

Thanet OFTO Limited

**Report of the Compliance Officer
for the year to 31 March 2017**

ID703352

Contents

1.	Introduction	I
2.	Overall approach	I - 2
3.	Managerial and Operational Independence (Amended Standard Condition E12 - C2)	2 - 4
4.	Conduct of the Transmission Business (Amended Standard Condition E12 - C1)	4
5.	Restriction on use of Certain Information (Amended Standard Condition E12 - C3)	5
6.	Prohibition of Cross Subsidies (Standard Condition E6)	5 - 6
7.	Restriction on Activity and Financial Ring Fencing (Standard Condition E7)	6
8.	Monitoring Responsibility and Reporting (Amended Standard Condition E12 - C4)	6 - 7
9.	Overall Conclusions and Recommendations	7 - 8

Appendices

1.	Duties and tasks of Compliance Officer	9 - 10
2.	Recommendations relating to Compliance which came to our attention during our review for the period ending 31 March 2017	11

I. Introduction

- I.1 This report is prepared in accordance with Amended Standard Condition E12 - C4 (Appointment of Compliance Officer) of the Offshore Electricity Transmission Licence granted to Thanet OFTO Limited ("Thanet OFTO"), 350 Euston Road, London, NW1 3AX.
- I.2 Thanet OFTO is required, following consultation with the Gas and Electricity Markets Authority ("Authority") to appoint a competent person (who shall be known as the "Compliance Officer" for the purpose of facilitating compliance by the licensee with this condition and with standard condition E6 (Prohibition of Cross-subsidies), standard condition E7 (Restriction on Activity and Financial Ring Fencing), amended standard condition E12 - C1 (Conduct of the Transmission Business) amended standard condition E12 - C2 (Separation and Independence of the Transmission Business) and amended standard condition E12 - C3 (Restriction on use of certain information) (the "relevant duties").
- For the avoidance of doubt this report deals solely with Thanet OFTO's compliance with the "relevant duties" as defined at I.2 above and not with any other aspects of compliance under the terms of the licence or elsewhere.
- I.3 Thanet OFTO shall at all times engage the services of the Compliance Officer for the performance of such duties and tasks as they consider it appropriate to assign to him for the purposes specified in paragraph I.2 which duties and tasks shall include those set out in Appendix I.
- I.4 Thanet OFTO shall ensure that the Compliance Officer is not engaged in the management or operation of the licensee's transmission system or, except to the extent that the Authority agree otherwise, the activities of any associated business.
- I.5 Henderson Loggie, Chartered Accountants, are the Compliance Officer appointed by Thanet OFTO. On behalf of Henderson Loggie, the Compliance Officer role is led by George Hay, a partner with sixteen years experience of performing similar roles within the electricity and gas sectors.
- I.6 Amended Standard Condition E12 - C4 requires us to report annually to both the Compliance Committee and the Board of Directors of Thanet OFTO on our activities over the period to 31 March and thereafter Thanet OFTO are required to report to the Authority on the Compliance Officer's activities and other relevant issues.
- I.7 This report has been prepared covering the year to 31 March 2017 for consideration by the Compliance Committee and the Board of Directors of Thanet OFTO.

2. Overall Approach

2.1 Thanet OFTO has compiled a Separation and Independence of the Transmission Business Compliance Statement ("Compliance Statement") dated 18 December 2014 which is prepared pursuant to Amended Standard Condition E12 - C2 (Separation and Independence of the Transmission Business) of the Offshore Electricity Transmission Licence and the consent issued by the Authority under paragraphs 4(b)(i) and 4(b)(ii) of Amended Standard Condition E12 - C2 of the Offshore Electricity Transmission Licence granted to Thanet OFTO.

2.2 Since our appointment as Compliance Officer we have developed a Compliance Review Programme ("CRP") which details the review and monitoring we consider necessary to ensure that Thanet OFTO is operating in accordance with the above Compliance Statement including the Compliance Policy included as an Appendix to the Compliance Statement.

2.3 Our main contacts throughout the year have been:

Clayre Williams - Company Secretary and Finance Manager

Simon Rooke - Director

and our work has incorporated visits to the Thanet OFTO offices. There was no Internal Audit work carried out on which we could rely and our monitoring and review work was carried out directly by means of staff interviews, systems and process reviews and reviewing documentation including procedural documentation, invoices and minutes.

