

2 November 2012

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Dear Emily,

DRAFT ELECTRICITY (COMPETITIVE TENDERS FOR OFFSHORE TRANSMISSION LICENCES) REGULATIONS 2012

We would like to thank you for providing us with the opportunity to respond to your open letter. Please find below the response of Blue Transmission to Ofgem's letter in relation to the draft electricity regulations 2012.

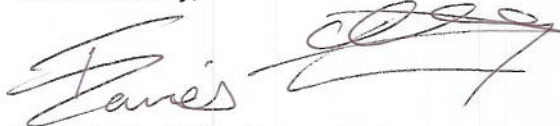
This response has been drafted in cooperation with Blue Transmission's main partners, Frontier Power Limited, Barclays Infrastructure Funds Management Limited, Mitsubishi Corporation and Macquarie Capital Group Limited.

We would be delighted to discuss these thoughts in an open and constructive manner with Ofgem.

- Blue Transmission, an experienced OFTO owner, welcomes Ofgem's approach to new Generator-build projects where there may not be any QTT phase. However, an important part of the sponsor's approval process is gaining bid budget approval prior to the ITT Phase. Part of this approval process is an assessment of the competition. As such, it is important for bidders to gain a view on the competition prior to gaining this approval. For example, this could be achieved by Ofgem announcing the list of bidders post PQQ and include those who have executed a NDA and then a list of bidders who have paid their invoice to participate in the ITT process.
- Part 12 (Preferred Bidder Stage) and clause 21 should take into consideration the time the developer takes to resolve matters. The experience in Round 1 suggests that (some) developers do provide the assistance, but it is in their own time rather than that outlined by Ofgem. Any financial incentive that can be placed on the developer will ensure a timely resolution of PB matters (possibly in a similar way as set out in part 4 clause 7)
- Part 25 clause 4 and part 27 clause 4 (b) are welcomed additions to the regulations. Reimbursing all or a proportion of a bidder's bid costs will certainly strengthen competition and enable (ultimately via pricing) the lowest cost to the end consumer. However, the exact payment (and the number of qualifying bidders receiving this payment) will have to be known by qualifying bidders before submitting their tenders.
- Given the regulations are being amended, it would be useful to include some provision around the timing of Invitation to tenders relative to the construction and commissioning of the assets (particularly relevant in Generator-build options). The timing of the tenders could assist with lowering the TRS as well as providing a more robust financing solution from bidders thanks to (i) a reduced scope of confirmatory due diligence and (ii) a shorter period between the tender due date and the closing of

the transaction. Related to this, our experience on all projects so far is that the Preferred Bidder (PB) stage has taken much longer than anyone has anticipated for reasons outside the OFTO's control. We therefore believe that Ofgem could now draw on the experience of Blue Transmission and other experienced OFTOs by determining and laying down specific criteria (perhaps in Part 12 Clause 21) that developers need to have met (related to the progress of installation and commissioning, information that needs to be provided etc.) in order that a meaningful start can be made to the PB work and to make the final due diligence stage as short as possible.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'James', followed by a large, stylized flourish or scribble.

On behalf of Blue Transmission