

Offshore Electricity Transmission: Proposed measure to address generator build commissioning concerns

Stakeholder Briefing Session, BIS Conference Centre, London

10 July 2012

Agenda

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Annex: Draft text of clause

1. Introduction and session objectives

- **Introduction**

- Aware of concerns regarding the commissioning of offshore transmission assets under the enduring generator build option, and recognise the strong preference of generators to be able to convey electricity on the transmission assets until transfer to OFTO
- DECC and Ofgem are working together to address these concerns, with a proposed offshore transmission measure in the draft Energy Bill

- **Session objectives**

- Explain policy intent of the proposed measure and its key elements
- Set out at a high level how we expect the measure will work
- Seek initial views on any improvements/changes needed to ensure the measure can work in practice
- Set out process for refining the clause and indicative timeline

2. Background to the issue

- Undertaking transmission for the purpose of supply to premises is a prohibited activity, requiring either a licence or an exemption.
- Government has amended key definitions in the Electricity Act to extend the offshore transmission regulatory regime to all projects conveying electricity from GB offshore waters at or above 132kV, including projects in the REZ.
- The legal provisions that extend the prohibition to the offshore regime have been partially commenced for specific purposes connected with transitional projects. Any electric line conveying electricity generated offshore operating up to and including 132 kV in England and Wales (up to but not including 132kv in Scotland) in territorial waters, is currently defined as distribution and exempt from the distribution licence requirement under a Class Exemptions Order, until transfer of assets to an OFTO.

2. Background to the issue (cont'd)

- Following full commencement of the offshore transmission regime, a generator who transmits electricity in offshore waters for the purpose of supply to premises, at 132kV or above, prior to asset transfer to an OFTO would be carrying out a prohibited activity
- Under the generator build option, generators construct the offshore transmission assets used to convey electricity to the NETS. However, once construction of the actual assets has been finalised, there are a number of activities that need to be undertaken before the assets can be transferred to an OFTO.
- We understand that some conveyance of electricity may be necessary in order to commission the transmission assets, which in turn facilitates the acceptance of the assets by an OFTO.
- DECC and Ofgem have worked together to consider different options to address this issue. Our view is that the proposed measure, involving a change to primary legislation, is the preferred option.

3. Proposed measure: Policy intent of clause

- Aim of clause:
 - enable developers, under the enduring generator build option, to commission their transmission assets and transfer them to the OFTO
 - ensure that generators apply to qualify their transmission assets under the tender regulations and transfer them to the OFTO in a timely manner
- What does the clause do?

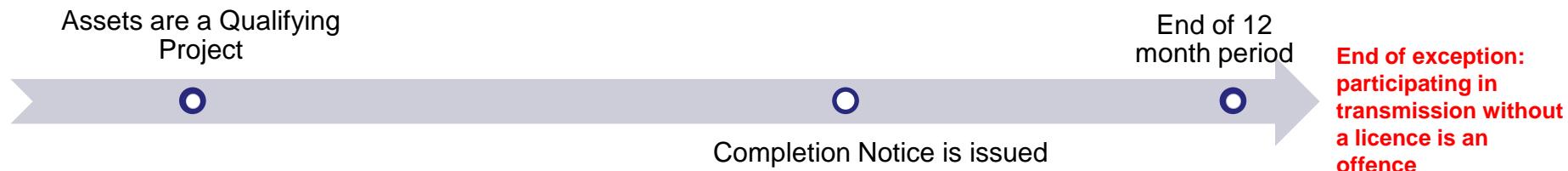
Section 4(1)(b) of the Electricity Act 1989 prohibits the transmission of electricity to any premises without a licence. Proposed measure (clause 105) amends section 4 in respect of specific transmission activities to exclude offshore transmission during a commissioning period in certain circumstances

3. Proposed measure: Key aspects of the clause

Key aspects of the clause

- For offshore transmission assets constructed under the **Generator build option**, provided they have been determined as a Qualifying Project (under the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations)
- Use a **Completion Notice** to signal that assets can be made available for use
- Additional **12 month period** from Completion Notice to benefit from exception

