



Making a positive difference
for energy consumers

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Dear Gary,

Notice of consultation to modify conditions of the transmission licence proposed to be granted to the successful bidder for the Walney Extension OFTO project

We have today commenced a consultation under section 8A of the Electricity Act 1989 on the proposed modifications to certain standard conditions of the transmission licence that may be granted to Diamond Transmission Partners Walney Extension Limited (the **Potential Licensee**). The transmission licence will be granted to the Potential Licensee if Diamond Transmission Partners (a consortium of Mitsubishi Corporation; HICL Infrastructure Plc; and Chubu Electric Power Co., Inc.) (the **Preferred Bidder**) becomes the successful bidder for the Walney Extension OFTO project (the **Project**).

The attached consultation notice is published on our website and sets out details of the proposed modifications, the closing date of the consultation and how to respond. We have posted hard copies of this letter and the notice to you.

We are proposing to add a number of amended standard conditions to the transmission licence that may be granted to the Potential Licensee should the Preferred Bidder become the successful bidder for the Project. These proposed conditions are annexed to the section 8A notice.

In accordance with our statutory requirements and best practice we have brought the proposed modifications to the attention of persons likely to be affected and also provided copies of the notice to:

- Secretary of State for Business, Energy and Industrial Strategy;
- Citizens Advice;
- Citizens Advice Scotland;
- The Health and Safety Executive (HSE);
- The Scottish Executive;
- The Welsh Assembly; and
- The Project Developer (Walney Extension Wind Farm Limited).

Project specific licence modifications

Amended Standard Condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items)

We have added a pass through mechanism (the **contingent event revenue adjustment** or **CEA**) to amended standard condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items) (**E12-J3**).

Summary of CEA mechanism

The CEA mechanism is a bespoke pass through item for this licence. It allows the Authority to adjust the Potential Licensee's revenue entitlement should costs and/or expenses arise in the event that the licensee has been required by the Secretary of State to increase the size of its security in respect of its decommissioning programme to account for the payment of VAT.

The offshore regime incentivises licensees to manage costs efficiently over a 20-year period but also recognises that licensees may not be best placed to manage risks where they are not sufficiently within their control. There are therefore a number of pre-defined revenue adjustment mechanisms in the licence that seek to optimally reallocate risk for a small number of known, but unpredictable, factors.

The Authority considers that the most appropriate way of providing the Potential Licensee with a method to recoup costs and/or expenses (as the case may be) resulting from the contingent event in connection with this Project, is by including a CEA term in the licence.

Rationale for Contingent Event Revenue Adjustment Term

We consider that a CEA is appropriate in these circumstances for the following reasons:

1. The Preferred Bidder was not aware (and could not reasonably be expected to have been aware) of the contingent event and/or the materiality of the contingent event prior to and for the purposes of submitting its Invitation to Tender (**ITT**) submission. At the ITT stage bidders were instructed to bid on the basis of the decommissioning guidance issued by the Department for Business, Energy and Industrial Strategy (**BEIS**) at that time and therefore did not factor in the implications of potential changes to the payment of VAT. At the time of ITT submission, it was not certain what permanent policy changes were to be made by BEIS as the decommissioning guidance was subject to consultation and revised guidance was not issued until after the date for ITT submissions.
2. There are uncertain costs and/or expenses which could not be forecast and which may be incurred by the Potential Licensee as a result of the contingent event. These costs could have a material impact on the Potential Licensee.
3. It has not been possible for the Preferred Bidder to resolve or fully mitigate the contingent event by way of commercial agreement with relevant parties or by any other mechanism which would provide an appropriate solution.

Tender revenue stream

Amended standard condition E12-J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) sets out the proposed tender revenue stream for the Project for the purposes of the section 8A consultation (the **s8A TRS**). The s8A TRS is based on the tender revenue stream bid by the Preferred Bidder at the ITT stage of the tender process, which has been updated as appropriate to reflect further information available to the Preferred Bidder since the date of the ITT submission, including the draft final transfer value for the Project. The s8A TRS assumes that 100% of the draft final transfer value will be paid to the Project Developer on asset transfer. Details of the transfer value which is reflected in the s8A TRS are set out in the draft cost assessment report for the Project, which is published on our website today (www.ofgem.gov.uk).

If you have any queries regarding the information contained within this letter you should contact Sean Payne on 020 7901 7243 or by email to offshorelicensing@ofgem.gov.uk

Yours sincerely,

Rebecca Barnett
Deputy Director, Commercial and Assurance