

All Transmission System
Operators and all interested
parties and stakeholders

Direct Dial: 020 7901 9662
Email: mark.copley@ofgem.gov.uk

Date: 12 May 2015

Dear Colleague,

Consultation on Ofgem's minded to decision to assign TSO obligations under the Capacity Allocation and Congestion Management Regulation (CACM) to Offshore Transmission Owners (OFTOs) within GB.

Background to our minded to decision for OFTOs

This letter sets out our¹ minded to decision on the assignment of Transmission System Operators (TSOs) obligations for the OFTOs under CACM². It applies the same approach and principles set out in our 25 March 2015 letter³ (the Initial Consultation).

Our original intention was to consult on all TSOs' obligations under CACM at the same time and this was reflected in our minded-to decision for all TSOs in the Initial Consultation published on 25 March 2015. We considered that our original minded to decision did not reflect a proportionate assignment of obligations with respect to the activities that OFTOs currently undertake. We are conscious of the regulatory burden that these new obligations may impose on OFTOs. Therefore, on 26 March 2015, we decided to remove the OFTOs from the Initial Consultation and published a revised letter so that we could take more time to consider the OFTO issues further.

Rationale for our minded to decision for OFTOs

Britain is different to most countries in Europe as it has a large number of TSOs (and that number is likely to increase in the future). GB TSOs do not all perform the same roles. We have a system operator that also owns an onshore network; two other TSOs own onshore networks; several TSOs operate cables that link GB to other countries; and other TSOs operate transmission lines that link offshore wind farms to the GB onshore grid. Although GB TSOs perform different roles they are all TSOs for the purposes of European law and as such they will all need to comply with all or parts of CACM and potentially other European Network Codes.

CACM contains 84 Articles. It addresses TSOs and, by default, requires that they all comply with all those obligations. However, where there is more than one TSO in a Member State the responsibility for complying with an obligation can be assigned to one or more TSOs. Ofgem is seeking a proportionate outcome where each GB TSO is only involved in the obligations they need to be involved in.

¹ The terms "the Authority", "Ofgem", "our" and "we" are used interchangeable in this document. Ofgem is the Office of the Gas and Electricity Markets Authority (the Authority).

² The version of the CACM Regulation referred to throughout this consultation can be found [here](#)

³ The Initial Consultation can be found [here](#).

Our [new] minded to decision for OFTOs

To reach our minded to decision for the OFTOs we have applied the same approach and principles set out in our Initial Consultation. We have reviewed the CACM Regulation and identified the Articles that address TSOs⁴ and assessed the information the OFTOs provided to us to determine if there is a benefit to removing an obligation. We have treated all OFTOs the same as they all undertake the same activities.

After analysing CACM our minded to decision is that the OFTOs should comply with 14 Articles or sub-paragraphs of an Article. We consider the OFTOs may have obligations to provide data. These obligations are likely to be akin to the type of data OFTOs currently provide to the System Operator. OFTOs will also need to comply with a number of general processes and procedures. Overall, we think these obligations are unlikely to impose a significant regulatory burden on OFTOs. Annex 1 explains why we think each Article or sub-paragraph of an Article should apply to OFTOs.

Our reasoning for the Articles that we think should not apply to OFTOs is as follows:

- The OFTOs are not currently involved in market operations and we do not think there is a benefit from them taking on this new role under CACM.
- The OFTOs have notified⁵ us that they do not wish to be involved in the development of terms, conditions and methodologies although they recognise they'll need to comply with them. We have not identified a benefit from requiring their involvement.
- In places CACM gives all TSOs the option to participate in certain activities if they wish to. The OFTOs have notified us that they do not want to use the discretion that CACM affords them. Again, we have not identified a benefit from requiring their involvement.

Annex 1 also includes a table that summarises the types of Articles that make up CACM and a brief description of each category. We have included this to assist stakeholders.

We think this minded to decision provides a proportionate allocation of CACM obligations to OFTOs which balances the need to ensure that data is provided in the future whilst minimising the regulatory burden on OFTOs. However, we would welcome views on whether this is the case.

Consultation on our minded to decision for OFTOs

In our Initial Consultation we asked four questions. We ask the same questions again below for OFTOs so that stakeholders may now answer them for all GB TSOs:

1. Do you agree that we have correctly identified the Articles of the CACM Regulation which place an obligation on OFTOs?
2. Do you agree with Ofgem's application of Article 1(3) in assigning obligations to GB OFTOs?
3. Do you agree with Ofgem's minded to decision on the assignment of obligations under the CACM Regulation to OFTOs as set out in Annex 1?

⁴ There are CACM Articles that contain sub-paragraph(s) that require TSOs to perform different obligations. Where this is the case, we've broken these Articles down further to indicate the elements of each article which we think should apply to OFTOs. Annex 1 is structured in this way.

⁵ The OFTOs wrote to us through the Energy Networks Association.

4. How do you think Ofgem should assess future changes⁶ to the assignment of OFTO obligations under the CACM Regulation?

We would also welcome feedback on any other elements of this minded to decision.

Respondents are asked to provide evidence to support any views that differ to our minded to decision. We would like to reiterate that TSOs who consider that there would be a cost or efficiency saving associated with removing an obligation from them should provide evidence to support such a position.

Next steps

This consultation relating to OFTOs and the Initial Consultation will both close on **Tuesday 9 June 2015**. We are open to hosting a workshop to discuss this document and the Initial Consultation if there is demand for it. We invite views from stakeholders on whether such a workshop is desirable and if so the best place to have it. We also intend to have a short discussion about the possibility of a workshop at the upcoming JESG meeting on 21 May 2015. A final decision will then be published on the assignment of obligations under CACM to all GB TSOs, including OFTOs. The final step, formalising the final decision, will take place after the CACM has entered into force.

We welcome the views of stakeholders on the issues discussed in this letter. Responses to the consultation should be received by close of business Tuesday 9 June 2015 and should be sent to michelle.murdoch@ofgem.gov.uk.

If a workshop to discuss this consultation would be useful, we would request that stakeholders let us know by **25 May 2015**. This will allow a workshop to be arranged before the consultation closes on 9 June 2015. Any correspondence in respect of the workshop should be sent to michelle.murdoch@ofgem.gov.uk.

Unless marked confidential, all responses will be published on our library and on our website, www.ofgem.gov.uk. You may request that your response be kept confidential. We will respect this request, unless the law requires us to disclose anything, for example under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. If you'd like your response to remain confidential, clearly mark the document to that effect and include the reasons for confidentiality. Put any confidential material in the appendices to your response.

Yours sincerely,

Mark Copley
Associate Partner Wholesale Markets

⁶ These future changes are set out in our Initial Consultation published on 25 March 2015.