Exception period: from QP determination to CN + 12 months



3. Proposed measure: The Completion Notice

- **What is it?**
 - Notification from the System Operator to Ofgem that all transmission assets within a qualifying project have been energised and are electrically ready to carry out an activity to which Section 4(1)(b) applies (transmission).
 - The Completion Notice indicates that the System Operator has accepted the transmission assets as suitable for operational service, akin to the existing Stage 2 Acceptance Certificate process for TO assets under the STC.
 - The intent was to find a clearly defined point in the commissioning process for the transmission system with reference to established industry processes.
- **Qualifying Project**
 - Qualifying project requirements within the Tender Regulations for Generator build will determine what transmission assets should be captured within the scope of a tender exercise.
 - One Completion Notice will be issued per Qualifying Project (as illustrated in later slide)

3. Proposed measure: The Completion Notice (cont'd)

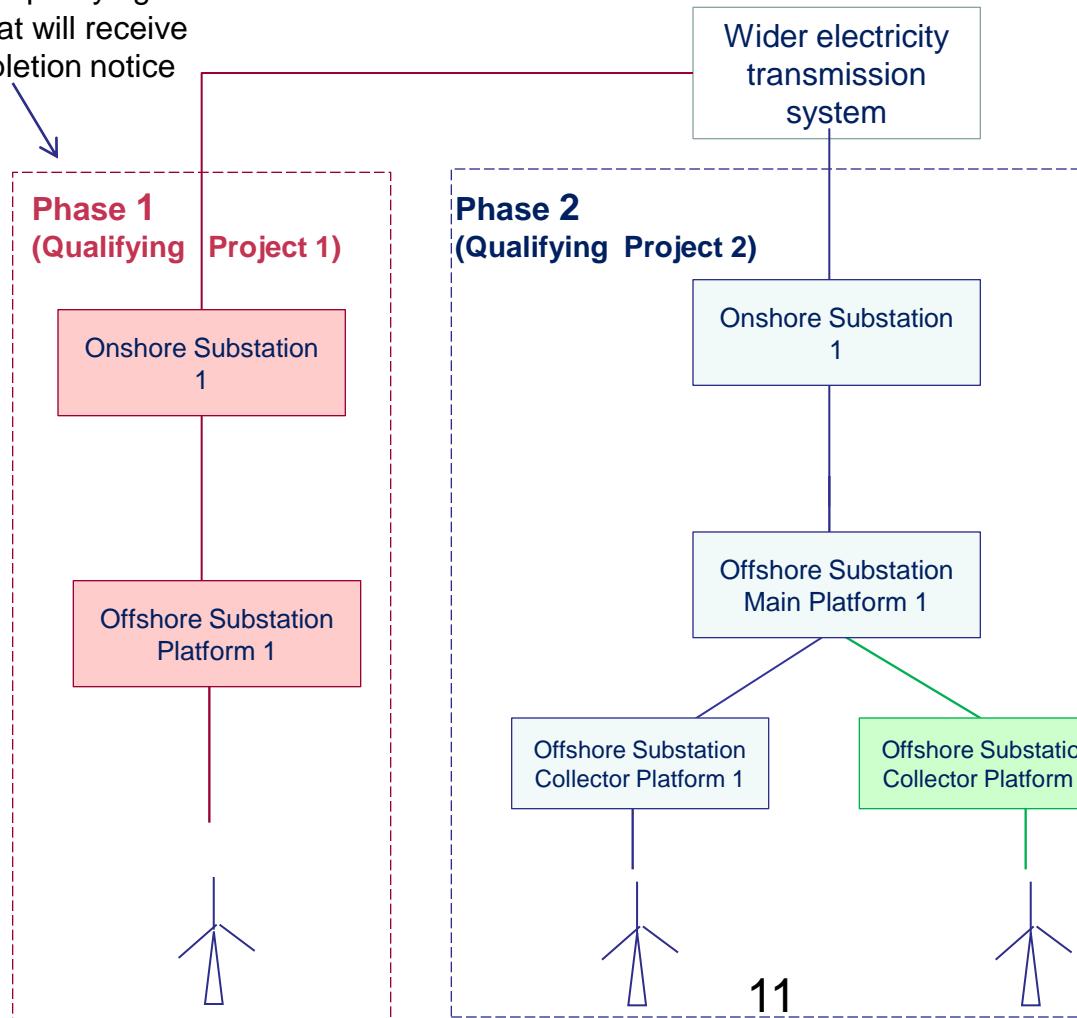
- **When is it issued?**
 - We currently anticipate that the System Operator would accept that the transmission assets are suitable for operational service at around the time of first energisation, i.e. broadly around the point of ION issue.
 - The detail and processes around the Completion Notice that determine timing of issue are part of ongoing work (see slide on implementation).
- **What does it mean?**
 - For Generator build projects triggers the 12 month period during which there continues to be an exception for participation in transmission over the system (Section 4(1)(b) activity without a licence).