2.4 All aspects of the Compliance Statement were considered, risk assessed and reviewed for evidence that the principles of all relevant duties were understood and that policies and processes were operating in accordance with the terms of the Compliance Statement and Compliance Policy.

2.5 We confirmed that there were no complaints noted requiring investigation, and that no breaches of the relevant duties had been reported to the Compliance Committee or the Board.

2.6 Our report is structured in line with Thanet OFTO's Compliance Statement. It sets out the results of our review and our assessment of Thanet OFTO's compliance with the terms of that Statement and accordingly with the relevant duties of Thanet OFTO under the licence conditions.

3. Managerial and Operational Independence (Amended Standard Condition E12 - C2)

- 3.1 Thanet OFTO has put in place an organisational and governance structure as detailed below to ensure that it maintains managerial and operational independence from any associated business as per the requirements of Amended Standard Condition E12 - C2(4)(a) and is a separate legally incorporated company with its own board of directors as per the requirements of Amended Standard Condition E12 - C2(5).
- 3.2 Thanet OFTO is owned and operated as follows:
- Balfour Beatty plc ("the Balfour Beatty Parent") holds an indirect 20 per cent ownership interest in Thanet OFTO through Balfour Beatty Infrastructure Investments Limited, Balfour Beatty OFTO Holdings Limited and Thanet OFTO Holdings Limited ("ThanetOHL").
 - Tetragon Financial Group plc ("the Equitix Parent") holds an indirect 80 per cent ownership interest in Thanet OFTO through Equitix Holdings Limited, Equitix Fund III LP, Equitix Transmission 3 Limited and ThanetOHL.
 - ThanetOHL holds a direct 100 per cent ownership interest in the Licensee and is owned indirectly 20 per cent by the Balfour Beatty Parent and 80 per cent by the Equitix Parent.
- 3.3 Balfour Beatty Utility Solutions Limited ("BBUS") acting as agent for Balfour Beatty Group Limited ("BBGL") is the principal contractor of the Licensee for all operations and maintenance services, including providing a General Manager and Commercial Manager. Both BBUS and BBGL are indirectly wholly owned subsidiaries of the Balfour Beatty Parent.
- Balfour Beatty OFTO Holdings Limited, Equitix Transmission 3 Limited, or any of their associated companies can be principal contractors of the ThanetOFTO for all management services including asset management and financial management.
- Balfour Beatty Investments Limited ("BBIL") is currently the main principal contractor of the Thanet OFTO for all management services including asset management and financial management.
- 3.4 The Authority has issued a consent under paragraph 4(b) of Amended Standard Condition E12 - C2 to allow associated businesses of Thanet OFTO to use and have access to Thanet OFTO's premises or parts of premises; systems for the recording, processing or storage of data; equipment; systems for the recording, processing or storage of data; equipment; facilities and property employed or engaged in respect of the transmission business; and the services of persons who are engaged in management or operation of Thanet OFTO.
- 3.5 We have confirmed that Thanet OFTO has a Compliance Statement in place as required by paragraph 2 of Amended Standard Condition E12 - C2 and has published this statement on its website in accordance with paragraph 9 of Amended Standard Condition E12 - C2.

- 3.6 We have confirmed that Thanet OFTO has established a separate board of directors which consists of four board members comprising two members from each of the two shareholding parent bodies which are themselves independent of each other. This structure strengthens the inherent control systems and governance within Thanet OFTO.
- 3.7 BBUS and BBIL are the two affiliated entities that provide services to Thanet OFTO. These entities have their own boards of directors and while one director of BBIL is also a director of Thanet OFTO independence is retained as there are seven further directors of BBIL who are not board members of Thanet OFTO.
- 3.8 BBUS's relationship with Thanet OFTO is governed by an Operation and Maintenance ("O&M") agreement. The agreement ensures that the General and Commercial managers and any BBUS staff providing services to Thanet OFTO work under the direction and control of Thanet OFTO's board of directors.
- 3.9 BBIL's relationship with Thanet OFTO is governed by a Professional Services agreement. The agreement ensures that BBIL's employees who are seconded to Thanet OFTO work under the direction and control of Thanet OFTO's board of directors.
- 3.10 All directors and employees seconded from BBUS and BBIL are required to sign a contractual declaration which details the requirements that Thanet OFTO operates under in order to comply with the Licence obligations. In signing this declaration all directors and employees seconded to assist with Thanet OFTO's operations confirm that they agree and understand the requirements of Thanet OFTO's Licence obligations and that any breach will lead to disciplinary action.
- 3.11 During the course of our review we have not encountered any breaches of Thanet OFTO's Compliance Statement or Compliance Policy which would suggest that Thanet OFTO was not complying with its Licence Obligations in this area.

