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**Offshore Electricity Transmission – A Further Joint Ofgem/DECC Regulatory Policy Update
November 2008**

Dear Colin,

We welcome the opportunity to respond to this Regulatory Policy Update. This response is provided on behalf of the RWE group of companies, including RWE npower, RWE Supply and Trading GmbH and npower renewables, a fully owned subsidiary of RWE Innogy.

The document is the intended penultimate consultation on the offshore transmission regime and represents the second consolidated consultation on the changes to the key industry documents that support this regime. We note that the development of industry codes, licences and agreements has been undertaken to deliver a regime that is largely untested. Although correctly reflecting the policy positions in these drafts is important, in our view a robust mechanism to make timely amendments in the light of operational experience is equally required.

Given the proximity to Go-Active we would expect the overall regulatory and commercial framework to be well established and this is confirmed by Ofgem/DECC. However, there are still a number of policies where views are being sought and the consultation highlights specific aspects of the policy proposals which require further development.

Before dealing with the questions raised in the consultation itself, we would like to make some general remarks.

EU Unbundling Requirements

This is clearly the most significant development since the June 2008 Regulatory Policy Update and this consultation sets out the latest agreed EU policy position and DECC/Ofgem

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interpretation of the likely impact on the proposed offshore regime. Although it is their view that the main impact is on OFTO of last resort proposals, the stringent business separation requirements appear to remove the option of the generator mitigating its availability risk by being an OFTO in its own right. From the perspective of a potential OFTO, completion of the legislative process for the 3rd Package and its subsequent adoption by Member States is key to understanding what a compliant business model might be.

There is an expectation that there will be a number of new entrants to the transmission market as unbundling occurs and to ensure continued confidence in the competitive arrangement, potential OFTOs will need to demonstrate their technical capability to deliver, own and maintain offshore transmission assets as well as their financial strength.

Incentive Proposals

The updated incentive scheme represents an improvement on the earlier proposals and we support the suggestion that final incentive parameters may be agreed on a case by case basis, given that there are limited international comparators. The proposed target availability (98%) with the option of banking permits gives the OFTO an incentive to exceed the target and the banking arrangements themselves will create a more continuous, rolling incentive framework.

We remain of the view that a generator-affiliate OFTO will have stronger incentives to respond to rectify an outage than an independent OFTO, but accept that the option may no longer be available. Although we would still prefer the incentive payments to be linked to the generator's opportunity costs, we accept that it would not be proportionate or consistent with the onshore regime if the OFTO faced an uncapped liability.

Given relative magnitude of the exposures faced by the OFTO and generator, one option might be for the generator to include a higher security standard in its specification. This would allow it to trade-off the cost-benefit of higher security standard over the project lifetime versus the costs of not being able to export power for an extended period. We would welcome Ofgem's view of how they expect to assess OFTO tenders based on the SQSS defined standard against those based upon a higher one.

Start of Regime

There have been changes to the Go-Active date throughout the regime development process. We accept that there are external drivers that influence this, together with factors such as extending the current consultation time table; we would like some certainty over the June 2009 date. We are less concerned that Go-Live should be 12 months after Go-active and this date should be set to avoid stranding any project.

Although there remains some continued uncertainty, both for offshore generators and OFTOs, we are committed to continue working with Ofgem and DECC to deliver the offshore electricity regime on time.

Round 3 Projects

Successful bidders into the Crown Estate competition will acquire exclusive rights to develop wind farms in specified zones and it is likely that these zones will be large, and that there will be more than one wind farm per zone. This has implications for the planning and design of offshore transmission infrastructure for the Round 3 zones. Furthermore, it raises the fundamental question of whether an essentially developer-led competitive tender process will in practice deliver the coordinated offshore networks that are considered to be required.

DECC and Ofgem recognise the importance, for Round 3, of ensuring that offshore transmission infrastructure is planned to accommodate all anticipated requirements in a given zone, and

understand that these requirements will be phased over a period of several years. They also expect that developers will submit applications covering all of their planned developments in a given zone, and also that developers working in the same zone will co-ordinate their applications in order to provide NGET with a complete picture of anticipated requirements in this zone and NGET will then develop a co-ordinated, forward-looking scheme that delivers the required capacity at the relevant locations in the required timescale. We would like confirmation that this entire scheme would be the subject of a single OFTO tender process.

