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Dear Stuart,

Cap and floor regime: Initial project assessment for the NSN interconnector to Norway. Response from The Crown Estate

Thank you for the opportunity to respond to the consultation on the initial project assessment for the NSN interconnector, published on 17 December 2015. The Crown Estate (TCE) welcomes this consultation given the anticipated increase in interconnector projects coming forward over the next decade or so, and the approach to regulating this infrastructure that has emerged recently. We hope our response is helpful in refining your policy in this area.

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 almost £10 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 2013/14 this amounted to over £267 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.

Response

As you may be aware, we responded positively to Ofgem's consultation last year on the proposal to roll out a cap and floor regulatory regime for near-term interconnector projects. As set out in that response, we consider any move to unlock future investment for activity on the UK seabed as a positive development, and the regulatory protections and certainty that a cap and floor regime would appear to provide interconnector

projects is welcomed in this vein. We also set out in that response that we had an interest in the development of future interconnectors given our role regarding the seabed, firstly in terms of spatial planning and secondly owing to TCE's sovereign rights and resulting grant of seabed rights to undertake works and install and operate interconnectors on the UK territorial seabed. We are currently engaged with the UK developer of the NSN project regarding an Option Agreement and Licence and for sections of the project transiting territorial seabed and this includes TCE's commercial terms. We have briefed the Ofgem team on this at regular intervals during the past 12 months and understand that TCE's licence fee will be treated as pass through item when project revenues are not within the cap or floor.

We have reviewed the current consultation and wish only to make limited comments given we do not have a particular view on the majority issues covered. These points are:

- (i) Section 9.9 refers to setting the cap and floor on the basis of future costs being split 50:50 between NGIH and Statnett, albeit that some costs would be treated on a case-by-case basis. We would ask Ofgem to be specific in future documents around which costs would be treated on such a case-by-case basis.
- (ii) We understand from earlier consultations that it is Ofgem's intent to assess outturn revenues against the cap and floor every five years. In refining the detailed design of the regime, we would ask Ofgem to consider inserting a provision within licences for interconnector developers to report out-turn revenue (and its component parts) on an annual basis, and for this to be published. This would be consistent with the approach for other network licensees¹ and improve the overall transparency of the performance of the regime for wider stakeholders outside of the five-year assessment period. Moreover, we expect that annual reporting will, irrespective of any licence conditions, be undertaken by the interconnector owner for their own purposes and therefore would not expect this licence requirement to represent a material concern for operators.
- (iii) We understood from the May 2014 document on the proposed roll out of the cap and floor regime² that any payments under the Capacity Market would be treated the same as other interconnector revenues in terms of assessing performance against the cap and floor. The current consultation on NSN indicates that these costs have been assessed in the modelling by Poyry, but notes that there is still some uncertainty around the policy framework. We would welcome confirmation of how any such payments, if they accrued to NSN, would be treated.
- (iv) Going forward, we would ask Ofgem to consider making available a simple calculator (in MS Excel) which enabled stakeholders to calculate cap and floor parameters and performance of interconnectors (in accordance with the algebra in the licence conditions) based on series of assumptions which could be varied.

¹ For example the publication of the OFTO Revenue Report in December 2014, which could be replicated for interconnectors regulated under a cap and floor model.

² 'The regulation of future interconnection: Proposal to roll out a cap and floor regime to near-term projects', Ofgem, May 2014

Closing remarks

We trust that you find our comments constructive, which as always we are happy to discuss further. Please feel free to contact me using the details above.

Yours sincerely,



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