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Dear Matthew,

Regulation of transmission connecting non-GB generation to the GB electricity transmission system: Response from The Crown Estate

Thank you for the opportunity to respond to the consultation on the regulatory approach being considered for transmission connecting non-GB generation to the GB transmission system, published on 18 November 2013. The Crown Estate (TCE) welcomes this consultation given the importance of putting in place an appropriate regulatory approach as soon as is practicable in order to provide the necessary certainty to all stakeholders that are impacted by renewable energy import projects. We hope our response is helpful in refining your policy in this area.

1. The Crown Estate

The diverse portfolio of TCE comprises marine, rural and urban properties across the whole of the United Kingdom valued in total at over £8 billion. Under the 1961 Crown Estate Act, TCE is charged with maintaining and enhancing both the value of the property and the revenue from it consistent with the requirements of good management. We are a commercial organisation guided by our core values of commercialism, integrity and stewardship. Our entire revenue surplus is paid directly to HM Treasury for the benefit of UK citizens; in 2012/13 this amounted to over £250 million.

Our energy and infrastructure portfolio comprises virtually the entire UK seabed out to the 12 nautical mile territorial limit, in addition to the sovereign rights to explore and make use of the natural resources of the UK continental shelf, with the exception of oil, coal and gas. We also own around half of the foreshore and beds of estuaries and tidal rivers in the United Kingdom. Our expertise includes marine resource management (e.g. marine aggregate extraction, marine renewable energy installations, seabed infrastructure, aquaculture and new activities such as gas storage and carbon capture and storage) and its interplay with other marine activities such as defence, energy, navigation and marine safety. We have a strong understanding of the needs of a broad range of coastal and sea users, as commercial partners, customers and stakeholders.

2. Overview comments

We welcome and support Ofgem's view that transmission connecting non-GB generation to the GB transmission system should be treated regulated under an interconnector licence, on the assumption that appropriate

arrangements will be put in place to address that the transmission infrastructure will principally be developed to enable the export of a generator's output rather than for energy trading between markets.

Our primary aim with this consultation response is to confirm our interest in this area as an affected party by any decision on the regulatory framework. Specifically, how the revenue stream is regulated may impact on the form of commercial arrangements under our licensing requirements. Whilst we are developing these in parallel, we are seeking certainty from Ofgem at the earliest possible opportunity so that we can finalise the arrangements and enter into the necessary agreements which would enable developers of non-GB projects to access the UK seabed out to the 12 nautical mile limit of the UK territorial waters (i.e. the limit of our jurisdiction in this instance).

In addition to confirming our interest, we also offer feedback on some of the key issues raised in the document. We trust that you find these constructive, and we are happy to discuss further as required.

3. Response on issues raised in the open letter

Question 1: What are the key milestones for the delivery of non-GB generation and connections pre-2020? How does the decision on the regulation and licensing of non-GB connection fit into this timeline?
Developers of non-GB generation projects are best placed to comment on key project milestones. From TCE's perspective, the key milestone will be entering into the necessary licence arrangements for use of the seabed by the transmission infrastructure out to the 12 nautical mile limit of the UK territorial waters. Our ability to finalise the commercial arrangements associated with this licence (including rental requirements) is dependent on the outcomes of the regulatory arrangements put in place. As such, we welcome a swift conclusion to this process.

Question 2: From the perspective of a non-GB project developer, how does the decision on the regulatory arrangements interact with Government decisions on renewable support (such as the award of a Contract for Difference (CfD))?
TCE is not a non-GB project developer and so we cannot answer this question from that perspective. However, it would seem clear that the decision on the regulatory framework is a key issue that needs to be determined as early as possible and in tandem with Government decisions on subsidy support mechanisms available. Financial issues (including funding for the transmission assets, the extent of any incentives etc) and other issues such as access arrangements and charging all depend on how the assets will be regulated.

We note that the document (paragraph 5.26) hints at the potential for the transmission assets to be exempted from the unbundling provisions in the Third Package. We had initially understood that the transmission assets connecting non-GB generation would need to be separately owned from the generation assets given the unbundling provisions, but this paragraph casts doubt on that. To the extent possible, Ofgem should clarify this position at the earliest opportunity, given that the application or not of the unbundling rules will also impact on issues such as financing and potentially the structure of subsidy support levels.

