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RWE Renewables

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Dear Offshore Coordination Team,

**Re: RWE's response to the consultation regarding Ofgem's Minded-to Decision on Anticipatory Investment and Implementation of Policy Changes**About RWE

RWE is a leading energy player with four main operating companies, of which three are active in the UK, including RWE Renewables, one of the world's leading renewable energy companies.

In the UK, RWE employs over 2,600 people and generates enough power for over 10 million homes, with a diverse portfolio of onshore and offshore wind, hydro, biomass and gas across England, Scotland and Wales. For a broad picture of the scale of our projects in the UK and Ireland, please see our infographic [here](#).

We have an ambitious commitment to expand our renewables portfolio in the UK, with around one-third of our planned global gross capex spend by end-2022 being invested into the UK. This is mostly on offshore wind, including our flagship Triton Knoll and Sofia projects.

RWE and its project partners have also signed Agreements for Lease with The Crown Estate to extend our existing Gwynt y Môr (North Wales), Galloper and Greater Gabbard (Suffolk), and Rampion (East Sussex) offshore wind projects. Most recently, we were successful in securing Preferred Bidder status for two further offshore sites amounting to 3,000MW in the Round 4 Leasing Round by The Crown Estate. We also have a significant and growing onshore renewables presence, with over 600MW of onshore wind in operation across 33 sites. We have ambitious plans to expand this portfolio out to 2030.

RWE's response

RWE is extremely supportive of Ofgem's policy to enable anticipatory investment in grid infrastructure. This is crucial in the journey towards net zero at least cost to consumers. Our key points of feedback in relation to the details in this minded-to decision are:

- We agree that the AI Cost (save for any amounts recovered via user commitment arrangements) should be recovered from consumers in the event that the later user fails to connect.
- The AI Cost Gap arrangements need to ensure that the total cost of connection is shared fairly between the initial and later user(s).
- AI must be assessed and approved (if appropriate) by Ofgem on an ex ante basis in order for the developer (initial user) to proceed with the proposed anticipatory investment. This is needed to mitigate the additional risk associated with carrying out AI on behalf of another developer.
- The mechanism for both the initial and later user(s) bidding into the same CfD allocation rounds needs to be considered further to provide clarity. This needs to allow for one of the projects not being successful and that under Competition Law projects are permitted to share sufficient detail in order to reach commercial agreements.

Please find our response to Ofgem's consultation questions below.

Kind regards,

Lois Leslie

Senior Regulatory Affairs Manager, RWE Renewables

## Anticipatory investment – consumer sharing

### **Question 1: Do you agree that consumers should underwrite the risk of the AI Cost Gap by funding the AI Cost Gap until the later user starts paying TNUoS charges?**

We agree with this proposal and that anticipatory investment (AI) risk should be shared with consumers, as consumers will also benefit from the shared connections through lower capital costs and reduced societal and environmental impacts. The level of risk consumers should bear should be carefully considered such that it ultimately delivers offshore transmission and generation projects in the interests of consumers whilst also delivering the optimal outcome(s) of the OTNR.

We note concerns regarding the risk of stranded assets, stemming from AI – resulting in the full cost of an unutilised asset being borne by consumers. However, in the context of an electricity system which must significantly increase in scale, and in particular in relation to offshore network assets serving highly sought after areas of seabed (where leasing has taken place or is explicitly planned), we consider the risk of assets developed through AI becoming stranded as very low. Even if the eventual user of the asset is not be the same user that was originally intended (i.e. that won the seabed lease), it is unlikely that no developer would ever be able to develop the leased seabed area (except in very exceptional circumstances).

We also note that a level of AI risk is already shared with consumers regarding onshore investments and that a low level of transmission costs are already shared with consumers regarding offshore infrastructure, indicating that this concept is not new.

### **Question 2: Do you agree with the proposal to recover the AI Cost Gap from the later user if the later user connects? If so, do you agree that this should take place over the period of the relevant OFTO licence, starting from the date that the later user starts to pay TNUoS charges?**

Overall, we consider that further constructive discussion is needed between industry, BEIS and Ofgem to determine how the allocation of risks and costs between the initial and later users can and should operate in practice. That includes whether policy option 3 (allocating the AI cost gap to the later user) is the best overall option to ensure delivery of coordination in the Early Opportunities workstream.