Although the OFTO tender process is premised on the overall scheme developed by NGET and bidders would be free to develop detailed designs within this framework, the key parameters of the scheme (e.g. overall network topology, transfer capacity of each link, general location of network nodes) would be fixed. Although we are in favour of this co-ordinated approach, it needs to facilitate the single connectee that requires a point-to-point connection because their development timetable is not aligned with other, potentially unrelated projects.

Given this interpretation of the consultation text, we would like to highlight two concerns that need to be considered:

- Developers will need to make a firm commitment to 'build out' a planned set of generation developments in a given zone over several years, noting that these developments could comprise several GW of capacity. We need to consider the practical feasibility of developers entering into such a commitment, which presumably will be analogous to final sums arrangements. Given the high cost of offshore transmission infrastructure, the amounts involved are likely to run to billions of pounds.
- There is a possible need for offshore developers to co-ordinate connection applications relating to the same zone, and their subsequent co-dependence with regard to the delivery of the transmission infrastructure, which will not be easy. There is a concern that problems seen onshore associated with clustering and interactive offers could be manifested offshore.

We hope these views are helpful and would be happy to discuss them further.

Yours sincerely,

By email so unsigned

Charles Ruffell
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CONSULTATION QUESTIONS

Chapter 2: Implications of European Union Unbundling Requirements

- 1. We seek respondents' views as to our revised approach to the OFTO of last resort mechanism*

We agree that it is useful to have a backstop position should the competitive tender approach fail and, given the impact on the original OFTO of last resort proposals, the revised approach seems appropriate. A similar mechanism could be used to mitigate abandonment risk in the enduring regime.

- 2. We seek respondents view on the drafting of the licence condition that reflects our updated policy (see separate annex 1)*

The licence drafting appears to reflect the updated policy.

Chapter 3: Regulatory Regime

We would welcome views on our approach to the following issues:

- 1. Extending or re-tendering licences at the end of the 20 year revenue stream – what are your views on the proposed options?*

The flexibility afforded by the options to allow licence extension or re-tender depending on the circumstances is welcomed. In this context 20-22 years from now is a long time away.

- 2. Indexation and adjustment of the revenue stream – do you have comments on our proposals in respect of: Inflation? Refinancing? Business rates and licence fees? - Any others?*

We agree that indexation of known unknowns that are genuinely outside the OFTOs control (Inflation, business rates and licence fees) is appropriate.

- 3. What are your views about a possible delivery incentive for onshore TO/DNOs?*

There may be merit in developing its initial thinking for incentives on the onshore TO to make late delivery payments to the OFTO where the onshore TO does not complete their assets in time for the OFTO assets to be commissioned at the date originally proposed.

We agree with Ofgem's position that the OFTO already faces a strong, de facto late delivery incentive as their revenue stream will not begin until the transmission network has been delivered.

- 4. Can our detailed proposal on the availability incentive be further refined and improved?*

RWE broadly welcomes this proposal. The facility to carry over availability credits and debits into subsequent periods has two positive consequences. The facility to bank credits provides the OFTO with an incentive to out-perform the 98% availability target in any given year. The requirement to carry over debits provides the OFTO with an ongoing incentive to maximise availability towards the end of a bad year, when the 10% penalty cap has already been reached as a result of extended unplanned outages. However, we believe that further refinement of the proposal is required in order to ensure that this ongoing incentive is effective.

It is proposed that the OFTO will incur penalties at a rate of 0.4% of revenues for every 0.1% shortfall from the 98% availability target. Given this, our calculations for the case of our Gwynt y Mor project indicate that the OFTO's financial exposure, per additional hour of unavailability, would be roughly two-thirds the value of the lost exports from the wind farm. Thus, where penalties are applied in the same year (i.e. up to the 10% cap) the incentive mechanism results in a reasonable degree of alignment between the interests of the OFTO and those of the generator.

RWE considers that the proposed mechanism for banking availability credits and debits should be designed so as to maintain this alignment between the interests of the OFTO and the generator. Where penalties for under-performance are carried over into subsequent years, these penalties should reflect – to a reasonable degree – the financial impact of the under-performance on the generator. We note that the 'straw man' proposal outlined in Appendix 5 achieves this outcome with regard to the banking of credits, but not with regard to the carrying over of debits.