Question 3: Are there other factors that Ofgem should be aware of relating to the timing and development of non-GB connections?
TCE is currently defining arrangements for the award of seabed rights for subsea cables connecting non-GB generation to the GB transmission system. This includes both spatial and commercial considerations – please find

enclosed at Annex 1 a copy of the statement we published in December 2013. As set out in response to Q1, entering into licensing arrangements for this permission will be a key milestone, and we would ask it is recognised accordingly.

Separately, at the most recent Developer Day (29 November 2013), the CER presented a paper on potential coordination options for grid infrastructure. We understand that this was embryonic thinking but it indicates that the way in which the transmission infrastructure develops for renewable import projects is still evolving. How this evolves may have an impact on TCE's licensing arrangements, and we would welcome confirmation of approach at the earliest opportunity.

Question 4: Do you agree these are appropriate principles to take into account in relation to non-GB connections?
We agree these are appropriate principles. We would like to point out that it would be vitally important that these principles are adequately implemented. For example, who (e.g. owners of non-GB generation or the transmission infrastructure) would be liable to underwrite wider transmission works and pay for on-going transmission charges should be made clear in order to protect consumers' interest.

Question 5: Are there other principles that we should also consider?
No comment.

Question 6: We invite views on our interpretation of the different asset definitions / boundaries and interpretation of the legislation provided in this chapter. What implications does this have for the regulatory options presented in the next chapter?
We broadly agree with Ofgem's assessment that, given the available types of licence under the Electricity Act, an interconnector licence seems the most appropriate licence for connection to non-GB generation, assuming that appropriate arrangements will be put in place to address that the transmission infrastructure will principally be developed to enable the export of a generator's output rather than for energy trading between markets. Ofgem should continue in parallel to explore whether these arrangements remain appropriate for the longer term, given the potential for the development of multiple purpose assets.

We would refer Ofgem to our previous responses on the ITPR project – including the Poyry report we provided to you in December 2012 – where we encouraged the move toward a more flexible approach to regulation; a point noted in the recent update on the ITPR project (from November 2013). Whilst we recognise the need to focus on the more immediate term issues such as non-GB generation, there is also a need to continue in parallel to consider how frameworks may need to evolve in the future, in particular in terms of system planning and delivery. The consultation discussed that over time, there may be a move toward different uses of the transmission assets (e.g. as more traditional interconnectors and/or as alternatives to system reinforcement). It may also be feasible – subject to technical requirements and access rules – that other offshore generators may want the opportunity to access existing interconnectors as an alternative to connecting directly to the onshore system. These may not be as near term issues, but should continue to be examined to ensure a stable and fit for purpose regime is in place over the longer term.

Question 7: We are interested in views from stakeholders on what impact alternative interpretations would have on potential projects? Please provide detail where possible.
No comment.

Question 8: We seek input from stakeholders on how generation licensing for non-GB generation could ensure appropriate safeguards for the export of renewables to the GB transmission system?
It is essential that non-GB generators are required to comply with same technical and security requirements as GB generators, to ensure a level playing field. This is important given that UK consumers may be subsidising such projects and they may lead to the displacement of other GB renewable generation.

We note that paragraph 4.7 of the consultation outlines that non-GB generators could trigger onshore reinforcements to the transmission system when they connect. As we understand the current arrangements, non-GB generators would not be liable for the costs of these reinforcements if they were licensed as an interconnector, given interconnectors do not pay TNUoS charges. Ofgem would need to be satisfied that GB generators (and load users) are not being discriminated against in this way.

Question 9: Are non-GB connections deliverable by 2020 via direct and exclusive connections?
As at December 2013, National Grid's TEC Register identified 11GW of non-GB generation from Ireland and a further from Alderney (tidal generation). Whilst there would be a level of attrition on these projects, and dates may also move as projects develop, it would seem inconceivable that no generation is delivered from non-GB sources. Clearly though, a key driver on deliverability will be the availability and structure of any subsidy support for such projects, and clarity on this will be a large factor in determining volumes and timing of renewables imports.

Question 10: What are the technology challenges of delivering direct and exclusive connections? What are the technology challenges of delivering multi-purpose assets?
Given the known renewable energy import projects are typically from generation technologies currently in operation or in development in the GB market (i.e. onshore and offshore wind), there should not be any fundamental technology challenges, although the VSC HVDC link likely to be employed may have the highest capacity rating at the time of development. In any case, we do not consider that technology aspects (even including 3 terminal VSC HVDC provision) should be a factor in determining the appropriate regulatory arrangements for the transmission connections.