We agree that of the three parties considered (consumers, initial user and later user) the later user, if it wins a CfD or has an alternative route to market, has the most control over the timeline of its own commissioning in terms of the generation elements of the project. However, there are a number of third parties which have similar or greater influence over the commissioning date of the later user when it comes to the transmission assets and costs associated with this. These may include:

- The amount of TNUoS which is accrued to the AI Cost Gap is dependent on the initial user's connection date, over which the later user has no control;
- The amount of user commitment liabilities that would apply at specific milestones prior to commissioning may not be fully in control of the later user if these are triggered by work carried out by the initial user;
- The date of commissioning of the later user is dependent on the grid connection being ready (controlled by the relevant onshore TO as well as the initial user);
- Wider government level decisions on consenting timelines or CfD allocation round timings and outcomes; and
- The timely delivery of onshore grid by the Onshore TO.

These factors all influence the commissioning date of the later user. Therefore the later user may not be best placed to manage all of the costs associated with delay risk, and will also have little or no control over many factors which will influence the timings associated with the transmission infrastructure.

We do not wholly agree with Ofgem's statement that, in the context of policy option 3, "charges for the later user would reflect the cost of the offshore assets that they can or do use, based on the extent to which they can use them". Under this proposal the later user would be paying Offshore Local Transmission Use of System charges for a period of time where it cannot use the assets in question. We do not believe there is any precedent for this, and it is not clear to RWE that this is the most appropriate proposal to take forward. We recognise the need for the overall costs of grid AI to be shared fairly between the parties which will use the grid, and benefit from the AI. That includes consumers as well as the initial and later users. No party should disproportionately either benefit or be worse-off than the others by virtue of being an initial or later user.

If policy option 3 is taken forward, we consider more detail is needed on how the AI Cost Gap would be recovered from the later user in practice.

We agree that if the recovery of the AI Cost Gap is from the later user, then that recovery cannot start any earlier than the point at which the later user connects. It would also be useful to understand:

- How the recovery of the AI Cost Gap from the later user and associated calculations of the later users' TNUoS would be expected to take place.
- How will the "cost gap" itself be determined? We consider that the overall AI costs for the connection of two projects, for example, should be allocated 50:50 between the two users for all shared assets. Figure 1 in the draft impact assessment appears to suggest that the initial user pays for the AI, and only the cost gap is recovered from the later user. This wouldn't be appropriate as it would mean huge differences in CfD bids from initial and later users based on which party funded the AI. This requires clarification.

**Question 3: Do you agree that, save for any amounts recovered under user commitment arrangements, AI costs should be recovered from consumers if the later user fails to connect?**

We agree that AI costs should be recovered from consumers if the later user fails to connect. We consider that any proposals to recover the AI costs from the initial user in the scenario where the later user fails to connect would expose the initial user to additional levels of risk which would not be commercially acceptable

Further clarity is needed on how the AI Cost Gap would be treated if the later user fails to connect but a new secondary later user comes forward at a later stage. We are keen to understand how/if the AI Cost Gap would be recalculated and re-allocated to the secondary later user. We suggest that Ofgem considers this scenario further to ensure there would be an appropriate balance of costs and risks between the initial user, consumer and any secondary later user were this scenario to occur.

**Question 4: Do you agree with our assessment that policy option 3 better meets the aims of the Early Opportunities workstream of the OTNR?**

We consider that the both the later and initial user are already sufficiently incentivised to connect as soon as possible, irrespective of an AI cost gap, or how that AI Cost Gap is allocated. The incentive to reduce DEVEX costs in order to keep LCOE low for CfD auctions, PPAs or in a merchant environment is strong. The regulatory framework in which developers develop wind farms ensures this.

Ofgem has always been clear that all costs which are incurred efficiently are eventually passed through and paid for by consumers. We therefore consider that Policy Option 1 (consumer pays) should also remain on the table at this stage.