3. Proposed measure: Who will benefit from the exception?

- The exception should apply to **generator build projects** only, i.e. transmission systems built by generators for the purpose of connecting their generating stations. The clause is not intended to apply to OFTO build projects, nor does it apply once an OFTO owns the assets.
- In order for the exception to apply the project must have qualified and be subject to a competitive tender process, i.e. developers must ensure that they're subject to a tender exercise before they transmit.
- We want to ensure it reflects all likely delivery structures responsible for delivery of a transmission system under the generator build approach, including use of sub-contractors and separate entities, in order to provide certainty to all parties.
- **We're still working on the drafting of the clause to ensure it reflects our policy intent and would invite your views on how the current drafting would work with your projects.**

3. Proposed measure: To what does the exception apply?

Separate qualifying project that will receive one completion notice



- One qualifying project (based on evidence of commitments such as financial, contracts, etc) completed in **two** stages
- At the end of the second stage a completion notice will be issued
- Completion notice triggers 12 month period within which to reach financial close and licence grant

Key:

Phase 1/Qualifying Project 1

= Single stage

Phase 2/Qualifying Project 2

= Stage 1
 = Stage 2

3. Proposed measure: What we expect 12 months to cover

- We would expect the 12 month period to include:
 - Finalisation of technical due diligence and resolution of unforeseen technical issues
 - Finalisation of commercial arrangements
 - Obtaining credit approvals
 - Section 8A licence consultation
 - Standstill period
 - Licence grant and asset transfer
- Assumptions underpinning this 12 month period include:
 - Preferred Bidder would be appointed at or around the point at which the Completion Notice is issued.
 - An efficiently developed and constructed, fit-for-purpose transmission system.
 - **That generators and OFTOs will develop commercial arrangements for enduring projects that factor in this provision and the need to transfer assets in a timely manner**
- The 12 month period aims to give clarity and certainty to developers, OFTOs and Ofgem around transfer and tender timetables by ensuring developers are aware of the activities that should occur during this period and can plan construction timetables accordingly.

4. Implementation and wider considerations

- **Expected impact on codes and licences** – as part of our current work plan we will be considering the potential impact of this clause on codes and licences. For example, NETSO licence obligation to issue the Completion Notice, and codes in relation to the detail of how generator-build transmission assets are accepted onto the system (will involve industry consultation).
- **Implementation:** To ensure the timely implementation of this clause there will also be consideration of the most appropriate route for making changes to codes or licences.
- **Interactions with the tender regime** – we will also give consideration to whether changes to aspects of the tender policy and regulations are required given these proposed changes.

5. Next steps

- The Energy Bill (published in draft on 22nd May 2012) is currently being scrutinised by the Energy and Climate Change Select Committee. The Committee will publish a report around the time that Parliament rises for summer recess.
- In parallel, we are seeking feedback on the proposed offshore transmission clause - please send any additional comments to kristina.dahlstrom@decc.gsi.gov.uk by **20th July**
- We will consider any amendments over the summer, in time for a potential Bill introduction in the Autumn.
- It is difficult to predict the passage of legislation through Parliament. However, if the full Bill is introduced to Parliament in Autumn 2012, then Royal Assent would be expected to be received in Autumn 2013.
- We consider that the best time for full commencement of the offshore transmission regime would be at the same time that the proposed clause comes into force. However, we need a better understanding of project timelines/circumstances in order to consider this further.