4. Conduct of the Transmission Business (Amended Standard Condition E12 - CI)

- 4.1 In accordance with Amended Standard Condition E12 - CI (Conduct of the Transmission Business), Thanet OFTO is required to conduct its transmission business in the manner best calculated to secure that, in complying with its obligations under the Licence:

- Thanet OFTO;
- Any affiliate or related undertaking of Thanet OFTO;
- Any user of the national electricity transmission system; or
- Any other transmission licensee

obtains no unfair commercial advantage including, in particular, any such advantage from a preferential or discriminatory arrangement, being, in the case of such an advantage accruing to Thanet OFTO, one in connection with a business other than its transmission business. Thanet OFTO is a special purpose vehicle (SPV) whose sole business is operating offshore transmission assets.

- 4.2 Thanet OFTO has received consent from the Authority to allow associated businesses of Thanet OFTO to have access to the use of premises, IT systems, equipment and staff providing services to Thanet OFTO. However, Thanet OFTO has developed and implemented arrangements to restrict access to the above to authorised persons who are engaged in management or operation of the transmission business or any external transmission activity and who require access to the information for that purposes. These arrangements secure the protection of confidential information. Procedures are in place to ensure that authorisation is removed when a member of staff leaves or changes their role.
- 4.3 Although Thanet OFTO does not have any direct employees, it has implemented processes to ensure that the relevant staff of its affiliates and related undertakings (including its principal contractors, BBUS and BBIL) shall conduct the transmission business in the manner best calculated to ensure that it complies with its Licence obligations. These processes include requiring all such relevant personnel to comply with the Compliance Policy ("the policy") set out in Appendix I to the Compliance Statement, which ensures that all relevant personnel are aware that obtaining any unfair commercial advantage is not permitted. Further, the policy issued to all authorised persons sets out the Licence restrictions on the transfer of confidential information. Breaches of the policy are subject to disciplinary procedures as appropriate and will be reported to the Authority.
- 4.4 During the course of our review we have not encountered any breaches of Thanet OFTO's Compliance Statement or Compliance Policy which would suggest that Thanet OFTO was not complying with its Licence obligations in this area.

5. Restriction on use of Certain Information (Amended Standard Condition E12 - C3)

- 5.1 Under the terms of this condition Thanet OFTO must not disclose or authorise access to confidential information which is defined as being any information relating to or deriving from the management or operation of the transmission business.
- 5.2 The exceptions to the requirement under 5.1 are where there is a requirement to provide information:
- to personnel engaged by Thanet OFTO in its transmission business
 - to personnel engaged by another transmission licence holder if necessary for the performance of their duties under that licence
 - required by a competent authority
 - required by the Licence
 - by another legal requirement
 - by the rules of the Electricity Arbitration Association or other arbitral process or tribunal
 - where Thanet OFTO has been notified it need not be treated as confidential
 - where the information is in the public domain
 - where it is necessary for the holder of a co-ordination licence to plan and develop the national electricity system

- 5.3 All directors and employees seconded from BBUS and BBIL are required to sign a contractual declaration which details the requirements that Thanet OFTO operates under in order to comply with the Licence obligations. In signing this declaration all directors and employees seconded to assist with Thanet OFTO's operations confirm that they agree and understand the requirements of Thanet OFTO's Licence obligations and that any breach will lead to disciplinary action.
- 5.4 During the course of our review we have not encountered any breaches of Thanet OFTO's Compliance Statement or Compliance Policy which would suggest that Thanet OFTO was not complying with its Licence Obligations in this area.