We do not consider that Policy Option 2 is appropriate. The initial user may already be exposed to risks and potentially costs associated with the assessment of the AI costs on an ex post basis through the OFTO cost assessment process (if the full cost of the AI is not assessed as economic and efficient). It would not be commercially acceptable to expose the initial user to additional levels of uncertainty.

Overall, we consider that this minded-to proposal for Policy Option 3 is oversimplified and that further engagement with stakeholders and clarification of intent is needed to ensure that the policy intent is fully understood by stakeholders which would be impacted. It is also critical that the implications and practicalities of each option is fully considered by Ofgem. For example, the interaction between Ofgem's policy proposals and bid preparation for CfD allocation rounds, as well as project delivery following CfD allocation round outcomes. We urge Ofgem and BEIS to consider the implications and practicalities of each option collaboratively, and consult with stakeholders, before any final decisions are made in this regard.

We intend to engage further with Ofgem and BEIS in relation to this aspect of the consultation.

**Question 5: Do you have views on the modelled assessment of capital cost savings? Please provide any additional quantitative analysis and any further information.**

No specific feedback

Anticipatory investment – early stage assessment

**Question 6: Do you agree with the introduction of the proposed early stage assessment process?**

*Early Stage Assessment Process*

We consider the proposed early stage assessment process is, in principle, broadly appropriate. However we do not consider that this should be reserved for projects in different CfD allocation rounds only. There are a number of considerations which are not included in Ofgem's proposal, in particular how this assessment would work alongside the CfD bids/CfD bid preparation process whilst ensuring that Competition Law rules are adhered to. Project CfD bids and bid preparation are highly commercially sensitive and therefore it may be difficult for projects to come to commercial agreements in some cases given the competitive framework in which projects are developed. We would also like to understand the arrangements for AI and cost recovery if bids are prepared to complement one another and one project does not win a CfD but the other does.

We propose that projects in the same CfD allocation rounds, as well as those in different CfD allocation rounds, be subject to the same rules for early cost assessment processes – or as a minimum be able to opt in to the cost assessment process even if the projects are expected to participate in the same CfD allocation round. This is an important aspect of ensuring projects can coordinate, and we would welcome Ofgem’s confirmation that this is possible. However, this would not solve the issue of ensuring that Competition Law rules are adhered to at all times in the preparation of CfD bids. We urge Ofgem and BEIS to consider the implications and practicalities of each option collaboratively before any final decisions are made in this regard.

Additionally we consider Ofgem should be mindful of ensuring that projects that opt to progress via a merchant route are not excluded from participating in the process(es) associated with the AI principles included in this consultation.

## *Assessment of AI*

We consider that AI must be assessed and approved (if appropriate) by Ofgem on an ex ante basis in order for the developer to proceed with the proposed anticipatory investment.

Developers need to have certainty that AI costs will not be disallowed at the final cost assessment as part of the OFTO transfer process. There will always be an issue associated with the fact that there will never be certainty around costs until late in the construction process, but Ofgem already assesses costs on an ex ante basis in other regimes (C&F and LOTI) and we propose that a similar approach is used to assess AI costs. Depending on the maturity of the costs, Ofgem could perform an initial high-level sense-check of the developer’s early estimates of the project costs but, where costs are mature, also undertake a detailed assessment of the project’s costs.

Ofgem has acknowledged that for the aims of the OTNR to be realised and potential coordination opportunities to be considered when developing Early Opportunities, the OFTO cost assessment process needs to change. In such new and special circumstances, we believe Ofgem should be able to give early reassurance that AI costs will not be disallowed in order to allow developers to proceed with more coordination with confidence.

We have several concerns with the OFTO cost assessment process as it is proposed to interact with AI, which serve as a disincentive to take on the anticipatory investment risk for subsequent projects. This minded-to decisions suggests that the initial developer will bear the full risk of disallowance of AI costs for the benefit of subsequent projects and, if so, has no capacity to offset any such disallowance, which it would do for its own project assets via a reduction in its local TNUoS charges. We welcome the opportunity to respond to a consultation on the cost assessment guidance document that will take into account changes related to AI. Currently, Ofgem does not consult on the development of new cost assessment policies. This is inconsistent with its broader practice of consulting on new policies for the tender regime despite the cost assessment process being a sub-set of the broader tender regime. We consider it critical that Ofgem consults on revised cost assessment policies for AI, and for all changes to cost assessment policies going forward.

