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Mr Richard Clay
Manager, Offshore Transmission
Ofgem
9 Millbank
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Dear Mr Clay

Offshore Electricity Transmission – Tender Process Consultation

Thank you for the opportunity to comment on your documents issued on 6 October 2008. This response is made by DONG Energy A/S. Our responses to the consultation questions are set out below, and we have added more general comments under each chapter heading where appropriate.

Previous responses from DONG Energy have focussed on issues that we see from the perspective a developer. When reviewing the draft ITT we noted the detailed requirements for the prospective OFTO's financial model. In the event that DONG Energy were to bid to be an OFTO, it would likely finance the development on balance sheet. Therefore there would be no "Bankable Model" for the purposes of project financing. We are not clear therefore how we could comply with this requirement. Further we question why such a model is in any event needed, surely Ofgem will be making its decision based upon the specific input data and (binding) revenue stream bid, it thus seems unnecessary for any prospective OFTO to submit its internal (or external in the case of project financing) cost model.

Yours sincerely

PP 

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Annex: List of Questions and Answers

Questions - Chapter 4

We welcome feedback on: - the extent of information that should be requested at the Pre-Qualification and Invitation to Tender stages; - the extent of information we propose should be available to bidders; - our proposed approach to selecting bidders; - our proposed approach to identifying the preferred bidder; - our proposed approach to dealing with bids for multiple offshore projects; - our draft template Pre-Qualification Document, particularly whether any further questions need to be considered in the Pre-Qualification Questionnaire; and - our draft template Invitation to Tender document We would also be interested to receive stakeholders' views on the practical application of this proposed approach.

The information requested and planned to made available appears reasonable for the purposes indicated. We would expect at the pre-qualification stage that Bidders would also want to know the current status of the Project's development and planned timing (section 4.12). In the detailed ITT documents we would expect there to mention of any derogations from industry standards (in section 3.2) and any specific requirements of the Developer in relation to the performance and/or compensation where such is allowed (section 3.3.2). Section 4.5.5 also needs to recognise the possibility that the technical standards may be varied by Derogation.

We are concerned that Ofgem envisages limiting prequalification to just four parties. As a Developer who will be meeting all or large part of the cost of the successful bidders tender over a 25 year period, it is concerning that potentially viable and low cost bidders may be ruled out at this stage, and there is no information available at prequalification as to the likely revenue requirement and/or rate of return being sought. We therefore consider that prequalification should be designed solely to rule out those parties who manifestly cannot meet the technical and financial requirements to be an OFTO. We do not consider that assessments based purely on technical and financial standing should be used to determine who is "most suitable" to proceed to the full ITT. If however Ofgem considers it essential for this stage to be used to limit the number of bidders, there should be a requirement on bidders to state their key financial requirements, such as target rates of returns (or a range of the same), so that these could be assessed and used as part of the prequalification process.

We note in section 4.63 that "senior lender facility agreements" need to be put in place before grant of the licence. This needs to be expressed in more general terms so that bidders intending to finance on balance sheet can meet the requirements.

It would be helpful if Ofgem would explain the expected timing of a Best and Final Offer stage (section 4.60) should one be needed for transitional projects that will be operating at Go Live, as it is not clear that there is any allowance in the timetable for such. Similarly it is not clear what period is expected for a Statutory Transfer scheme to be completed (4.66). More generally, in the event that the first tender process takes more than the year allowed between Go Active and Go Live, what arrangements would be put in place to enable transitional project to continue to generate after Go Live, or would they need to shut down until the tender process was concluded?

Questions - Chapter 5

We welcome feedback on: -our proposed approach to RAV assessments and agreeing to commence a tender; and - the scope of information we should make available to market ahead of tenders commencing.

In terms of the preconditions for the Transitional Regime, it is noted that Connection Agreements are now expressed to be with either NGET or a DNO (section 5.6a). DONG Energy's experience is that DNOs do not usually sign connection agreements until close to energisation as they require, amongst other things, detailed technical and operating data that is not available until quite late in the development. It is not clear therefore that such agreements would be signed for all transitional generators at the start of the tender.

We have considered the process proposed in the context of the time line for the transitional tenders, and question how this will now be possible with the proposed Go Active and Go Live dates of April 2009 and April 2010 respectively. We note that in advance of pre-qualification Bidders will be advised of the ex-ante RAV assessment, but it appears that as of mid-November 2008, Developers have not yet been given a definitive list of information required. As it will take time to collate such information, provide it Ofgem and then process it to determine a RAV, it is not clear how this can be made available "well in advance of Go Active" as stated in 5.13, unless the programme is moved back.

Questions - Chapter 6

We welcome feedback on: - how we would ensure that information provided by the offshore developer (such as seabed surveys) would be transferred to the successful OFTO; - whether we should establish parameters for variant bids, to ensure that the evaluation process remains transparent; - the proposal to introduce a new licence condition for NGET covering information provision and assistance in the enduring regime. We would also be interested to understand stakeholders' views on the practical application of the proposal to broadly apply the principles of the transitional regime tender process on an enduring basis.

DONG Energy has made known its views on the proposed approach to tendering under the enduring regime and does not wish to comment further at this stage.