Question 11: What are the potential benefits and challenges of enabling flexibility for a non-GB connection to also be used for a) market-to-market trading; and b) GB network reinforcement? What are the implications for investment certainty?
No comment.

Question 12: Is the interconnector licence with exemptions(s), as currently available, a feasible option for non-GB connections? If not, what are the key challenges of applying this route to non-GB connections? How could these challenges be addressed?
From the information available, this would appear a feasible option, assuming that appropriate arrangements will be put in place to address that the transmission infrastructure will principally be developed to enable the export of a generator's output rather than for energy trading between markets. We would welcome the details on how this will be addressed. We would also welcome the addition of transparent regulatory reporting mechanisms, particularly in terms of asset performance.

Question 13: Under this route would an exemption (under Article 17 of the Electricity Regulation) be required? If so, which provisions would you seek exemption from? How would your project be affected if exemptions could not be applied for?
No comment.

Question 14: Given that an application of the regulated Cap and Floor or fixed revenue model would take time to implement for non-GB connections, should these still be explored further?
We consider it is essential that all viable regulatory options are explored. However, this should not be at expense of reaching a timely decision; many parties (including TCE) are seeking certainty on the regulatory arrangements given that this will drive commercial decisions.

Question 15: If so, what are the main challenges and benefits of applying a regulated Cap and Floor or fixed revenue model to non-GB connections? How could these be addressed?
No comment.

Question 16: What is the appropriate mechanism for ensuring access to capacity for non-GB generation?
No comment.

Question 17: What are the implications of following the current connections process for non-GB connections? Should non-GB generators be treated differently to GB based generation? Should non-GB generators be treated differently to other interconnector users? If so, please provide your reasoning.
As far as possible, non-GB generators should be treated as consistently as possible to GB generators that are seeking to connect to the GB transmission system. If not, this creates an uneven playing field. Given that the UK Government is exploring the extent to which subsidy support could be extended to non-GB generation, differences in the way in which grid connections are managed could cause market distortions (unless the subsidy takes into account differences in regulatory treatment). We would encourage Ofgem and DECC (and respective Irish counterparts) to resolve this through work under the existing workstreams under the UK-Irish MOU.

Question 18: How would the role of the interconnector operator need to adapt if a direct-connect asset was used for additional purposes – such as a) market-to-market interconnection; or b) GB network reinforcement? Should the GB or non-GB NETSO have a role in operating these assets? If yes, what role?
No comment on the specific question. However, we would like to note that any change of use of the transmission infrastructure which is subject to a licence from TCE may trigger a change to the terms of the licence, and potentially the commercial arrangements.

Question 19: Can the existing charging/cost allocation approaches used onshore or for interconnection be applied to non-GB connections? If not why not and what alternatives are available?
We understand that interconnectors are not subject to TNUoS charges. Ofgem (and National Grid) should consider whether a blanket transposition of these arrangements is equitable given that the transmission infrastructure would exist to import generation from a non-GB source, and not operate as a traditional interconnector. However, it appears from paragraph 6.17 of the consultation that consumers would likely bear the full cost of the link through the CfD subsidy support. It is unclear whether Ofgem means in terms of funding the capex or including opex, but in any case this could be an inadequate outcome, and appears inconsistent with

the treatment of other transmission infrastructure. Given the fundamental nature of this issue, it will be important to clarify at the earliest opportunity.

Question 20: How can capacity allocation for direct and exclusive connections ensure consistency with European legislation and European Network Codes? How could this be achieved with the introduction of market-to-market connections?
No comment.

Question 21: Are there other challenges we should be considering when looking at non-GB connections?
Ofgem's focus in this consultation is on potential renewables imports from Ireland. However, we understand that any principles for subsidy support established by DECC would likely be applicable to generation from other sources (including non-EU projects). We would welcome Ofgem's view on how they would treat non-EU projects connecting to the GB transmission system.

Closing remarks

We trust that you find our responses constructive in refining your policy position. We have been actively engaged in dialogue with Ofgem on the wider ITPR project, and have met with the team on a number of occasions over the past 12-18 months. We look forward to continuing this over the coming months on the specific issue of non-GB projects, and we are more than happy to expand on the points made in this response in a meeting. If you have any questions on our response, please contact my colleague Richard Clay on 020 7851 5336 or richard.clay@thecrownestate.co.uk in the first instance.

Yours sincerely,

Martin Simpson
Head of New Energy & Technology