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20<sup>th</sup> October 2023

## **Ref: Future System Operator Draft Licences Consultation**

Dear Future System Operator Team,

RWE is a leading global energy player, with a 38 GW global generating capacity worldwide, and a clear target: to get to net zero by 2040. With its new strategy 'Growing Green' (announced in November 2021) RWE expects to invest €50 billion gross in its core business globally - an average of €5 billion gross each year for offshore and onshore wind, solar, batteries, flexible generation and hydrogen.

RWE is the UK's largest power producer, accounting for around 15% of all electricity generated across a portfolio of onshore wind, offshore wind, hydro, biomass and gas, amounting to over 10 GW pro rata<sup>1</sup> (12 GW installed capacity) - enough to power over 10 million UK homes.

RWE is also one of the largest renewables generators in the UK, with a combined installed capacity of over 2.79 GW (pro rata) (4.8 GW installed capacity) across our onshore wind, offshore wind, hydro and biomass assets. In addition to its growing renewables portfolio, RWE operates around 7GW of modern and efficient gas-fired capacity in the UK, making us one of the largest providers of firm flexible generation, which is crucial for security of supply.

Overall, and including its committed investments in projects already under construction, RWE expects to invest up to £15 billion in new green technologies and infrastructure in the UK by 2030.

RWE is committed to supporting the communities in which we operate and has a long history of listening to local people and other stakeholders, and building flexible community funds that can respond to local needs. As of January this year, RWE's wind farm projects across the UK have invested more than £33 million into

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<sup>1</sup> Pro-rata – based on equity share

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**RWE Renewables UK Limited:** Registered in England and Wales no. 03758404

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community benefit funds with local grass roots decision making. This is set to grow by more than £4.5 million per annum from our operating portfolio alone.

Thank you for the opportunity to respond to the consultation on the draft licence conditions of the FSO.

### **Summary**

- Transparency is essential in the advice that the FSO gives to government and the regulator.
- The provision within the licence with regard to the powers for the Secretary of State to issue instructions relating to security of supply appear to be very broad. This must be limited to long term strategic threats and not risk conflict with emergency procedures and other short-term operational decisions by the system operator. We would welcome further clarity on the regulatory/legal gap that this provision is intended to fill.
- The Centralised Strategic Network Plan is critical for the cost efficient delivery of net zero and therefore development of the relevant licence provisions should be prioritised.
- Some minor clarifications or drafting amendments could improve transparency.

### **Q1. Does the draft ESO licence capture the policy intent set out by the joint ‘Proposals for a Future System Operator’ and ‘Future System Operator: second policy consultation and project update’ consultations?**

The draft ESO licence appears broadly reflective of the policy intent of the two policy consultations relating to the FSO and its duties, notwithstanding the forthcoming consultations to include licence provision to deliver the CSNP (and presumably with it, proposed regional system planning functions), and the below comments.

Given this consultation is running concurrently with the ‘Second Policy Consultation’, it is therefore assumed that responses to that consultation will also inform the final drafting of the FSO licence.

There are a small number of aspects of the draft licence that we feel are worthy of comment.

1. Advice to government and the regulator – we believe that transparency should be the default with regard to advice that the FSO gives to government and the regulator, and any such advice should be made publicly available. This would allow the industry stakeholders to both understand the advice being given, and identify



where they may hold additional information that could benefit decisionmakers. In exceptional circumstances, when publication would have a demonstrable negative impact on system security, OFGEM could issue permission for a redacted publication.

2. The provision within the licence with regard to the powers for the Secretary of State to issue instructions relating to security of supply appear to be very broad. The Second Policy Consultation appeared to set out that powers would be limited to long-term systemic threats to security, however the drafting within the licence refers to risks “...relating to national security that may detrimentally impact: the resilience, safety or security of the energy system”. This seems to capture both long-term systemic risks (as intended) but could also refer to short-term operational issues, and therefore risks instructions from the Secretary of State conflicting with well-established emergency procedures, or leading to other unintended consequences. The operational independence of the FSO is critical to system security and investor confidence, we therefore believe this aspect of the licence requires redrafting to reflect the intentions set out in the Second Policy Consultation. We would also welcome further clarity on the regulatory/legal gap that this provision is intended to fill, to understand what is preventing the Secretary of State engaging with the FSO on such matters already.
3. We support Net Zero being included as part of the FSO’s remit, however believe a clear definition of the “net zero objective” would be beneficial. The alignment with the 2008 Climate Change Act is at present deleted from the draft licence.

4. The use of “unduly” with regard to discrimination between parties e.g. in Part A.2:

*In the provision of Use of System, or in the carrying out of works for the purpose of connection to the National Electricity Transmission System, the licensee must not **unduly** discriminate as between any persons or class or classes of persons.*

We believe that this clause, and similar clauses, would give more certainty to users if the word ‘unduly’ were omitted, as its inclusion implies there may be justification for discrimination between users. We would welcome clarity regarding its inclusion, such as examples under which circumstances discrimination between users might be deemed appropriate.

5. We note that the licence requirements to deliver the Centralised Strategic Network Plan (CSNP) are intended to be added in future. The CSNP is critical for the cost efficient delivery of net zero and therefore development of the relevant licence provisions should be prioritised.



**Q2. Does the draft GSP licence capture the policy intent set out by the joint ‘Proposals for a Future System Operator’ and ‘Future System Operator: second policy consultation and project update’ consultations?**

As above, we have concerns regarding the provision within the licence with regard to the powers for the Secretary of State to issue instructions relating to security of supply appear to be very broad. The Second Policy Consultation appeared to set out that powers would be limited to long-term systemic threats to security, however the drafting within the licence refers to risks “...relating to national security that may detrimentally impact: the resilience, safety or security of the energy system”. This seems to capture both long-term systemic risks (as intended) but could also refer to short-term operational issues, and therefore risks instructions for the Secretary of State conflicting with well-established emergency procedures, or leading to other unintended consequences. We note that at present, gas system operation is intended to lie outside the remit of the FSO, however believe inclusion of any power that could lead to impacts on short-term operational decisions set and unhelpful precedent for the future, when FSO’s system operation responsibilities could be expanded to include gas, hydrogen or CO<sub>2</sub>. The operational independence of the FSO is critical to system security and investor confidence, we therefore believe this aspect of the licence therefore requires redrafting to reflect the intentions set out in the Second Policy Consultation.

**Q3. Do you have any other views or comments relating to the proposed approach to associated documents?**

We have no further comments.

**Q4. Have we correctly identified the major consequential impacts of the FSO licence proposals on other licences? Any further comments are welcome.**

We have no further comments at this time, but look forward to the proposed further consultation on this subject.

I hope you find this response useful, if you have any questions or would like to discuss any of our response further, please do not hesitate to contact me.

Yours sincerely,

**Dr Tom Steward**

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RWE