The proposed banking arrangements also require some further definition, with regard to when and how credits and debits can be "cashed in". In particular:

- Will the OFTO be able to hold credits/debits over several years, or must all credits/debits be cashed in during the year (or years) immediately after the one in which they are earned?
- If credits and/or debits can be held over, the OFTO must decide in each year how many to cash in, and how many to hold over to subsequent years. Will the OFTO be able to make this decision at the end of the year (i.e. once the availability out-turn for the year is known), or will the cashing in take place at the start of the year?

Finally, further consideration and clarification is required with regard to application of the incentive mechanism in cases where the OFTO assets comprise transmission links to two or more offshore substation platforms and how it relates to designed security standards and the related security factor afforded. The following cases will need to be addressed as a minimum:

- Multiple links from the onshore system to two or more offshore platforms (e.g. Robin Rigg, Gwynt y Mor)
- Primary link from the onshore system to one offshore platform, with a second link from this platform to a second platform (e.g. Greater Gabbard)

5. How should Ofgem appropriately respond to persistent poor performance by an OFTO, and how should any revocation mechanism be designed?

Any revocation mechanism should be built around ensuring continuity of network availability for the generator.

6. What are your views on our proposal to manage the risk of OFTO abandonment through OFTO of last resort scheme?

OK, but dilutes competitive elements. OK in principle as require a backstop, but until level of competition is clear hard to say much more National Grid could be the de facto OFTO.

Chapter 4: Standard Industry Framework

1. Does the drafting in the annexed codes accurately reflect the policy positions set out in this document?

Annex 1 – Consolidated Transmission Licence

The changes made to the draft licence results in a more coherent licence than earlier versions. We would still like to see less onerous reporting requirements for the OFTO.

Annex 6 - Grid Code

Whilst we are generally satisfied with the development of the Grid Code to date. However, given the extensive nature of the changes proposed in this latest consultation (20th November 2008), we are concerned it may no be possible to adequately test and identify every area where the proposed legal text is inconsistent with the underlying aims of the change and inconsistent with other codes. We would therefore suggest that, once the offshore code changes are approved, a process be established to enable any such defects and unintended consequences that are identified to be quickly remedied.

To date, we had identified two areas where the proposed text does not appear to deliver what was expected:

System to generating unit Intertripping schemes

System to generating unit Intertripping schemes, as defined by the Grid Code (including consultation F/08) and CUSC requires the Generator to install a scheme which, on receipt of a trip signal from the transmission system, would trip one or more generating units. For an offshore wind farm under the current arrangements, the intertrip would typically trip the User's 400kV breakers connecting the offshore wind farm to the transmission system. Clearly, once the wind farm connection point moves offshore under the offshore arrangements, the Intertripping scheme would become a transmission Intertripping scheme and not a generating unit Intertripping scheme.

We therefore propose that, as a minimum change, consideration be given to amending the definition of "System to Generator Operational Intertripping" to provide for the tripping of the OFTO's circuit breaker(s) in relation to offshore wind farms. Other changes to the codes may also be required.

Number of Balancing Mechanism Units

The currently proposed definition of "Offshore Power Park Module" permits a number of Offshore Power Park Strings to be aggregated into a single Power Park Module providing the busbar to which they are attached cannot be electrically split. This permitted aggregation effectively minimises the number of BM Units associated with the wind farm and required to be registered under the BSC.

However, the draft SQSS now provides for a double busbar connection arrangement enabling each String to connect to either the main or reserve busbar. Unfortunately, the flexibility provided by this arrangement also prohibits the aggregation of strings into a single BM Unit. Consequently, it is possible that for an offshore wind farm, each string would need to be registered as a separate BM Unit.

We do not believe that the additional cost and administrative burden arising from a disproportionate number of BM Units to be in the interests of either National Grid or the Users. Whilst non-standard BM Unit configuration arrangements, change of ownership boundary, metering dispensations, etc may provide a work-around, such solutions are unsatisfactory and invariably lead to other problems. We understand that Elexon is aware of these difficulties attributable to "complex offshore wind farms" and are considering possible solutions relating to the BSC. However changes to the Grid Code are also likely to be required.