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Dear Nicholas,

**Re: Charges for pre-2005 Distributed Generators' use of Distribution Network Operators' (DNOs') distribution systems**

Thank you for the opportunity to review and respond to your consultation relating to Charges for pre-2005 Distributed Generators' use of Distribution Network Operators' (DNOs') distribution systems. Fred.Olsen has been involved in wind power since the mid 90's with presence in Norway, Sweden, UK, Ireland and Canada. Fred Olsen Renewables Limited (FORL) has 316MW of operational wind projects, a further 135MW consented in the UK and a further 1.1GW consented in the Irish Sea and application made for a further 1GW extension. This makes FORL a significant independent generator in the wind energy sector. In addition, FORL are British Wind Energy Association (rebranded RenewableUK), Scottish Renewable Forum, Irish Wind Energy Association and National Offshore Wind Ireland members and are active on a number of the industry groups and FORL staff have, and continue to be, involved with numerous industry working groups such as UK government's Renewables Advisory Board Grid Group.

This is part 2 of the response from FORL, the first covering issues raised in Chapter 3 of the consultation, and covers issues raised in chapters 2 and 4.

To re-state for the record, FORL are against the UoS charges for the use of the distribution system and prefer the deep charging methodology. However we appreciate that the consultation in hand relates to the approach to be taken as if UoS charges are going to be applied.

Working on the basis that DG's connected to a relevant distribution system (pre 2005) on an understanding that the connection charge would confer the rights to be connected and remain connected to the system, and no further charges would be levied for the use of the system, it is of paramount importance that the calculation and payment of any compensation must be provided in such a manner as to adequately compensate the DG (who connected on an assumption of no charges).

You (as acknowledged to in the consultation) have requested that the DNOs undertake detailed reviews of their respective charging methodologies in order that a common approach can be adopted in terms of the introduction of UoS charges for EHV DG parties. The consultation also requested that DNO's undertake a review of existing contractual arrangements with DG's in order to assess whether such contractual obligations provide for the introduction of UoS charges.

On the basis of the process being undertaken by you and the request that DNO's review their existing contractual arrangements in order to assess whether there is a right to levy UoS charges on embedded generators (retrospectively), it is the case that older connection agreements do clearly define the DNO's rights to levy UoS charges on the DG's who connected to the system on the basis of payment of a connection charge conferring with it a right to connect and use the distribution system until the point of de-energisation. The more recent connection agreements do however provide for such provisions, and it is possible that the DNOs may seek to incorporate amendments to existing documentation to introduce such provisions.

In terms of your proposals for DNOs to consult with DG's to understand the nature of the connections, the ability to vary the existing documentation and the implementation of a UoS charging regime for DG's who connected and paid upfront charges for an enduring right to use the distribution system, there appear two salient issues which require determination when outlining compensation principles (on the basis that this regime is introduced in the current proposed form):

if DG's paid an upfront payment for connection to the system and the contracts are silent on what this payment covered i.e. connection and reinforcement of infrastructure assets, together with an enduring right to use the system, how can an adequate compensation valuation be ascertained?; and

if UoS charges vary depending on locality, there is potential for DGs in remote areas be hit twice – in effect, Ofgem would need to ensure that the compensation reflects that some DG's paid a premium for a deep connection pre-2005 and now face higher UoS charges owing to location?

In response to the first question, your consultation encourages DNOs and DGs to enter into dialogue to ascertain the nature and extent of silent (or implied) contractual terms, and also look to the scope of any applicable compensation. Where DNOs and DGs cannot reach consensus, you will act as a final arbiter. From situations where similar assessments have been undertaken in the past i.e. BETTA transition arrangements, it has normally been a long and laborious process, and has resulted in considerable delay. The payment of compensation may then be "up in the air" for a considerable period of time following the introduction of UoS charges, and will see DG's engaging in time consuming dialogue with DNO's to ensure that the nature of the connection and charges levied at the time of connection, are accurately quantified in light of the compensation arrangements.

In response to the calculation of compensation, you set out in detail in Chapter 4 of the Consultation the principles that should govern compensation calculation, including an assessment of connection charge compensation for those DGs that paid a deep connection charge. As above, this is a best case scenario theory that on paper appears reasonable. It is the practical application of this process that must be considered, being applied by DG's and DNO's across the UK, and for the multitude of projects currently connected. You may wish to consider how Ofgem will reconcile this compensation payment with any ongoing UoS charges e.g. would Ofgem consider not introducing UoS charges for pre-2005 EHV DG's until it

has resolved the issue of compensation and reached an agreeable sum of compensation with each EHV DG?

There is a growing discontent in certain sections of the industry to the introduction of UoS charging for EHV DG's. FORL contributed to the Renewable UK response to you stating their opposition to the introduction of such a charging regime for existing EHV DG, and calling for existing EHV DG to comply only with the terms of their contractual arrangements. The rationale behind Renewable UK's stance is that the proposed methodologies for compensation payments pose a significant risk for generators on the basis that it will create an uneven playing field between existing generators and new generators in the market.