## **Question 7: Do you think the information sought as part of the early stage assessment process is appropriate?**

The information requested as part of the early stage assessment process appears to be broadly appropriate. Please note any cost information included in the submission would be commercially sensitive and therefore not able to be published as part of the consultation.

We consider that these assessments by Ofgem should be based on the concept of 'economic and efficient' which should not just focus on cost savings for the electricity system and network, but also on the benefits environmentally and for local communities as well as the longer term impacts of reaching net zero. We urge Ofgem to set out how the aims of the OTNR will interact in final decisions regarding allowable costs, to provide clarity for investors that Ofgem's framework for decision-making and the aims of the OTNR are compatible and outcomes are predictable.

## **Question 8: Do you have any views on the timing of the early stage assessment process?**

Developers need the early stage assessment process to take place as early as possible, alongside the planning application process, so that the information factored into the project design and CfD applications is accurate. This is necessary to reduce investment risk.

We are concerned that the early stage assessment process could take a considerable amount of time and potentially cause delay to the project(s) involved. It would be useful to understand why Ofgem considers a public consultation is required on the early stage assessment process as this will add to the timescales. Decisions from this process are concerning specific projects, not wider policy concepts and this appears at odds with the approach taken by NGEN on its decision on the connection locations for these projects. Given that there would already be a public consultation under the Environmental Impact Assessment consultation required under the DCO application process, the interests of consumers are already being appropriately assessed.

## **Question 9: Is there any other information which you believe should be included in the confirmation to developers?**

We consider that the early stage assessment process should provide developers with approval that in principle the AI proposed will be an allowable cost in any future cost assessment and that this process should confirm approval of the AI costs on an ex ante basis.

It is important to note, that it is very common for projects to change significantly during the development cycle due to factors such as changes in technology and enhanced understanding of the wind farm site and its optimal capacity/configuration. It is important that the in principle approval issued by Ofgem recognises this and that examples of material amendments or updates that would trigger the need for a re-assessment of the AI proposal (as highlighted in paragraph 3.19 of the Consultation) are clearly set out in Guidance.



## Minimising AI risk with user commitment

### **Question 10: Do you agree with the proposed extension of user commitment arrangements to the potential later user of offshore transmission infrastructure which has been funded by AI?**

We agree that for projects funded by AI, user commitment arrangements should be extended to the later user for the following reasons:

- It provides a clear demonstration of the later user's commitment to the project using a transparent regulated process which is actively managed.
- It is not reasonable to expect that a single commercial project could take on the liabilities for the connecting infrastructure required by one or possibly multiple other projects with differing programmes and timescales. If not addressed, it could act as a barrier to investment.
- The security provided by the later user's advanced project gives confidence to consumers that there is a mechanism in place to recover costs.

In the current environment where projects are planned out to 2050, we consider that the risk to the consumer of stranded assets materialising is low.

As ever, the details behind this minded-to decision regarding user commitment will determine how successful the implementation of this will be. It will be important to ensure that the timings around stepping up of liabilities and securities are aligned to when offshore wind projects are able to make further commitments to the projects – for example achieving consent for onshore and offshore assets, being awarded and CfD contract and achieving FID. We look forward to engaging with NGESO regarding these aspects.

### **Question 11: Do you have any views on the manner in which the user commitment should be calculated?**

We are generally supportive of the user commitment calculation principles that already exist for onshore transmission development and offshore transmission development under the OFTO build model being applied for projects subject to AI.

We look forward to actively engaging in the open governance process on the detail of the user commitment modification once it has been raised by ESO. The development of Code modifications to support implementation of OTNR policy should be prioritised and fast-tracked (possibly beyond the usual "urgent" designations). Developers require clarity and to be able to model costs sufficiently well to be able to prepare CfD bids in the next two years or so. Therefore, the usual timescales for Code modification workgroups and decisions are too long.



