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Dear Guy

### **Consultation on a time limited exemption from distribution charges for pre April 2005 connected generators**

The Renewable Energy Association is pleased to submit its comments on Ofgem's proposals to grant a time limited exemption from DUoS charges for those generators that connected before April 2005 and were subject to a deep connection charging methodology. The REA has members who work on all types of renewable power and heat projects including many electricity generation projects that connect to a distribution network. We have been extremely vocal on this issue for many years and have participated in all the consultations on the subject over that period. Latterly we have responded jointly with a number of other trade associations.

Our "headline comment" is that we are extremely pleased that you have listened to the representations made, carefully considered your position and propose a way forward that that, whilst not theoretically perfect, is one that we feel everybody ought to be able to go along with. We will welcome the end of a long period of uncertainty for the affected generators.

Considering the specific questions that you have asked:

**Question 1.1:** Do you agree with our proposal that by default CDCM generators eligible for an exemption should continue to be charged for UoS and that EDCM generators eligible for an exemption should continue be exempt from charges, unless either party chooses otherwise?

We agree that pragmatically this is an acceptable way forward on the understanding that as you propose exempt CDCM generators would have a window in which to opt out of being subject to the charges and all exempt

generators should have a once only opportunity to opt in to being subject to the charges.

**Question 2.1:** Do you agree that a time-limited exemption should be set on an ex ante basis?

We agree that in general a time-limited exemption should be set on an ex ante basis. There should be an exception to this for any cases where a connection or similar agreement states clearly that additional charges may become due after a specific event occurs, in which case the contract specific trigger should apply.

**Question 2.2:** Should an exemption be calculated from the date of a pre-2005 DG's connection, rather than some other date, such as from the date at which EDCM DG charges are introduced? Why?

The exemption should be calculated from the date of connection as there is no basis for any other date given that there was no expectation that DUoS charges would be introduced when pre April 2005 generators connected.

**Question 2.3:** Do you agree with our assessment of the options for determining the time limit for an exemption? Are there additional points of analysis we should bear in mind?

We are in sufficient agreement with the bulk of your analysis not to wish to raise any additional points on it.

**Question 2.4:** Are there better alternative options to those which we set out in this chapter and what would be their rationale?

You have omitted the case of when there is a clear period of duration specified in the original connection agreement. In such cases we believe that this should determine the period of exemption. You allude to these situations in paragraph

3.17 et seq. In all other cases we think that a fixed period of exemption should be applied.

**Question 2.5:** Do you agree with our initial thinking that a 20 year limit is appropriate? If not, what might be a more reasonable period of time that balances the interests of pre-2005 DGs and the DNOs' other customers? Please explain the reasoning behind your answer and provide any associated evidence.

Pragmatically, whilst we would have liked a somewhat longer period than 20 years on the basis that the economic lives of virtually all plant types are longer than this, we are prepared not to press this point.

**Question 2.6:** We note that rather than pay a capitalised payment for O&M, some DG customers pay an annual charge for O&M. Where such a DG is eligible for an exemption, should they continue to pay their annual O&M charge?

Our view is that if the agreement clearly specifies a periodic payment for O&M charges generators should continue to pay it.

**Question 3.1:** In general are our proposals for implementing the exemption arrangements considered by this consultation appropriate? Is the level of detail we have provided sufficiently clear to make implementation workable? Please outline any areas where you think more clarity/detail is required and set out your suggestions for what might fill these gaps.

With one additional step described in our answer to question 3.2 we think that the steps to implement the proposal are adequate and adequately described.

**Question 3.2:** Is our approach to due process appropriate? Are there additional or alternative steps that should be incorporated? What is a reasonable period of time in which to complete the due process we propose?

The additional step that we would include would be to determine whether there is a clear duration specified in an existing agreement that should override the default period.

In terms of time periods we think that exempt generators should be able to opt in to paying DUoS charges at any time. Exempt generators that are opted in by default (CDCM) should have one year from the notice sent to them by the DNO in which to choose to opt out of liability for DUoS charges. The aim should be to complete the whole process by 1<sup>st</sup> April 2013.

**Question 3.3:** Do you agree with our proposals for dispute resolution where DNOs and DGs cannot reach a settlement by 1 April 2012?

Ofgem would generally be the appropriate method of resolving a dispute except in cases where there is a dispute about the interpretation of a contractual term in an agreement in which case arbitration / litigation may be utilised.

**Question 3.4:** Do you agree that the connection date should be the date from which the exemption is calculated, with the energisation date used if the connection date is not available? Or, would it be more straightforward simply to use the energisation date for all eligible DGs?

We think that the connection date should be the date that the exemption runs from and if this cannot be ascertained then the date on which the connection was energised and available for export.

**Question 3.5:** Similarly, should a pre-2005 customer with a mix of demand and generation requirements be eligible for an exemption from UoS charges?

We agree that a customer with demand and generation should, where the generation would be eligible for exemption, be entitled to an exemption for its export charges.

**Question 3.6:** Do you agree with our proposal that the introduction of UoS charges should happen from the beginning of the next charging year after the date on which an exemption ends?

We accept that the proposed approach is a pragmatic and acceptable way forward.

If you would like to discuss any of these comments further please let me know,

Yours sincerely

Gaynor Hartnell  
Chief Executive  
Renewable Energy Association