We believe that you, Ofgem, should allow existing EHV DG to continue with their current arrangements for the length of their contractual entitlement (or when the life of the distribution assets are nearing their end), and thereafter have the parties enter into the charging arrangements going forward. This is proposed by Renewable UK together with an option for parties to sign up now on a voluntary basis, and commence paying UoS charges as required (should any EHV DG wish to adopt the charging regime at the outset on an enduring basis).

In addition to the issue raised by Renewable UK in terms of the potential for discrimination on existing EHV DG's and creating an uneven playing field, we would raise the following further issues for FORL to consider in framing any response to Ofgem in terms of potential issues with the charging proposals:

In reference to the Calculation of Deep Connection Charges, ascertaining what compensation sums are attributable to each pre-2005 EHV DG will require a considerable period of time to calculate and determine. For example, research and information on what charges were paid at the time of connection, the details of the connection and the engineering works required will need to be found for all DG's. There will also need to be a determination of the infrastructure and connection boundaries, together with an aggregation and valuation of assets, calculation of depreciation and indexation, and finally any allocation of shared costs for wayleaves or civil works.

The amount of time required in ascertaining and calculating this information will be considerable, and could be a lengthy and drawn out process. It could also require engagement of consultants and experts to determine, and thereafter see challenges being referred to Ofgem where any calculation is deemed inappropriate or insufficient, based on a DG's expectation.

The uncertainty and changing nature of the distribution system will make it difficult to adequately ascertain the true value of compensation to be awarded to an existing EHV DG. The nature of the distribution system changes quickly, and determining what assets were added by a particular connection may prove difficult. In addition to this, the loading details for the system at the time of a connection will have to be estimated – this estimate (we assume undertaken by Ofgem and/or the DNOs) will leave the EHV DG's at the mercy of such party who will determine the characteristics of connection, which will ultimately have a bearing on the level of compensation payment.

Taken together, the intricacies involved in the compensation calculation could see a variety of issues being referred to Ofgem (not specifically related to the value of compensation levied). Rather, the various methods of calculation and determination would be open to subjective analysis based on their historical nature and interpretation, and therefore it is not too far-fetched to see an existing EHV DG challenging certain criteria used in the calculation of compensation.

In relation to GDUoS or Infrastructure or Use of System, how will you determine what part of the potential charges relate to infrastructure and asset

installation/upgrades, and what element to the use of the system? In terms of the payments made by FORL entities, it is arguable that they have provided for the infrastructure and assets which they utilise in their connection – the payment should therefore only be on account of the use of the system, until such times as the assets use expires, or the bilateral contractual arrangements with the relevant DNOs ceases.

With regards the issues of Locational Signals, as you are already aware, a strong part of the rationale for UoS charging is to introduce locational signals for investment. On the basis that FORL entities have already paid initial "deep-charging" connection costs to connect in areas where there may be a high cost attributable to future connection, it is unfair that the UoS charges in such areas levied on pre-2005 DG's should have included that locational element of the charge i.e. pre-2005 DG's have already made the investment and connected, and should not be levied with higher UoS charges on account of circumstances that were not conceived at the date of connection, and as a means of providing locational investment signals for future generation.

In response to Market Uncertainty, we would suggest that there is a great deal of uncertainty around the approach of Ofgem. It is apparent that there will be no "one size fits all" approach that will gain the unanimous backing of the industry, and another key factor in this will surround the market uncertainty. Even the very nature of the Ofgem proposal was not envisaged by existing EHV DG, and serves to highlight the ever changing nature of the market and the need to ensure effective market regulation. There is therefore no guarantee that a similar exercise will not be undertaken in the future in the event of further changes to the connection requirements or use of system charging statements of DNO's.

We note that SPD are performing a case-by-case review of existing generation connections, to consider generators contractual rights for consistency with charging methodologies, and to establish if any capital refunds may be necessary resulting from different connection charging arrangements in place at the time of connection – the aim of this discussion process is to identify any situations where pre 2005 generators have funded assets that would have been funded by the DPCR4 and DPCR5 DG mechanisms had the connection taken place in that period. This review is to continue throughout 2010.

We will follow your suggestion and enter into the dialogue with the respective DNO counterparties for existing projects. It will need to be established from a technical and commercial perspective exactly what the connection charge paid by each FORL entity entitled it to receive from the DNO and the distribution system, and thereafter some calculations may be applied in terms of asset value, depreciation etc, to establish what sort of level of compensation may be applied in the event that Ofgem receive approval for its proposals and UoS charging regime.

If you have any further questions, please do not hesitate to get in touch.

Yours sincerely,



**Graeme Cooper**

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