

ELECTRICITY ACT 1989

CONSENT BY THE SCOTTISH MINISTERS FOR THE CONSTRUCTION AND OPERATION OF A WIND POWERED ELECTRICITY GENERATING STATION AT ROBIN RIGG, SOLWAY FIRTH

Consent

The Scottish Ministers, pursuant to section 36 of the Electricity Act 1989, hereby consent to the construction and operation by Offshore Energy Resources Ltd and Solway Offshore Limited or their permitted assignees who are in possession of a letter of authorisation from the Scottish Ministers issued in accordance with paragraph 6.2 below, of a wind-powered electricity generating station at Robin Rigg in the Solway Firth within the Site, all as described in the Application and the Environmental Appraisal Report.

Description of Development

2. Subject to the conditions set out in paragraph 6, the Development shall comprise of
 - 1) Up to 60 wind turbines, of overall height from base to tip not exceeding 130 metres above mean sea level. Turbine positions marked on Figure X carry a permitted tolerance radius of 50 metres. Individual turbine generation capacity shall not exceed 3.6 Megawatts
 - 2) On site 33 kilovolts (kV) cabling
 - 3) On site substation platform
 - 4) One anemometry mast
 - 5) 132 kilovolt (kV) seabed cabling between substation platform and the landfall

Determination

3. In reaching their decision, the Scottish Ministers have taken into account the environmental information submitted with the Application, the views of the Companies, statutory consultees, any objections received, and Government energy and Climate Change policy.

4. The Scottish Ministers have considered the objections and all other material considerations and have concluded that there is no need to conduct a public inquiry before reaching their decision. The Scottish Ministers also note that the Development is consistent with Government policy on the promotion of renewable energy.

Definitions and Interpretation

5.1 In this consent (including the preceding 4 paragraphs), unless the context otherwise requires: -

“anemometry mast” means the wind measuring mast indicated on figure 1 annexed hereto.

“the Application” means the application submitted by Solway Offshore Limited and Offshore Energy Resources Limited on 14 June 2002, a copy of which is annexed hereto;

“the Commencement of the Development” means the first date on which any material operation comprised in the Development is begun;

“the Commissioning of the Development” means the date on which the first wind turbine generator forming part of the Development first supplies electricity on a commercial basis;

“the Companies” means Offshore Energy Resources Limited a company registered under the Companies Act with registered number 04150735 and having its registered office at 7th Floor, I Fleet Place, London, EC4M 7NR and Solway Offshore Limited a company registered under the Companies Act with registered number 03568724 and having its registered office at 7th Floor, I Fleet Place, London, EC4M 7NR and their permitted assignees in term of condition 6.2;

“the Crown Estate Lease” means the lease constituted by the Agreement for Lease in respect of the Site between the Companies and the Crown Estate Commissioners dated 13th December 2002;

“the Development” means a wind-powered electricity generating station at Robin Rigg in the Solway Firth comprising no more than 60 wind turbines, associated works and 1 anemometry mast, all as more particularly described in the Application, the Environmental Appraisal Report and paragraph 2 of this consent;

“the Environmental Appraisal Report” means the environmental report and accompanying maps endorsed on behalf of the Scottish Ministers a copy of which is annexed hereto;

“RRMG” means the Robin Rigg Monitoring Group established pursuant to paragraph 6.4;

“Site” means the area of seabed outlined in red on figure 1 annexed hereto; and

“tolerance radius” is the 50-metre tolerance area which establishes a micro-site for each wind turbine marked on Figure 1 annexed hereto.

5.2 In this consent where the expression “the companies” includes two or more persons, that expression shall include both or all of them and the conditions and obligations imposed upon the companies in this consent shall bind all persons included in that expression jointly and severally.

Conditions

6. This consent is granted subject to the following conditions:-

6.1 The consent is for a period of 25 years from the Commencement of the Development or until the expiry (or earlier termination) of the Crown Estate Lease, whichever is sooner, and written confirmation of the date of Commencement of the Development shall be provided to the Scottish Ministers within 1 month of Commencement of the Development. The Commencement of the Development shall be no later than 5 years from the date of this consent, or such longer period as the Scottish Ministers may hereafter direct in writing.

6.2 The Companies shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers who may grant consent (with or without conditions) or refuse same as they may, in their own discretion, see fit. For the avoidance of doubt, the said consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure.

Reason: to ensure that the consent may be transferred prior to expiry, subject to Scottish Ministers approval, to another operator without that operator requiring to apply for an additional consent for the same development.

6.3 The Development shall be constructed in accordance with the details contained in the Application and the Environmental Appraisal Report.

6.4 A group, chaired by the Scottish Executive, to be known as the Robin Rigg Monitoring Group (RRMG) shall be established. The membership, scope and remit of the said group shall be approved in writing by the Scottish Ministers no later than 3 months from the date of this consent. Additionally, within 6 months of the date of this consent, RRMG will provide a schedule of potential impacts to be monitored for the approval of Scottish Ministers.

Reason: to ensure compliance with all commitments made in the Environmental Appraisal Report that the Development will be constructed and operated in a manner which avoids adverse impacts on the ecology in its vicinity.

6.5 No work shall commence on the Site until the Companies has undertaken a consultation exercise with the Royal Fine Arts Commission for Scotland to ensure the highest standards of design are applied to the Development.

Reason: to ensure the Development is constructed in a manner which has due regard to design issues.

