

Richard Clay  
Senior Manager, Offshore Transmission  
Office of Gas and Electricity Markets  
9 Millbank  
London  
SW1P 3GE

Your ref 142/08  
Our ref LOG08/174  
Name Charles Ruffell  
Phone 01793 89 39 83  
Fax 01793 89 29 81  
E-Mail charles.ruffell@rwenpower.com

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## **Offshore Electricity Transmission - Competitive Tender Process October 2008**

Dear Richard,

We welcome the opportunity to respond to this Regulatory Policy Update. This response is provided on behalf of the RWE group of companies, including RWE npower, RWE Supply and Trading GmbH and npower renewables, a fully owned subsidiary of RWE Innogy.

The document reaffirms Ofgem's position on a number of the key policies that will form the overarching framework for the offshore regulatory regime. Ofgem has also set out details and is seeking comments about how the regime might operate in practice and we welcome this.

Given the proximity to the proposed Go-Active date it is vital that all parties understand the framework for running competitive tenders in the transitional regime, the stages in the process, the proposed selection and evaluation strategy as well as the key activities that will be required ahead of a tender round commencing. Any unresolved issues, such as those related to the Transmission Licence or the charging arrangements, need to be resolved expeditiously.

Before dealing with the specific questions raised in the consultation, we would like to make two observations about the regulatory regime.

### **Efficiency of Network Development**

We remain concerned that an approach based on awarding separate licences for each transmission connection will limit the opportunities to develop a coordinated offshore transmission network. Although the regime provides for the possibility of tendering for more than one project, this is likely to be for concurrent projects within the same tender round, rather than for developments that may take place in proximate areas over time.

RWE npower

Trigonos  
Windmill Hill Business  
Park  
Whitehill Way  
Swindon  
Wiltshire SN5 6PB

T +44(0)1793/89 39 83  
F +44(0)1793/89 29 81  
I www.rwenpower.com

Registered office:  
RWE Npower plc  
Windmill Hill Business  
Park  
Whitehill Way  
Swindon  
Wiltshire SN5 6PB

Registered in England  
and Wales no. 3892782

OFTOs are unlikely to design schemes that could accommodate future developments as they are unlikely to be remunerated fully. This lack of an incentive for coordination of offshore transmission could lead to a less efficient and more costly offshore network, particularly in the context connecting of Round 3 schemes.

### **Incentive Arrangements**

We support Ofgem's view that OFTOs should be subject to an operational performance incentive, in order to secure appropriate levels of availability for the offshore transmission assets. However, we are concerned that the level of exposure being proposed by Ofgem (10% of annual revenue) may not be enough to secure this objective. The cost of mounting a major offshore repair operation can run to millions of pounds; an OFTO will weigh this cost against the value of the performance incentive before deciding how to respond to a given plant failure scenario. If the performance incentive is not great enough, the OFTO could make a commercially rational decision to defer the required repairs (for example, to secure a lower cost vessel), leaving generation assets stranded for weeks or months.

Offshore generators will be exposed to lost export revenues in the event of offshore transmission outages, without recourse to the compensation enjoyed by onshore generators. Given the size of these generation projects and the value of the exported energy, offshore generators could stand to lose millions of pounds for each week that the offshore transmission capacity is not available. The possibility outlined above, that an OFTO could opt to do nothing in the event of a major plant failure, represents a major commercial risk to the offshore generator.

The proposed regime does not provide the offshore generator with any direct influence over the operational decisions of the OFTO. There is no bilateral agreement between the parties; the counter-party to the generator's Connection Agreement is the GBSO rather than the OFTO. Given this situation, it is vital that the regulatory regime provides an incentive structure for OFTOs that will result in economically efficient outcomes for the offshore investment as a whole (i.e. taking account of investments in generation assets as well as transmission assets). Failure to achieve this aim will affect the investment decisions of prospective offshore generators. Confidential Appendix A provides our more detailed thoughts in this area.

On a separate but related subject, we think that there may be merit in Ofgem developing further its initial thinking for incentives on the onshore TO to make late delivery payments to the OFTO where the onshore TO does not complete their assets in time for the OFTO assets to be commissioned at the date originally proposed.

### **Chapter 4: Tender Process in the Transitional Regime**

The detailed explanation of the tender process provided by Ofgem has confirmed and clarified the will be required of parties in order to participate in the competitive tender and to deliver a compliant bid. The information requested at the Pre-Qualification and Invitation to Tender stages is comprehensive, but does not seem disproportionate given the value of transmission assets under consideration. We agree that information availability will be critical and that the list set out by Ofgem is a minimum. In terms of the tender process itself, it is difficult to comment on the proposed timeline. However, one month for the preferred bidder to satisfy Ofgem's requirements at the end of the process does appear to be quite tight. Further, if the same stages are applied in the enduring regime, it seems intuitive that it would need to take longer to reflect the development and assessment of detailed transmission infrastructure schemes.

## **Chapter 5: Pre-Tender Requirements**

Ofgem's position on the ex-ante RAV assessment has been consistent for some time. For the transitional tenders ex-ante RAV is a clearly critical piece of information for the OFTO. For the transitional projects that will take place in the second transitional tender, currently scheduled for around April 2010, we would welcome Ofgem's current view on when they are likely to begin the assessment process. Again, Ofgem's list of pre-conditions that developers need to meet before triggering a tender has been set out on a number of occasions. Although we agree that the responsibility for demonstrating that have been met rests with the developer, we hope that Ofgem will take a pragmatic view when considering compliance.

## **Chapter 6: Tender Process in the Enduring Regime**

There may be timing benefits delivered as a result of the developer securing consents, leases and possibly site investigation works in advance of the OFTO appointment. However, we have concerns relating to the risk that variant bids will result in such development work becoming stranded. Our two main concerns in this area relate to (i) the significant impact that this would have on project program whilst new development works were undertaken and (ii) how the costs of such stranded development works would be recovered by the developer. We would like clarity on point (ii) and, with regard to point (i), suggest that the developer has the right to veto the deployment of variant bids that require alternative consents, leases or site investigations that are likely to impact on the developers program.

We welcome the fact that Ofgem is minded to accept early linkage between the developer and a given Round 3 zone, i.e. rather than insisting upon final leases being in placed with the Crown Estate. This reflects more closely the timing of the process and may deliver more timely connections to the grid, by enabling certain activities to progress in parallel.

It would be helpful if Ofgem, in conjunction with the Crown Estate, developed a 'straw man' to illustrate their anticipated steps and associated timings in delivering a connection for a project built under the Enduring Regime. The 'straw man' would also include the steps associated with becoming preferred bidder for a Round 3 zone, subsequent development of proposals for individual sites within the zone and associated interaction with (and potential iteration of) the required grid connection. Industry consultation on such a straw man would provide a rigorous test of the proposal and provide increased visibility to all parties.

We hope these views are helpful and would be happy to discuss them further.

Yours sincerely,

By email so unsigned

Charles Ruffell  
Economic Regulation