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**Guidance on the Third Party Access regulatory regime for gas storage facilities in Great Britain
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Dear Ian

Thank you for the opportunity to comment on this consultation. This response is provided on behalf of the RWE group of companies, including RWE Npower plc and RWE Supply and Trading GmbH.

It is helpful that Ofgem has set out its preliminary views for guidance on negotiated third party access (nTPA) arrangements for gas storage facilities in the GB market. Gas storage provides an important source of flexibility to the GB market and Storage System Operators (SSO) need to develop allocation and other arrangements related to the definition of capacity, commercial conditions, mix of capacity products and information release that are likely to comply with the relevant legislation.

We understand that facilities covered by nTPA for storage facilities will be bound by the provisions of, inter alia, Articles 15, 17 and 19 of Regulation (EC) 715/2009, which prevent them offering services in a discriminatory way and requires them to provide a level of transparency over their services, operations and tariffs sufficient to allow potential users to gain effective access.

Ofgem has also set out a framework for assessing significant market power, although we are of the view that provided SSOs take due account of this guidance when making capacity available to potential users (including related undertakings), the risks to the market and consumers from exercising market power they may have should be low.

Our answers to the detailed consultation questions are set out in Appendix 1, below.

If you wish to discuss any aspect of our response, please do not hesitate to contact me.

Yours sincerely

By email, so unsigned

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APPENDIX 1: CONSULTATION QUESTIONS

CHAPTER 3: Access to gas storage and market power

Question 1: Should pivotal gas volume be used when assessing SMP? If no, please explain why.

Pivotal gas volume is a valid analytical tool for assessing significant market power. However, given its shortcomings in some circumstances, we fully support Ofgem's proposed hybrid assessment that will consider pivotality with other structural measures and market outcomes.

Question 2: Is the proposed figure of ten per cent of pivotal gas volume an appropriate threshold for defining SMP? If no, what is an appropriate threshold?

There needs to be some threshold for defining the extent of market power. We have no strong views if 10% is the correct threshold but it should be subject to review as markets evolve.

Question 3: Is it appropriate to also consider market outcomes to assess whether a market player may have SMP at lower levels of pivotality?

We agree that it is appropriate to consider a variety of measures, including other structural factors and market outcomes. Significant Market Power may exist over different timeframes and in different market segments and should be assessed using a range of tools. Ofgem has identified an appropriate range of measures.

Question 4: Are there any additional factors that should be used when considering if a market participant has SMP?

We cannot identify others at this stage.

CHAPTER 4: Capacity allocation and congestion management procedures

Question 1: What factors should be taken into consideration when defining the maximum capacity of a group of facilities?

We agree that maximum capacity of a group of facilities should be defined at an individual facility level. Where services are offered at a portfolio level, the SSO will need to provide an explanation if the level of portfolio capacity made available is different from the sum of the individual facilities.

Question 2: What concerns, if any, do market participants have with Ofgem's preliminary views on capacity allocation? What concerns, if any, do storage users have with the use of allocation mechanisms other than auctions to allocate capacity, particularly standard services?

We have no concerns and agree that, in principle, the use of auctions for primary allocation best meet the requirements set out in the Gas Regulation that the arrangements should be objective, transparent and non-discriminatory. Alternative allocation mechanisms would need to be demonstrably no worse than auctions.

Question 3: Does the use of auctions provide market participants with sufficient safeguards that any market player with SMP will provide standard services to the market on a non discriminatory basis? What other measures/safeguards in relation to how any market player with SMP allocates capacity could be considered?

Auctions, together with non-discriminatory reserve prices, anti-hoarding arrangements and information release provisions deliver sufficient safeguards.

Question 4: Do market participants consider that the prevailing anti hoarding arrangements currently in place at GB storage facilities that are subject to the TPA regime are appropriate and compatible with the requirements of the Gas Regulation? If no, please explain why.

We consider that the anti-hoarding arrangements are appropriate and compatible with the requirements of the Gas Regulation.

Question 5: Do market participants consider that the mix of interruptible and firm storage services is appropriate and compatible with the requirements of the Gas Regulation? If no, please explain why.

We consider that the availability of interruptible storage services to be an appropriate way to prevent capacity hoarding. Further, we agree that the pricing of interruptible capacity must reflect the likelihood of interruption. This approach appears to be consistent with the requirements of the Gas Regulation.

Question 6: Do market participants consider that the existing arrangements for the secondary trading of storage capacity are appropriate and compatible with the requirements of the Gas Regulation? If no, please explain why.

The SSOs currently facilitate secondary trading and we have no reason to believe that the comparatively modest levels of secondary trading seen are due to contractual, structural or any other impediments. However, pricing prompt injection or withdrawal services based upon forward commodity prices, rather than short-term operational costs, may limit utilisation of these services.

CHAPTER 5: Main commercial conditions and service specification

Question 1: What levels of consultation should SSOs undertake when developing main commercial conditions for the first time and when proposing amendments to the standard terms and conditions?

Ofgem has identified a number of guiding principles and we agree that following these would meet the requirement to consult the market. However, the level of consultation should be proportionate to the scale of change proposed.

Question 2: Are there aspects of an SSO's main commercial conditions where small changes are likely to have a significant impact on system users?

Credit arrangements are one and any changes that affect users' valuation of the relative cost of storage compared to other sources of flexibility e.g. regulatory requirements to limit access at times of high system demand or TSO pre-emption rights.

Question 3: Should SSOs be expected to formally consult or test the market before changing existing services or offering any new services to the market? If no, please explain why.

Anything that affects existing services should be subject to consultation. We would expect the SSO to undertake some form of market testing to assess demand before introducing new services.

Question 4: Should SSOs be expected to offer a minimum threshold of capacity on a short term basis? How should SSOs determine the minimum proportion of capacity that should be sold on a short term basis?

It is for the SSO to determine the quantity of capacity it releases on a short-term basis rather than it being mandated. Ultimately, the SSO must demonstrate its mix of contract durations does not breach the nTPA requirements in the Gas Regulation.

Question 5: Should SSOs be expected to offer bundled capacity as part of their 'standard services'? Should SSOs be expected to also offer unbundled capacity as part of their 'standard services'? Please explain your views.

We think that is largely for the SSO and market to determine, but we share Ofgem's preliminary view that SSOs should offer some firm bundled capacity as part of their 'standard services', the amount of capacity that SSOs should offer as bundled and unbundled services should reflect demand for the services at the facility.

CHAPTER 6: Transactions with related undertakings

Question 1: What factors should Ofgem take into consideration when assessing a market player's flexible gas requirements and, in particular, need for storage services?

We believe that there are a number of competing sources of flexibility and it is for individual companies to manage their requirements consistent with their risk management and hedging strategy. There are sufficient safeguards in the Gas Regulation and we share Ofgem's view that there should not be an upper limit on the amount of capacity that market players can hold at their own storage facilities as long as the amount of capacity held can be justified.

CHAPTER 7: Transparency and information sharing arrangements

Question 1: Do SSOs provide sufficient information on the services they offer and the terms and conditions of access? Is any further information required? Are there any improvements that could be made to how information is provided by SSOs?

We are happy with the information currently provided.

Question 2: Do SSOs provide sufficient information on the maximum capacity and the level of utilisation? What further information is required? Are the current timeframes for providing this information appropriate?

Prompt information is readily available as is information about outage plans within-year. Information about outages and other factors that might affect the service in periods beyond the current year would be helpful.

Question 3: Should SSOs publish the information required under section 19(4) on their websites or should NGG undertake this role for all SSOs?

Either would be appropriate but consolidating information on a single website does have some benefits.