6.6 No later than 3 months prior to Commencement of the Development, the Companies shall provide detailed plans and schemes of works for the construction of the Development for the approval of Scottish Ministers. Additionally, these plans and schemes of work shall include details of contractors' and subcontractor's health and safety risk assessments and environmental plans with a clear flow chart identifying

responsibilities of personnel. These plans and schemes of works shall be implemented by the Companies in accordance with any approval given.

Reason: to ensure appropriate measures are put in place to protect the natural heritage interests of the area.

6.7 No later than 4 months after the date of this consent and before Commencement of the Development, the Companies shall provide detailed plans and schemes of work for all proposed monitoring and mitigation works for the approval of the Scottish Ministers. These plans and schemes of work shall be implemented by the Companies in accordance with any approval given.

Reason: to ensure compliance with all commitments made in the environmental statement that the wind farm will be constructed and operated in a manner which avoids adverse impact on the ecology in its vicinity.

6.8 No structures shall be erected above sea level until written approval has been obtained from the Scottish Ministers as to the colours/external finishes, lighting and illumination of the turbines.

Reason: to minimise visual impact whilst ensuring compliance with maritime law.

6.9 Prior to completion of the Development, such turbines and other structures as are specified by the Civil Aviation Authority are to be installed with Aeronautical obstacle lighting of such intensity, and set at such a beam angle, as they may direct.

Reason: to ensure aeronautical safety.

6.10 No work shall commence on the Site until the Companies have applied for and has been granted a prior consent from Dumfries and Galloway Council under section 61 of the Control of Pollution Act 1974 in respect of the Development.

Reason: to prevent noise disturbance during construction works to people living within an audible distance of the Development.

6.11 During the operation of this wind farm, noise from the wind turbines shall not exceed an LA90 10 MIN of 35dB at the nearest noise sensitive premises. This condition shall apply to wind speeds not exceeding 10m/s as measured at a height of 10m above ground level at the wind turbines. If distinct audible tones are generated by any wind turbine, the noise limit shall be reduced by 5dBA. Assessment and mitigation shall be carried out by the Companies in accordance with the guidance produced by Department of Trade and Industry's Working Group on Noise from Wind Turbines, a copy of which is appended to this consent.

Reason: to prevent noise disturbance arising from the operation of this wind farm to people living within an audible distance of the Development.

6.12 In the event of the wind farm not generating electricity on a commercial basis for supply to the public network, from 25 or more turbines for a continuous period of 6 months, the Scottish Ministers may direct that the Development or any part of the Development shall be decommissioned and the Site (or relevant part thereof) reinstated as they so direct. The Scottish Ministers shall have due regard to the circumstances surrounding the failure to generate and shall take the decision on reinstatement following discussion with the Companies, RRMG and such other parties as they consider appropriate. No later than 6 months from the expiry of the 6-month cessation period or within such variation of this timescale as the Scottish Ministers shall agree in writing, the Companies shall produce a scheme of works for all restoration works for approval by the Scottish Ministers in consultation with such other parties as the Scottish Ministers shall deem appropriate. The relevant decommissioning and reinstatement works as may be required pursuant to this condition shall be implemented by the Companies in accordance with any approval given by the Scottish Ministers as part of the scheme of works referred to in this condition.

Reason: to ensure timeous restoration, should the Development cease to be commercially viable

6.13 At least one month prior to Commencement of the Development, the Companies shall present to the Scottish Ministers details of the bond or other financial provision which they propose to put in place to cover all Site restoration costs on the expiry of this consent. In assessing the suitability of this provision, the Scottish Ministers shall take into account any arrangements which have been made between the Companies and the Crown Estate Commissioners. No work shall commence on the Site until written confirmation has been given by the Scottish Ministers that the proposed bond or other financial provision is satisfactory. The Companies shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent.

Reason: to ensure that in the event of premature decommissioning, the liabilities for restoration do not fall to the Crown Estate Commissioners

6.14 No later than 6 months before the expiry of this consent (unless a further consent is granted), the Companies shall place before the Scottish Ministers a decommissioning and restoration plan and scheme of restoration works for their written approval in consultation with RRMG and any other party as they so direct. This plan shall be implemented by the Companies in accordance with any approval granted. Said plan shall take into account the legislation, technology and best practice at the time of restoration and shall include details of all works and measures to restore the Site. This plan shall include details of the timescale(s) within which the restoration works, including post operational monitoring, shall be carried out ensuring that this is for a period of no less than 3 years from the completion of all restoration works.

Reason: to ensure that the Development is decommissioned in a manner that protects the ecology beyond the life span of the wind farm and that the cost of decommissioning and reinstatement is met by the Companies. The detail of this plan and scheme of works will not be finalised until this stage, so that it will be compliant with prevailing legislation, utilise all available technology and reflect best practice at the point of decommissioning.

6.15 No later than 12 months, or such longer or shorter period as may be agreed in writing by the Scottish Ministers, following the expiry of this consent, (unless a further consent is granted), the Companies shall ensure that all wind turbines and ancillary equipment shall be dismantled and removed from the Site to a location on land approved by the Scottish Ministers and restoration works shall be carried out in accordance with the scheme referred to in condition 6.14.

Reason: to ensure wind turbines and their associated infrastructure are removed in accordance with the Oslo and Paris Convention (OSPAR)

Robin Naysmith
Head of Energy and Telecommunications Division
A member of the staff of the Scottish Ministers