

To:

1. The Company Secretary  
Blue Transmission Walney 2 Limited  
The American Barns  
Banbury Road  
Lighthorne  
Warwick  
Warwickshire  
CV35 0AE

**Consent issued by the Gas and Electricity Markets Authority under paragraphs 4(b)(i) and 4(b)(ii) of amended standard condition E12-C2 (Separation and Independence of the Transmission Business) of the offshore transmission licence granted under section 6 of the Electricity Act 1989 to Blue Transmission Walney 2 Limited**

**Whereas**

A consortium of Macquarie Capital Group Limited and Barclays Integrated Infrastructure Fund (managed by Barclays Infrastructure Funds Management Limited) was the preferred bidder for the Walney 2 offshore transmission project ("the **Project**").

1. On 5 September 2012 the preferred bidder became the successful bidder for the Project and the Gas and Electricity Markets Authority (the "**Authority**") determined to grant an offshore transmission licence in respect of the Project to the successful bidder. The Authority subsequently confirmed that determination on 25 September 2012. Consequently, Blue Transmission Walney 2 Limited (the "**Licensee**") is the holder of an offshore transmission licence granted in respect of the Project under section 6 of the Electricity Act 1989 (the "**Licence**").
2. Amended standard condition E12-C2 (*Separation and Independence of the Transmission Business*) (the "**Condition**") of the Licence requires (except insofar that the Authority consents to a licensee not doing so) the Licensee to implement and maintain certain business separation and independence arrangements as specified in the Condition.
3. On 10 February 2012 the preferred bidder requested that the Authority consider consenting to arrangements being put in place that would enable the sharing of certain resources specified in paragraph 4(b) of the Condition between the Licensee and its associated businesses should Blue Transmission Walney 2 Limited be granted the Licence.
4. The preferred bidder notified the Authority that:
  - a. The Licensee is indirectly jointly owned by Macquarie Capital Group Limited and Barclays Infrastructure Funds Management Limited (in its capacity as manager of Barclays Integrated Infrastructure Fund LP).
  - b. Following Licence grant, it is intended that ownership of Blue Transmission Walney 2 (Holdings) Limited ("**BTW2 Holdings**") and the Licensee shall be transferred and BTW2 Holdings will be wholly owned by Blue Transmission Investments Limited ("**BTIL**") (the "**Restructuring**").
  - c. Prior to the Restructuring, Blue Transmission Walney 2 Investments Limited is the ultimate holding company of the Licensee and is directly jointly owned by Macquarie Capital Group Limited (50% shareholding) and BIF Offshore Windkraft Holdings Limited (which is a wholly owned subsidiary of Barclays Integrated Infrastructure Fund LP) (50% shareholding).
  - d. Prior to the Restructuring, Blue Transmission Walney 2 Investments Limited is the holding company of BTW2 Holdings, and BTW2 Holdings is the holding company of the Licensee.

- e. Frontier Power Limited ("**FPL**") has entered into a management services agreement ("**MSA**") with, amongst others, BTIL, to which BTW2 Holdings and the Licensee shall accede following Licence grant. Under the MSA and other related documents, FPL will provide a range of general management services to the Licensee, including the supervision of BTIL employees, and the management of tax, accounting, credit rating, technical advisory and secretarial services in relation to Blue Transmission Walney 2 Investments Limited, BTW2 Holdings and the Licensee.
- f. The Licensee will contract directly with its principal external service providers and such contracts will be administered by BTIL.
- g. BTIL will also contract for a range of common services (including the management services provided by FPL under a MSA) to be used by any other subsidiaries that become transmission licensees and such costs, and the costs incurred by BTIL in fulfilling its service company role will be fully allocated across these licensed subsidiaries.
- h. The 10 February 2012 request has been taken to constitute a request from the Licensee for the Authority's consent to the arrangements described in paragraph 3 above.

