

Submission by EDPR to The Scottish Parliament Devolution
(Further Powers Committee) on The Crown Estate and Offshore Wind

1. About EDP Renewables

With headquarters in Madrid, EDPR's business consists of developing, building and operating top quality wind farms and solar plants throughout the world. It was incorporated in 2007, and now has 9GW installed generation capacity, and is one of the world's largest producers of wind energy. EDPR's business is organised in three platforms (Europe, North America & Brazil) and is present in 12 countries.

EDPR established its UK office in Edinburgh in 2010, and has developed this for the specialism in offshore wind. Its interest in the UK is offshore wind, and, with development partner Repsol, has ownership of two projects:

1.1 Moray Offshore Renewables Ltd (MORL)

MORL was established in 2010 as a joint venture company. EDPR is the lead developer; the company is owned 67 per cent by EDPR and 33 per cent by Repsol. MORL was awarded consent by the Scottish government in 2014 for the development of 1,116 MW in the Outer Moray Firth. The development would be capable of supplying the electricity requirements of ca. 700 000 homes.

1.2 Inch Cape Offshore Windfarm (ICOL)

ICOL was also established in 2010, and is owned 51 per cent by Repsol and 49 per cent by EDPR. ICOL was awarded consent by the Scottish government for the development of 784MW within territorial waters off the Angus coast. The development would be capable of supplying the electricity requirements of ca. 500 000 homes

2. Offshore Wind Development in Scotland and the UK

2.1 Round 1 & 2 (R1 & R2)

Offshore wind development began in the UK when The Crown Estate (which holds ownership rights on most of the seabed) issued leases to 17 small 'development' projects at sites close to the coastline in the 1st round of offshore wind licencing in a bid to establish the viability of the technology. 12 of the R1 sites were developed with a combined capacity of 1,200MW. Round 2

identified larger areas, although still close to shore for competitive tender in 2003, with 15 projects of a combined 7,200MW being awarded. Extensions to R1 & R2 sites were granted in 2010, adding a further 2,000 MW.

With the exception of Robin Rigg, which lies in the Solway Firth, none of the R1 and R2 sites are in Scottish waters.

2.2 Round 3 (R3) and Scottish Territorial Waters (STW)

Round 3 (R3) was intended to move offshore wind to a larger industrial scale, and to allow development further from shore. Nine sites with a combined 27 000MW were awarded to developers in January 2010. Two of those are in Scottish waters.

Within a separate Scottish Territorial Waters (STW) round, six sites were allocated to developers in March 2010, of these, three have secured consent.

Under STW and R3, commercial scale windfarms at five sites on Scotland's East coast have been granted consent by the Scottish Government.

Offshore Wind Projects with Consent in Scotland:

Beatrice (Moray Firth)	664MW
MORL (Moray Firth)	1,116MW
Inch Cape (Firth of Forth & Tay)	784MW
Neart Na Gaoithe (Firth of Forth & Tay)	448MW
Seagreen (Firth of Forth & Tay)	1,050MW

2.3 Electricity Market Reform

The Energy Act 2013 brought Electricity Market Reform (EMR) to the UK. When EDPR began developing offshore wind in the UK, the Renewable Obligations Certificates (ROCs) regime was used to support offshore wind development.

Prior to EMR, all offshore wind projects which met eligibility criteria were supported through ROCs. This scheme has provided support worth approx. £1.6bn to windfarms installed to date, with support in 2013/14 worth ca. £800m.

This winter saw the first Contract for Difference (CfD) auction for renewables. In contrast to industry expectations at this time last year, considerably less support was available than offshore wind projects which were eligible for that support, triggering a competitive auction between projects for the CfD which would support them and enable their delivery.

A CfD is now a requirement for any project to proceed to Final Investment Decision and on to construction.

Discussion about the devolution of the Crown Estate's assets in Scotland has grown with the development of the offshore wind industry in Scotland; a strong driver for the transfer is summed up in the Smith Commission's Report:

"Responsibility of the Crown Estate's economic assets in Scotland and the revenue generated from those assets will be transferred to the Scottish Parliament. This will include the Crown Estate's seabed..," (Smith Commission par.32)

However at the moment very little of the UK's installed 4,049MW lies in Scottish waters (180MW at Robin Rigg and 10MW at the Beatrice Demonstrator).

Transfer of the Crown Estate may provide the Scottish Parliament with control over an asset which can be developed for offshore wind in the future, but it must be borne in mind that revenue cannot be derived from that asset unless it has access to market by securing a CfD through the new competitive allocation process, which is set by DECC.

Although the Scottish Government has granted consent for ca. 4 100MW for offshore wind development at five sites, at time of writing less than a quarter of this capacity has secured a CfD, and the industry has no visibility of the timing or adequacy of the next CfD allocation round, creating considerable uncertainty.

