



Via email:

ESOperformance@ofgem.gov.uk

Email: claire.hynes@rwe.com

30th May 2024

Ref: Statutory Consultation on addition of Section F to Generation Licence Standard Conditions

Dear All,

RWE is leading the way to a green energy world. With an extensive investment and growth strategy, the company will expand its powerful, green generation capacity to 50 gigawatts internationally by 2030. RWE is investing €50 billion gross for this purpose in this decade. The portfolio is based on offshore and onshore wind, solar, hydrogen, batteries, biomass and gas.

RWE Supply & Trading provides tailored energy solutions for large customers. RWE has locations in the attractive markets of Europe, North America and the Asia-Pacific region. The company is responsibly phasing out nuclear energy and coal. Government-mandated phaseout roadmaps have been defined for both of these energy sources. RWE employs around 19,000 people worldwide and has a clear target: to get to net zero by 2040. On its way there, the company has set itself ambitious targets for all activities that cause greenhouse gas emissions. The Science Based Targets initiative has confirmed that these emission reduction targets are in line with the Paris Agreement. Very much in the spirit of the company's purpose: Our energy for a sustainable life.

Overview

- RWE is very supportive of the principle of this change but has some concerns on the way it is being executed under the proposed legal text.
 - Network Assets to provide network services are not defined as licenced activities and therefore are not covered by Schedule 3 of the Act. Developers are not required to hold a licence for these networks services as noted in paragraph 3.4 of this consultation.

RWE Generation UK plc Registered in England and Wales no. 03892782

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RWE Supply & Trading GmbH (Swindon Branch) Registered No. BR7373

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

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- As a result, we are not persuaded that the conferring of a generation licence on a developer automatically makes networks assets a licenced activity. Therefore, the licence cannot be extended by introducing a definition to a generation licence to cover dedicated network assets not requiring a licence and in particular those that do not generate electricity without the Secretary of State making changes to the Act.

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,

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Title: Head of UK Markets
RWE Supply & Trading GmbH

Name: Claire Hynes

Title: Industry Codes Manager
RWE Renewables (Swindon) Ltd.

Statutory Consultation on addition of Section F to Generation Licence Standard Conditions

Q1. Do you agree with inclusion via creation of new section within the licence?

We agree with the intent of the new section but question the ability of Ofgem to widen the scope of Schedule 3 to the Electricity Act 1989 (the “Act”) beyond those powers specifically set out in the Act. To extend compulsory purchase powers to activities not directly related to electricity generation would, in our opinion, require a change to the Act.

Q2. Do you agree with the proposed wording for inclusion of licence conditions F1 and F2?

We do not think that the proposed wording is sufficiently clear as to the precise scope of the change and the interaction with Schedule 3 to the Act.

The proposed text implies that the provisions of Schedule 3 to the Act are being extended beyond what is contemplated in the Act, which is the compulsory purchase of land for the purpose of carrying on the activities that are authorised by the licence. We are not persuaded that changes to the generation licence can extend the scope of the Act in this way.

Since the existing licence condition 14 refers specifically to enabling the licensee to carry on the activities authorised by the licence, the proposed wording of F2 would not work for assets dedicated to providing network services if the provisions of SLC 14 were extended in the way proposed, since they are not associated with the carrying on of the licenced activities.



Thus, the wording in F2 does not sufficiently clearly set out what activities would be permitted and how these are permitted under the provisions of the Act.

Q3. Do you have any other comments relevant to the scope of this proposed modification?

The provisions of Schedule 3 to the Act apply to a licensee and are limited to the purchase of land *“connected with the carrying on of the activities which he is authorised by his licence to carry on.”*

The activity that is authorised by a generation licence is the generation of electricity, which would otherwise be prohibited under the Act. In the consultation at paragraph 3.4, Ofgem confirms that *“assets dedicated to providing network services are generally not obliged to hold a Generation Licence, though they are able to apply for one.”* This confirms that the provision of network services from dedicated assets is not a licenced activity. We would also note that it is not assets that apply for or hold generation licenses, but rather persons carrying out, or wishing to carry out, the licenced activity of electricity generation.

We are therefore unclear that the proposed changes to the licence are sufficient to change the application of the Act to include activities that are not authorised by the licence (since a licence is generally not required).

We would contrast the proposed Part 2 Section F with the existing Part 2 Section D, Condition D3, which applies to activities associated with and necessary for the generation business for which the licensee is licenced. The section makes reference to particular activities associated with nuclear generation rather than to particular assets.

While we support the intent of the proposed changes, we do not believe that the provisions of the Act can be extended by a change to generation licences. However, we do think that it would be appropriate to review the compulsory purchase provisions for licenced generators who will need to adapt to a net-zero energy system. Future requirements will include the construction and installation of CCS and hydrogen infrastructure that may require additional land that would be for the purposes of continuing to carry on the licenced activities but which would include more than electric lines and associated electrical plant as set out in SLC 14. For added clarity, changes could be made to include all other energy relevant apparatus, works and assets, such as pipelines, CCS plants, water inlets/outlets, water pipelines etc, as they may require land beyond the original consented lines. Such changes, being associated with the licenced activity of electricity generation, would be capable of inclusion in the licence without any changes to the Act.