should be facilitated by Ofgem – whether via the electronic tendering portal or face-to-face meetings.

Question 3.13: Do you agree that the current 20 year revenue stream provides the best value to consumers under the enduring regime (OFTO or Generator build)? If not, what alternatives should we consider?

Answer 3.13: ENA believes that a 20 year licence period is suitable. We would, however, be interested in discussion with Ofgem their views on what arrangements might be put in place following the conclusion of such a licence period.

Question 3.16: Is the current approach to recovering bid costs appropriate for OFTO build? If not, what alternative approach to recovering bid costs would you recommend?

Answer 3.16: ENA agrees that bidders' costs should be reimbursed.

Question 3.17: 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?

Answer 3.17: ENA does not see any immediately obvious restrictions on accessing certain sources of finance.

Question 3.20: Are there any other ways that a PQ stage might operate in order to meet the objectives set out at the start of this section?

Answer 3.20: ENA believes that a longer validity period for PQ'd bidders would reduce the administrative burden on both bidders and Ofgem whilst still allowing new entrants to the process.

Question 3.21: Do you have any preferences from the options outlined for how the ITT stage might operate?

Answer 3.21: ENA has a preference for options 1 and 2 - and amongst these a strong preference for option 2.

Question 3.22: Are there any other ways that the ITT stage might operate to ensure its efficiency and effectiveness?

Answer 3.22: ENA believes that Ofgem should allow some flexibility as to the timing of the tender process (based on input from the generator). The early provision of engineering and design information to qualified bidders will allow for early engagement with the supply chain which would be beneficial.

Question 3.26: What are your views on generators recovering efficiently incurred pre-construction costs at the point at which the transmission construction works are completed?

Answer 3.26: ENA agrees that this is sensible.

Question 3.29: Do you agree that additional delivery incentives for OFTOs are not necessary?

Answer 3.29: ENA agrees that additional delivery incentives for OFTOs are not necessary. ENA suggests that Ofgem/Government consider the development of measures to mitigate the impact of late OFTO delivery under an OFTO build model as this would help to increase the attractiveness of the OFTO build option to generators.

Question 4.9: 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?

Answer 4.9: ENA does not see any immediately obvious restrictions on accessing certain sources of finance.

Question 4.10: 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?

Answer 4.10: ENA does not believe a refinancing gain share is sensible within the generator build option.

Question 5.1: Are you satisfied with the practical relevance of our definition of the terms 'phase' and 'stage'?

Answer 5.1: Some clarification (with reference to previous developments) would be of assistance. This could perhaps be discussed further in the meeting proposed in our cover letter.

Question 5.3: 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?

Answer 5.3: ENA agrees that running a separate tender exercise for each phase within a site/zone should provide the best conditions for meeting the objectives of the enduring regulatory regime.