6. Prohibition of Cross-subsidies (Standard Condition E6)

- 6.1 The only business which Thanet OFTO is engaged in is activities under its Licence. Thanet OFTO is a SPV and therefore the significant majority of its activities are governed by contracts and long term debt funding requirements established at financial close. Such business activities are monitored by the board of directors and the independent funders who would require formal consultation before a significant change to the business would be allowed.
- 6.2 BBIL and BBUS are two affiliated businesses that provide services to Thanet OFTO.
- 6.3 BBIL provides services to Thanet OFTO in accordance with the Professional Services agreement. These services are provided and priced on an "arms length" basis at market prices thus the arrangement does not breach Standard Condition E6. The pricing of the Professional Services agreement was established at financial close and formed part of the costing included within the retender submission for the Licence.
- 6.4 BBUS provides services to Thanet OFTO in accordance with the O&M agreement for an annual fee. BBUS subcontracts with third parties in providing the O&M services thus the pricing of the O&M agreement is based on the prices offered by independent third parties reducing the risk of cross subsidisation.
- 6.5 The operation of the BBIL and BBUS agreements are regularly considered by the Thanet OFTO board, half of whom are not connected with BBIL and BBUS.
- 6.6 During the course of our review we have not encountered any breaches of Thanet OFTO's Compliance Statement or Compliance Policy which would suggest that Thanet OFTO was not complying with its Licence Obligations in this area.

7. Restriction on Activity and Financial Ring Fencing (Standard Condition E7)

- 7.1 Thanet OFTO is an SPV which is established solely for the purpose of managing and operating Thanet offshore transmission assets. Under the financing documents and the shareholder agreement there are restrictions in place which prevent Thanet OFTO from carrying out any other business activities outside of managing and operating the transmission assets.
- 7.2 During the course of our review we have not encountered any breaches of Thanet OFTO's Compliance Statement or Compliance Policy which would suggest that Thanet OFTO was not complying with its Licence Obligations in this area.

8. Monitoring Responsibility and Reporting (Amended Standard Condition E12 - C4)

- 8.1 As detailed in paragraphs 1.2 to 1.5 Henderson Loggie are the appointed Compliance Officer for Thanet OFTO as required by Amended Standard Condition E12 - C4 paragraph 1, under the terms of an Engagement Letter dated 17 December 2014.
- 8.2 We confirm that Henderson Loggie are not engaged in the management or operation of Thanet OFTO's transmission system or the activities of any associated business.
- 8.3 Thanet OFTO has formed a Compliance Committee, as required by Amended Standard Condition E12 - C4. The Compliance Committee consists of two directors being one from each of the two shareholder parent bodies.
- 8.4 In our role as Compliance Officer we have received:
- a. such staff, premises, equipment, facilities and other resources; and
 - b. such access to premises, systems, information and documentation as we have required for the fulfilment of our duties as Compliance Officer.
- 8.5 Our work during the period under review included:
- a. preparation of a Compliance Review Programme which detailed the work to be carried out by the Compliance Officer in order to monitor compliance with Thanet OFTO's Compliance Statement and the relevant duties under its Licence obligations.
 - b. Site visits and face to face meetings with relevant personnel
 - c. review of company contracts, agreements, board minutes and other relevant documentation
 - d. review of controls and procedures in place relating to governance arrangements detailed in Thanet OFTO's Compliance Statement
 - e. enquiring whether any relevant complaints had been received during the year.

- f. advising on complaints procedure, annual compliance reporting and ongoing compliance monitoring
- g. reporting to the Compliance Committee and the Board of Thanet OFTO.