Capacity supported by CfD & ROC Regimes:

UK offshore wind capacity installed under ROC regime (excluding Scotland):	4,049MW
UK offshore wind capacity granted a CfD (Excluding Scotland):	3,234MW
Projects in Scottish waters installed under ROC regime:	190MW
Projects in Scottish waters granted a CfD:	1,112MW
Consented Projects in Scottish waters without a CfD:	2,950MW

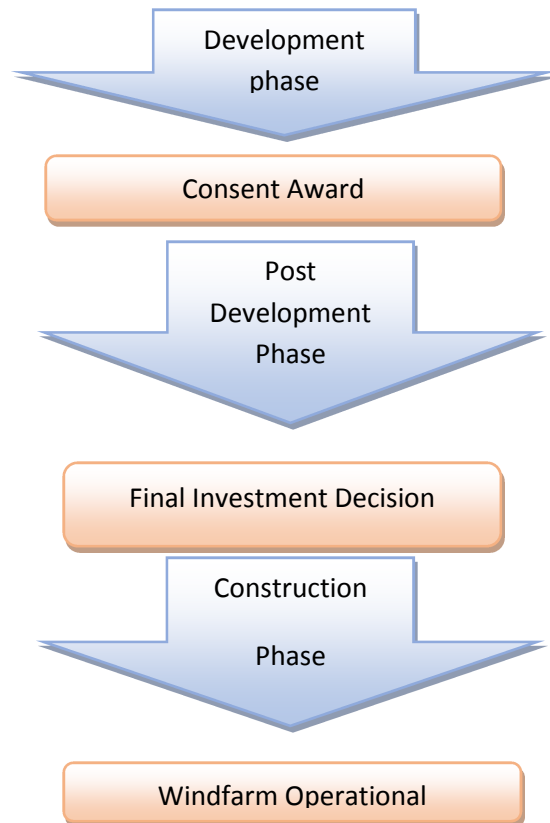
3. Relationship Between The Crown Estate & R3 Offshore Wind Developers

3.1 Background

The Crown Estate Commissioners, as effective owners of the seabed, are landlords to offshore wind developers.

In June 2008, The Crown Estate advertised nine geographic zones for offshore wind development, and invited developers to bid for these on a competitive basis with a view to maximising generation capacity within R3. 40 bids were received when bidding closed in 2009, and the nine successful companies and consortia were notified of their success in January 2010.

In examining the relationship between The Crown Estate and developers of offshore wind, it is worth considering the different phases of development of a typical offshore windfarm:



3.2 The Zone Development Agreement

As an offshore wind developer, MORL entered a relationship with the Crown Estate when it won the rights to develop Zone 1 (the outer Moray Firth), and subsequently signed a Zone Development Agreement (ZDA) with The Crown Estate Commissioners.

The ZDA effectively consisted of a number of contractual milestones, set out in 2010, which aimed to ensure that MORL progressed with development of the site.

The milestones are heavily weighted in the development phase of the project, and relate to activities required to progress through the development phase and to reach consent.

A Zone Development Committee was established, which included representatives from The Crown Estate, and from each of the parent companies in ownership of MORL. This committee met monthly (now quarterly) in order to monitor the delivery of the ZDA and its milestones.

The Crown Estate also dedicated a member of its staff to MORL, giving The Crown Estate a presence in the developer's offices.

The ultimate sanction which The Crown Estate holds for failure to meet contractual milestones is the ability to remove right to develop the site from the developer.

3.3 Crown Estate Support for Project Development

The Crown Estate is able to bring the experience of having developed offshore wind in partnership with various commercial bodies at a range of different sites round the UK to individual projects. It is also able to make available a degree of financial support for project development activities.

The focus of work done for project development by The Crown Estate is that which is of strategic industry benefit, and includes work on environmental issues such as marine mammals, gulls and aviation.

3.4 Agreements For Lease

In December 2010, MORL's three wholly-owned project companies signed Agreements for Lease (AFL) with The Crown Estate. These Agreements related to three individual windfarms within the zone. They placed obligations upon the developer (eg on provision of data, project programme, delivery, and budget), and gave the developer the option to take a lease of the sea-bed within a given period of obtaining the necessary consents for the offshore wind project.

The Agreements for Lease provide detail of the revenues which the Crown Estate can expect to be paid by the developer:

Typically these are:

- i. The Lease Premium Payment (ie the initial cost of the lease for each windfarm within the zone).
- ii. The ongoing revenue payments which the developer is expected to pay to The Crown Estate while the windfarm is operational. This is related to the output of the windfarm.

4. Conclusion & Recommendations

4.1 Single Authority for Seabed Assets

The Smith Commission at Par. 33 recommends that responsibility for management of the Crown Estate's assets be transferred to local authorities. While this may be appropriate in the case of the land-based assets, it is not appropriate in the case of management of the sea-bed for renewable energy. Offshore wind sites lie many miles from the coast, and the division of the seabed at distances of 12 miles from the shore and beyond according to local authority area would at the least add administrative conflict and complication. In the case of the Moray Firth, where three authorities border the coast, a site such as MORL's would be split among not two but three local authorities.

