

## ENERGY BULLETIN

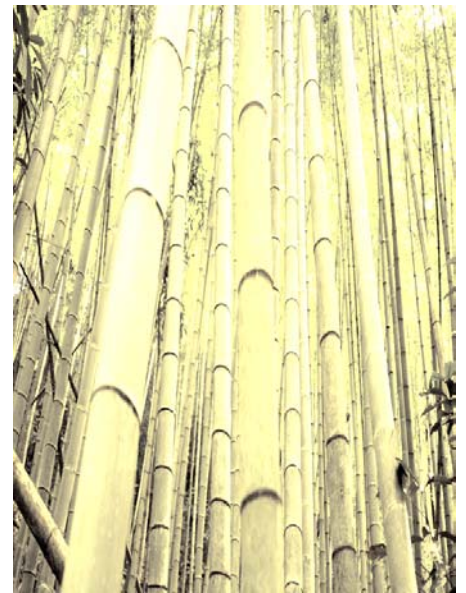
# ROLL ON RENEWABLES – THE ENDURING ACCESS REGIME

On 26 June 2008 BERR and Ofgem published their Transmission Access Review Final Report to the Secretary of State, concluding a review process announced in the 2007 Energy White Paper. The Report investigates the ways in which enduring access arrangements can be put in place by the three GB transmission network owners to ensure that new renewable generating plant - typically windfarms and biomass - can be connected quickly and cost effectively. The overall aim is to ensure that the UK can meet its share of the EU's 20% by 2020 renewable energy target.

Current problems faced by renewables, low carbon, and also new conventional, generators are highlighted in the Report. Amongst them the lack of incentives on network owners to invest in the networks

ahead of firm commitments by generators. This in turn leads to long delays when connection requests are made. Furthermore, lack of certainty of connection has an adverse impact on the bankability of projects.

The industry, led by National Grid, is developing proposals for a new access regime, and these proposals will be presented to Ofgem in October 2008. Ofgem/BERR have specified the desirable characteristics of such a regime, which include firm connection dates consistent with generators' development plans; longer term financial commitments for longer term rights; more flexibility in relation to access rights and capacity sharing. Following presentation, Ofgem will consult on the proposals, a process which could take up to 18 months. However, introduction of a new regime in



2010 will not be soon enough to unlock the logjam sufficiently to allow the necessary volume of connections to be made by 2020.

As a short term measure, Ofgem is therefore proposing an interim form of "connect and manage", which will give an early connection date to projects which currently have planning consent. This will entail better management of the capacity and resources already available to network owners, rather than requiring additional capacity to be introduced.

One of the key barriers to meeting the 2020 target is the long lead times for expanding network capacity in response to a connection request. The three GB transmission companies have been asked to carry out "transmission system investment studies" to





identify likely scenarios and costs.

These studies are expected to be completed within 6 months. In parallel, Ofgem will work with the companies to devise commercial regimes to incentivise them to invest in the networks ahead of any firm commitment from generators.

The proposals could work by removing the cap on returns on speculative capacity increases which are subsequently utilised, whilst leaving the risk of unutilised additional capacity with the network owner. In other words transmission companies would be allowed to earn a greater reward than a standard price control cost of capital in return for accepting some asset stranding risk. The transmission companies will make proposals following which Ofgem will consult on those proposals. Ofgem has set itself a challenging target of April 2009 for the new incentive regimes to be in place.

If the necessary changes cannot be made through the existing framework of regulatory controls and industry participation, the Government will consider other ways to achieve the changes and this may include legislation.

What does all this mean for the renewables industry? In the relatively short term, sufficiently robust proposals should be forthcoming from the transmission network owners and Ofgem to increase confidence in the renewables sector. Without underestimating the problems that the planning system currently continues to present, developers and funders should have confidence that their projects will be capable of being delivered more quickly. If the measures that the Report is seeking to put into place are in fact delivered, then many

more renewable and low carbon generation projects, including more decentralised energy projects, will come forward.

The TAR Final Report can be accessed by clicking [here](#).

**This Brief aims to update you on legal issues of concern or interest. It is not a substitute for taking specialist advice in individual cases. For more information about these or any other issues please contact Catherine Burke on T: 0870 763 1552 or E: [catherine.burke@martineau-uk.com](mailto:catherine.burke@martineau-uk.com)**

Other documents to note in the context of renewable energy include:

- The UK's Renewable Energy Strategy Consultation
- Proposal for an EU Directive on the promotion of the use of energy from renewable sources
- Energy Bill
- Marine Bill
- Planning Bill
- Climate Change Bill
- Various proposed amendments to industry documents