#### **Reasons for the Authority's consent**

- 5. The Authority has considered the intent of the Condition and the extent to which the arrangements proposed by the Licensee in paragraph 4 above meet those intentions. The Authority considers that the arrangements proposed the Licensee will be able to meet the intentions of the Condition and therefore with this consent they would meet the requirements of the Condition.
- 6. The Authority has also considered the requirements of other related Licence conditions<sup>1</sup> and the extent to which the Licensee will be able to meet those requirements if the Authority grants consent to the arrangements proposed by the Licensee. The Authority considers that if it grants consent to the arrangements proposed the Licensee will be able to meet the requirements of these related Licence conditions.
- 7. The Authority considers that the arrangements consented to in paragraphs 9(a) and (b) below are necessary to enable the Licensee to conduct the transmission business in an efficient manner and do not provide the Licensee with any unfair commercial advantage.
- 8. The Authority further considers that the provision of this consent shall not prevent the Licensee from complying with its obligations:
  - a. to ensure that the transmission business shall not give or receive any cross subsidy;
  - b. to not conduct any business or carry on any activity other than the transmission business;

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<sup>1</sup> These are standard condition E6 (Prohibition of cross subsidies), standard condition E7 (Restriction on Activity and Financial Ring Fencing) and amended standard condition E12-C1 (Conduct of the Transmission Business) as specified in paragraph 1 of amended standard condition E12-C2 .

- c. to secure that it does not obtain (or allow its affiliates or related undertakings<sup>2</sup> involved in the offshore transmission tender process to obtain) any unfair commercial advantage from the transmission business; or
- d. to uphold the managerial and operational independence of the Licensee from any affiliate or related undertaking.

## Consent

9. The Authority hereby gives consent to the Licensee under:

- a. paragraph 4(b)(i) of the Condition for the affiliates or related undertakings of the Licensee to use or have access to:
  - (i) premises or parts of premises occupied by the Licensee;
  - (ii) systems of the Licensee for the recording, processing or storage of data;
  - (iii) equipment, facilities and property employed by the Licensee; and
  - (iv) services of persons who are engaged by the Licensee,for the purpose of management or operation of the transmission business; and
- b. paragraph 4(b)(ii) of the Condition, insofar as is legally possible, to enable any person who ceases to be engaged in, or in respect of, the management or operation of the transmission business to be engaged in, or in respect of, the activities of the affiliates or related undertakings of the Licensee notwithstanding the expiry of an appropriate time from the date on which that person ceased to be engaged by the transmission business.

10. Should any of the Licensee's affiliates or related undertakings become authorised under the Electricity Act 1989 to generate, supply, distribute or coordinate or direct the flow of electricity, this consent shall cease to have effect.

11. For the purpose of the consent set out in paragraphs 9(a) and (b), the Licensee is not authorised to obtain, nor allow any affiliate or related undertaking or staff from any affiliate or related undertaking to obtain, an unfair commercial advantage from having shared access or use of the resources specified in paragraphs 9(a) and (b).

12. Nothing in this consent authorises the Licensee not to have in place a statement approved by the Authority describing the practices, procedures and systems which the Licensee has adopted (or intends to adopt) to secure compliance with the Condition and should the Licensee fail to have in place the approved statement 30 days after the condition comes into force (or such other time directed by the Authority in accordance with paragraph 2 of the Condition) this consent shall cease to have effect.

13. Nothing in this consent authorises the Licensee not to maintain at all times the appropriate systems of control and governance required by the Licence which are necessary to ensure compliance with the obligations contained in the Condition and should the Licensee fail at any time to maintain the required systems of control and governance, this consent shall cease to have effect.

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<sup>2</sup> Affiliate and related undertaking have the meaning given in the Licence.

**Notice of reasons**

14. This document also constitutes a notice under section 49A of the Electricity Act of the reasons for the decision of the Authority to give this consent pursuant to the Condition.

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**Martin Crouch**  
**Director, Offshore Transmission**

**Duly authorised on behalf of the**  
**Gas and Electricity Markets Authority**

**Date: 26 September 2012**