The additional administrative burden, together with the potential for conflict in dealing with three local authorities rather than one central authority for the purpose of commercial negotiation of

leases, etc., would place the Scottish offshore wind industry at a considerable disadvantage compared with the UK industry.

4.2 Ongoing Support For Offshore Wind Support Activities

The Crown Estate Commissioners have committed considerable resource and expenditure (ca £100m) to enabling actions for the development of offshore wind. They have accumulated significant technical and commercial knowledge through developing projects with a range of industry partners at various locations.

In order to allow the Scottish offshore industry to remain competitive in comparison with projects south of the border, it is important that access to such support remains available, however there is considerable scope for improvement in the results yielded by Crown Estate enabling activities.

Moving forward, it is important not only that central funding for enabling activities should continue when budgets and budget responsibility are transferred, but that such actions require to be closely focussed on outputs to support the industry's development in Scotland, for example, port funding, radar issues, monitoring of birds, mammals, etc., and supply chain and skills development activities.

4.3 Opportunities to Make Scottish Offshore Wind Projects More Competitive in a UK Market

As mentioned at par. 2.3, support for construction of offshore wind infrastructure is no longer provided automatically on a qualifying basis, as under the ROC system. Post-Electricity Market Reform, offshore wind projects from around the UK are set in competition not only with each other, but with other technologies. The competition takes the form of an auction in which the project which wins is that which can bid the lowest price per MW.

Scottish projects face a number of challenges in contrast to projects elsewhere in the UK. Some are physical, such as working in the challenging conditions of deep water, far from shore, and MORL has already demonstrated that it can bring an aggressive approach to cost reduction in these matters. Other challenges, such as high transmission charges as a function of distance from London are more difficult to counter.

However, given responsibility for The Crown Estate will mean inheriting the Zone Development Agreements and resultant Agreements for Lease associated with offshore wind, the Scottish Parliament would be able to consider a number of measures to counter the existing challenges and improve the competitiveness of the industry in Scotland:

- i. Improve competitiveness of lease terms. In particular, R3 projects are at a considerable financial disadvantage compared with other leasing rounds (including STW) and there is considerable scope to provide a level playing field for Scotland's two R3 projects.

This is of particular significance following the first CfD round. The magnitude of the financial disadvantage imposed upon R3 projects has been found to translate into a significant differential in terms of the auction bid price which R3 projects can set in comparison with competing projects from previous rounds.

- ii. Reduce the administrative burden of the ZDA on developers. Considerable lessons can be learned from the first of the R3 projects in this matter, especially with regard to the practice of making milestone setting and achievement an exercise which adds value.
- iii. Ensure that AFL take account of the CfD process and do not create financial burdens prior to a market for power having been secured. AFL were drafted under the ROC regime, without consideration of consequence of delay which obtaining a CfD could create. It is vital that the option periods are extended to allow projects to secure CfD certainty, instead of being based upon consent dates.
- iv. Securing powers over The Crown Estate for the Scottish Parliament only secures management rights of an asset, it does not secure access to market for that asset. If the aim of devolution of The Crown Estate is to enable the Scottish Parliament to benefit from the development of offshore wind and its associated revenues, policy must be developed in parallel with Par. 41 of the Smith Commission Report:

“There will be a formal consultative role of the Scottish Government and The Scottish Parliament in designing renewables incentives.”

Over the last five years, developers have invested in excess of £100m to develop and consent almost 3,000MW of offshore wind projects for which (after last Thursday’s announcement) there is no route to market. This is because there is no indication when (or if) a further CfD funding round will be held, nor any indication of whether the allocation of funding to such a round will be sufficient to allow those projects to proceed to final investment decision and then on to construction, despite ca. £1billion remaining unallocated within the Levy Control Framework.

Such a situation creates considerable uncertainty, and makes continuing investment in project programmes (worth tens of millions of pounds annually) very challenging.

The CfD process is a renewable incentive (as per Par. 41.) and any steps which the Scottish Parliament and Scottish Government could take now to address the current pressing situation would be welcome.

The Scottish offshore wind industry lags considerably behind the rest of the UK in terms of deployment. Scotland’s wind resource is considerable, and developers have undertaken much work and made considerable investment to bring quality commercial scale projects to consent.

Although it is hoped that the next CfD round will be held before further devolution legislation proceeds through Parliament, Scottish Parliamentarians have the opportunity to assist Scottish projects through the uncertain period towards the much-anticipated next CfD round by making a clear statement of intent, not merely for further devolution in policy areas of the Crown Estate and Renewable Energy, but by indicating how they would use those tools when they become available.

