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09<sup>th</sup> June 2015

Our Reference BT1150609

Dear Mark,

### **Capacity and Congestion Management Regulation**

I am responding on behalf of Blue Transmission Investments to your letter of 12 May 2015 setting out Ofgem's minded to decision to assign TSO obligations under the above Regulation to Offshore Transmission Owners (OFTOs) within GB.

As you will know from recent dialogue with representatives of Blue Transmission regarding the application of the CACM Regulation to OFTOs, we are grateful for Ofgem's recognition that OFTOs do not play an active role in the operation of the transmission systems nor in market operations. However, we recognise Ofgem's need to ensure that all aspects of TSO participation in the Articles of the Regulation are covered.

As discussed, the OFTO role in the fourteen Articles you have identified in your "minded to" position letter of 12 May is likely to be limited largely to provision of data regarding the availability of its transmission network to enable power from the connected Generators to flow into the onshore transmission network. The capacity of the OFTO transmission networks is set, and the only changes to that capacity arise from planned or unplanned outages or other capacity restrictions on the OFTO assets. Such outages and/or restrictions are notifiable in any event under the System Operator Transmission Owner Code (STC) enforced by the Offshore Transmission Licence and Transmission Owner Connection Agreement (TOCA).

We would therefore hope and expect that, as the precise designs and mechanisms evolve for complying with the various Articles, the requirement for data provision from the OFTOs would recognise the existing arrangements as far as possible. It is in the interests of efficient regulation to avoid placing additional or duplicated requirements on the OFTOs and thereby avoid passing through additional costs to the end consumer. Whilst it is true that Blue Transmission, in common with other OFTOs, does not wish to be actively involved in the design of the methodologies, due to the limited impact these have on the OFTOs, we would request that any proposed additional requirements, which arise during the development stages are made clear to us, so that we have the opportunity to question whether there are more cost-effective means to achieve the required result.

In response to the particular questions set out in your letter of 12 May, we would comment as follows:

1. *Do you agree that we have correctly identified the Articles of the CACM Regulation which place an obligation of OFTOs?*

We believe that in general the 14 Articles identified are those in which the OFTOs have a relevant function – albeit in many cases a minor role in the provision of data. Articles 75(3) and 78 relate to the ability for TSOs to recover the costs of compliance and we offer some comments below relating to the costs that may be incurred. In response to question 3 below, we offer some additional comments on particular Articles.

2. *Do you agree with Ofgem's application of Article 1(3) in assigning obligations to GB OFTOs?*

We believe that Ofgem has applied Article 1(3) in a sensible manner to assign responsibility to other transmission system operators for complying with obligations where OFTOs do not have a relevant function.

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?*

As stated above, we believe that the 14 Articles set out in Annex 1 to your letter are generally those in which the OFTOs have a relevant function. However, we offer the following observations:

- 1) Article 8 (2) (e) requires provision of data in accordance with Articles 46 and 58. Both Articles have onerous timescales for notification of capacity of the day ahead and intra-day markets respectively. We would hope, given the capacity of the OFTO transmission network normally is set, that it could be accepted that OFTOs only have to notify the System Operator of changes in the nominal capacity resulting from unplanned outages or restrictions in line with current requirements under the STC.
- 2) Article 14 – see comment for Article 8 above
- 3) Article 19 (6) requires the exchange of information relating to dynamic stability analysis. We would expect that the information provided by OFTOs in the TOCA Appendices would be sufficient and that no additional information or analysis would be required by OFTOs.
- 4) Article 29 (1) includes a list of information to be exchanged: we consider the only items relevant to OFTOs are “allocation constraints and previously allocated cross-zonal capacity”.
- 5) Article 58 – see comment for Article 8 above.
- 6) Article 75 requires that all costs incurred by TSOs in complying with the Regulation will be borne by the market participants. We would like assurance from Ofgem that any additional costs incurred by OFTOs in complying with the Regulation will be reimbursable.

- 7) Article 81 provides the opportunity for delegation of functions but requires the TSO to fulfil certain obligations in doing so. We would expect that the mechanism agreed by the TSOs and Ofgem would enshrine the mechanism without the need for OFTOs to formally delegate functions. If not, there could be significant costs associated with drawing up legal agreements that would have to be approved by Lenders. This would clearly not be in the interests of efficient regulation and additional costs would have to be passed through to end consumers.
- 8) Article 82 (5) and (6) require provision of data. As with other relevant Articles, we would expect that where this information had already been provided, the System Operator would not need a separate return.
4. *How do you think Ofgem should assess future changes to the assignment of OFTO obligations under the CACM Regulation?*

It would be helpful if Ofgem could continue to recognise the fact that OFTOs do not have an active role in system and market operations and try to help minimise the impact on OFTOs of compliance with any new or updated functions.

As far as costs of compliance are concerned, I should like to re-iterate that any changes to key **Project Documents** that are listed in our agreements with Lenders will require Lenders' approval. This can be a lengthy process that requires Blue Transmission providing details of the changes to Lenders supported by any necessary evidence or opinion on the business impact. Lenders usually require expert opinion from their legal and technical advisors before making a decision and may pose a number of questions to be answered before granting approval. The list of **Project Documents** includes the OFTO Licence, and the STC, and so any change to these documents that could have a material impact on the business would result in this process being invoked. It is also worth noting that each OFTO is a separate legal entity with different Lenders and hence individual approval will be necessary for each of the four OFTOs owned by Blue Transmission. It is also worthy of note that Lenders approval cannot be guaranteed, and although unlikely, if approval is refused this would put us in breach of our Lending Agreements.

It is difficult to assess the financial impact on Blue Transmission in terms of its involvement in the development of processes and modelling and in ongoing compliance. It is hoped that the OFTO involvement in the design of models and processes can be minimised, and Blue Transmission is will propose working with other OFTOs to share the workload and minimise development and review costs. In terms of ongoing compliance costs: the more that the processes can use existing STC provisions the less the impact and cost.

I trust the above sets out the position on behalf of Blue Transmission but would be happy to clarify any points.

Yours sincerely



Gary Thornton  
Chief Operating Officer

cc. Michelle Murdoch