9. Overall Conclusions and Recommendations

- 9.1 For the avoidance of doubt these conclusions and recommendations relate solely to Thanet OFTO's compliance with its relevant duties as detailed in 1.2, and do not cover any other compliance obligations under the Licence or elsewhere.
- 9.2 With regard to Management and Operational independence (Amended Standard Condition E12 - C2) we confirm that no breaches of this Licence obligation were identified during the course of our review.
- 9.3 With regard to the Conduct of the Transmission Business (Amended Standard Condition E12 - C1) we confirm that no breaches of this Licence obligation were identified during the course of our review.
- 9.4 With regard to the Restriction on use of certain information (Amended Standard Condition E12 - C3) we confirm that no breaches of this Licence obligation were identified during the course of our review.
- 9.5 With regard to Prohibition of Cross Subsidies (Standard Condition E6) we confirm that no breaches of this Licence obligation were identified during the course of our review.
- 9.6 With regard to Restriction on Activity and Financial Ring Fencing (Standard Condition E7) we confirm that no breaches of this Licence obligation were identified during the course of our review.
- 9.7 With regard to Monitoring, Responsibility and Reporting (Amended Standard Condition E12 - C4) we confirm no breaches of this Licence obligation were identified during the course of our review.
- 9.8 During the period no complaints were received from any person in respect of a matter arising under or by virtue of the relevant duties and therefore there was no requirement to investigate any complaint in accordance with paragraph 6 of Amended Standard Condition E12 - C4.
- 9.9 We confirm that nothing has come to our attention during the course of our review to prevent the directors of Thanet OFTO approving a resolution to sign the required certificate under Amended Standard Licence Condition E12 - C4 9(d) that Thanet OFTO has at all times during the year to 31 March 2017 been in compliance with the relevant duties of the Licensee and that the report of the Compliance Officer fairly represents the Licensee's compliance with its relevant duties.

We have attached a recommendation relating to Compliance which came to our attention during the course of our review in Appendix II.

Henderson Loggie
Henderson Loggie
18 July 2017

Appendix I

Duties and tasks of Compliance Officer

These are contained in Amended Standard Condition E12 - C4: Appointment of Compliance Officer - paragraph 7

The duties and tasks assigned to the Compliance Officer shall include:

- a. providing relevant advice and information to the licensee for the purpose of ensuring its compliance with the relevant duties;
- b. monitoring the effectiveness of the practices, procedures and systems adopted by the licensee in accordance with the statement referred to in amended standard condition E12 - C2 (separation and independence of the transmission business) and reporting thereon, this shall include, but not be limited to:
 - i. ensuring the contracts of employment or engagement of relevant personnel shall include a statement on the importance of not disclosing information to other parties set out on paragraph 2 of amended standard condition E12 - C1 (Conduct of the Transmission Business). For this purpose a relevant member of staff or external person or consultant acting in such a role is anyone who are aware of any information which could enable any unfair commercial advantage being obtained including, in particular, any such advantage from a preferential or discriminatory arrangement, being, in the case of such an advantage accruing to the licensee, one in connection with a business other than its transmission business;
 - ii. ensuring that each of the processes required under the Standard Conditions is monitored in respect of the effectiveness of its practices, procedures, systems and the supervision and sign off process relating to the release of information which could enable an unfair commercial advantage to be obtained by the parties set out in paragraph 2 of amended standard condition E12 - C1 (Conduct of the Transmission Business);
- c. advising whether, to the extent that the implementation of such practices, procedures and systems require the co-operation of any other person, they are designed so as to reasonably admit the required co-operation;
- d. investigating any complaint or representation made available to him in accordance with paragraph 6;
- e. recommending and advising upon the remedial action which any such investigation has demonstrated to be necessary or desirable;
- f. providing relevant advice and information to the licensee (including individual directors of the licensee) and the compliance committee established under paragraph 4 of this condition, for the purpose of ensuring its implementation of:
 - i. the practices, procedures and systems adopted in accordance with the statement referred to at paragraph 2 of amended standard condition E12 - C2 (Separation and Independence of the Transmission Business); and
 - ii. any remedial action recommended in accordance with sub-paragraph (e);

- g. reporting to the compliance committee any instances which come to his attention, relating to a member of any of the boards established under paragraph 5 of the amended standard condition E12 - C2 (Separation and Independence of the Transmission Business), taking into account the interests of a business other than that in respect of which the board of which he is a member of has been established;
- h. reporting annually to the compliance committee established under paragraph 4 of this condition, in respect of each year after this condition comes into force, as to his activities during the period covered by the report, including the fulfilment of the other duties and tasks assigned to him by the licensee; and
- i. reporting annually to the board of directors of the licensee as to his activities during the period covered by the report, including the fulfilment of the other duties and tasks assigned to him by the licensee.

Appendix II

Recommendations relating to Compliance which came to our attention during our review for the period ending 31 March 2017

- I. At 31 March 2017 the Compliance Statement on the website had not been adjusted following the Equitix investment in February 2015. The Compliance Statement should be revised, approved by Ofgem and put on the website as soon as possible. This has now been carried out.