6. Questions for consideration

- Who will benefit from the exception: How would the current drafting work with your projects?
- 12 month period: How can we best ensure that transmission assets are transferred to the OFTO within this time period?
- Completion Notice: Thoughts on adopting STCPs (procedures under the STC) for generators commissioning transmission assets under the generator build option?
- Any other comments / questions?

Annex: Draft text of clause – extract from draft Energy Bill

105 Offshore transmission systems

- (1) The Electricity Act 1989 is amended as follows.
- (2) In section 4 (prohibition on unlicensed supply), after subsection (3A) insert—
 “(3AA) Subsection (3A) is subject to section 6F (offshore transmission during commissioning period).”
- (3) After section 6E insert—
 “6F Offshore transmission during commissioning period
 (1) For the purposes of this Part a person is not to be regarded as participating in the transmission of electricity if the following four conditions are met.
 (2) The first condition is that the transmission takes place over—
 (a) an offshore transmission system (“the system”), or
 (b) any transmission assets in relation to that system.
 (3) The second condition is that the transmission takes place during a commissioning period.
 (4) The third condition is that—
 (a) a tender exercise has been or is being held for the granting of an offshore transmission licence in respect of the system, and
 (b) the transmission assets have not been transferred as a result of the exercise to the successful bidder.
 (5) The fourth condition is that the developer in relation to the tender exercise—
 (a) is the person—
 (i) who constructed or installed the transmission assets, or
 (ii) on whose behalf those assets were constructed or installed, and
 (b) is the operator of a relevant generating station.
 (6) For the purposes of subsection (1), it does not matter whether or not the person participating in the transmission of electricity is also the developer in relation to the tender exercise.
 (7) For the purposes of subsection (3), transmission takes place during a “commissioning period” if it takes place at any time—
 (a) before a completion notice is given in respect of the system, or
 (b) during the period of one year beginning with the day on which such a notice is given.

Annex: Draft text of clause – extract from draft Energy Bill

- (8) A “completion notice”, in relation to a transmission system, is a notice which—
(a) is given to the Authority by the relevant co-ordination licence holder in accordance with the co-ordination licence, and
(b) states that it would be possible to carry on an activity to which section 4(1)(b) applies by making available for use that system.
- (9) For the purposes of subsection (4)(a), a tender exercise is being held in respect of a system from the time when the Authority has determined that the tender exercise request in respect of the system relates to a qualifying project for the purposes of the tender regulations.
- (10) A “tender exercise request” means a request made by the developer in relation to the tender exercise to the Authority in accordance with the tender regulations.
- (11) In this section—
“co-ordination licence” has the same meaning as in Schedule 2A (see paragraph 38(1) of that Schedule);
“developer”, in relation to a tender exercise, means any person within section 6D(2)(a) (person who makes the connection request);
“offshore transmission” has the meaning given by section 6C(6);
“offshore transmission licence” has the meaning given by section 6C(5);
“offshore transmission system” means a transmission system used for purposes connected with offshore transmission;
“operator”, in relation to a generating station, means the person who is authorised to generate electricity from that station—
(a) by a generation licence granted under section 6(1)(a), or
(b) in accordance with an exemption granted under section 5(1);
“qualifying project” is to be construed in accordance with the tender regulations;
“successful bidder” and “tender exercise” have the same meanings as in section 6D;
“relevant co-ordination licence-holder” has the meaning given by paragraph 13(4) of Schedule 2A;
“relevant generating station”, in relation to an offshore transmission system, means a generating station that generates electricity transmitted over the system;
“the tender regulations” means regulations made under section 6C;
“transmission assets”, in relation to an offshore transmission licence, means the transmission system in respect of which the licence is or is to be granted or anything which forms part of that system.”