

# Wind&Wave**CONNECT**

MANAGEMENT • PROCUREMENT • SUPPLIERS

WWW.WINDANDWAVECONNECT.CO.UK

ISSUE 11 SEPTEMBER 2013 £12.50



## Big turbines take to the water



Making the connection:  
Installing cables for  
offshore wind farms

Is there a UK future for  
tidal barrage generation?

Boosting renewable  
energy in Ireland



## Q&A

with  
**BENJ  
SYKES**  
DONG Energy

## Long-term value and jobs in offshore wind

written by  
**MIKE  
BLANCH**  
BVG Associates

## The story of Steel Engineering

with  
**PETER  
BRESLIN**  
MD, Steel Engineering Ltd

# POWER OFFTAKE CONTRACTS IN A CHANGING WORLD

The Power Purchase Agreement market in the last few years can best be described as 'changeable'. Electricity Market Reform (EMR) proposals have led to nervousness for both offtakers and developers, but are the prospects for selling renewable power as gloomy as many make out?



Words:  
**Ross Fairley**  
*Burges Salmon*

*ross.fairley@burges-salmon.com*

Project finance has been a key financing route for many renewables projects but it comes with a standard position from those banks who are willing and able to lend (and this has fluctuated) that a long-term, floor-priced Power Purchase Agreement (PPA) with a creditworthy offtaker is essential. The ability of developers to obtain that type of PPA has decreased over recent years as the traditional offtakers (the large electricity suppliers) have wrestled with:

- the introduction of EMR and the potential effects it will have on the market;
- accounting rules which mean floor prices now have to be considered very carefully by suppliers due to potential effects on their balance sheets if deemed to be a financing lease; and
- suppliers' own appetite for taking ROCs from projects when many of them are themselves significant producers of ROCs through their generation businesses.

**It is essential for all those involved in renewables to embrace new entrants, explore their propositions and encourage innovation.**

Image:  
*Anton Balazh - Fotolia.com*

The end result is that project financed renewables projects often default to the same suppliers (a small number of PPA creditworthy providers) whose terms the banks' advisers are comfortable with and who, invariably, have taken the power from a previously financed deal the parties had worked on. Taking the 'easy route' is understandable in a constrained finance market, but there is a risk that it makes for lazy practices. Should more innovative solutions be considered?

The opening up of the direct PPA/sleeving market may provide an alternative. Many large corporates are looking for green power and are wanting to sign up with renewables generators directly. They then effectively offset that power against their own supply from their licensed supplier. Marry the fact that these large entities have high electricity demands and their licensed supplier is looking to cement its corporate customer relationship and the whole idea of sleeving power starts to make sense. It is not new and has been around for some years. We were involved in one of the first sleeving arrangements for Nuon and Tarmac in 2009. Recent years, however, have seen a renewed focus on these arrangements. Organisations that have signed up to these arrangements include Sainsbury's, Tesco, Tarmac and Marks & Spencer.

On the traditional PPA route it is undoubtedly the case that we are seeing a small number of suppliers consistently being approached and offering terms. The size of that group varies almost monthly and suppliers'

attitude for taking the risk of imbalance, change of law and the robustness of any floor price which they may offer has hardened considerably. As well as the corporate, direct PPAs we have referred to above, we are also seeing new entrants to the UK PPA market. This is very positive and more competition should be welcomed. It is essential for all those involved in renewables to embrace new entrants, explore their propositions and encourage innovation. After all, it was only a few years ago that some of the default 'go to' current providers were new entrants themselves.

So what of EMR for wind and marine? The draft strike prices are out. There has been a mixed response. Everyone is still concerned about 15-year FIT CfD contracts as opposed to the 20-year RO support and there is still a lot of work and lobbying needed on many of the EMR terms and mechanisms. Wave and tidal are given the same level of support when many believe that wave needs higher levels in





## Considerable focus has been placed on the route to market for renewables in the new EMR world. Who will buy the energy and how much will it cost generators to transfer balancing risk to suppliers?

the short to medium term. The devil is also in the small print, with marine support dropping off after the first 30MW of capacity on any particular project. Considerable focus has been placed on the route to market for renewables in the new EMR world. Who will buy the energy and how much will it cost generators to transfer balancing risk to suppliers? There is understandable concern – we are already aware of new entrants targeting the UK market offering fixed price contracts under EMR which will enable banks to assess a minimum return per megawatt hour. Corporates are increasingly wanting green power directly and the Government is

concerned to make sure there is a sufficient route to market and will publish further proposals on this.

There is, despite comforting words from Government, an undoubted nervousness over the phase out of the RO and introduction of EMR, and those involved in financing these projects will have recognised that for some time. But perhaps the future is bright. The next few months of lobbying and representation will be key to ensure that there is robust bankable support for the power produced by technologies which this country needs, not only for its electricity supply but also for our job creation and wealth.

*For further details on legal issues in the wind and marine energy sector, please feel free to contact Ross Fairley on 0117 902 6351 or email [ross.fairley@burbges-salmon.com](mailto:ross.fairley@burbges-salmon.com),*

### ■ ■ Biography

Ross Fairley is a partner and Head of Renewable Energy at Burges Salmon solicitors.

The team advises on all types of renewable energy project including wind (onshore and offshore), wave and tidal, hydro, solar, biomass, geothermal and innovative waste to energy technologies.

Ross advises clients on legal/regulatory aspects of the energy sector including incentives, grid, fuel procurement and power sales. He has substantial experience in marine renewables and offshore wind, covering projects in all Crown Estate rounds.