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Swindon, 5<sup>th</sup> December 2011

## **Consultation on distribution use of system charging: a time limited exemption for pre-2005 generators**

Dear Guy,

Thank you for the opportunity to comment on your consultation on a time limited exemption for pre-2005 generators. The comments below are provided on behalf of RWE Npower plc, RWE Supply and Trading GmbH and RWE Npower Renewables Limited, a fully owned subsidiary of RWE Innogy GmbH.

### **1. Renewable generation - Importance of regulatory certainty**

The importance of regulatory certainty has been recognised in relation to the Renewables Obligation since 2009. We welcome the wider recognition of this principal in relation to the proposed exemption from distribution use of system charges for pre-2005 generators. We believe that this exemption is particularly important for renewable technologies because of their dependence on a stable regulatory environment in order to realise the government's carbon emissions targets. Our existing wind farms were financed on the basis of the duration of the connection agreements that we signed at the project outset. A dramatic increase in operating costs midway through a project's life cycle would not only affect investor confidence in existing projects but the consequential increase in risk premiums would also affect investment appetite for future projects.

### **2. Pre-vesting power stations**

Whilst the proposal to apply a 20 year limit from the date of connection would benefit a number of power stations, we are concerned that a number of pre-vesting power stations that were constructed and connected to the distribution system before 1990 would become immediately exposed to the GDUoS charge. These sites would receive no benefit or cushioning of the charges likely to be enjoyed by other sites.

Pre-vesting power station sites would have undoubtedly made new capital investment decisions since 1990 on a similar basis to other new post-vesting sites, including the assumption that GDUoS charges would not be payable. It would therefore be discriminatory to immediately subject these sites to GDUoS charges whilst excluding other sites from these charges, potentially up to 2025.

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### **2.1 Pre-vesting large power stations**

In addition to prospect that pre-vesting power stations would immediately become subject to GDUoS charges, we are further concerned that a number of these sites are large embedded power stations that are deemed to be using the transmission system and are therefore already subject to TNUoS charges. We do not believe that Ofgem has adequately considered the impact of applying two sets of charges to such generators and we are concerned that the pancaking of both GDUoS and TNUoS charges to such sites could lead to perverse commercial decisions and distort the efficiency of the connections regime more widely.

Embedded power stations above 100MW are licensable and do not qualify to receive embedded benefits that would otherwise be credited to an exempt embedded power station under the terms of the BSC. In view of this and in the light of the proposed pancaked charges being applied, the developer may well have opted for a transmission connection as opposed to a distribution connection. Until the overall charge liability for such sites has been thoroughly considered (as was recently the case for Interconnector charges), we propose that such power stations be exempt from GDUoS charges.

#### ***In summary***

Subject to the review of charges for pre-vesting large power station, we believe that where future charges are deemed to be payable by Ofgem, a 20 year exemption should apply to all pre-2005 connected sites from 2005. This proposal would have the benefit of ease of application and non-discrimination.

We would be very happy to discuss these points further and if you have any questions on the above, please do not hesitate to contact me.

Yours sincerely,

Diana Chklar  
Grid Regulation Manager  
**RWE Npower Renewables**

## **Questions**

### **CHAPTER: One**

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

We believe that this will be the simplest way to implement the proposals because the majority of generators are likely to decide to continue to operate under the existing arrangements.

### **CHAPTER: Two**

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

Transparency and regulatory certainty are key concerns for the development of renewable generation. We therefore agree with this proposal because it broadly recognises the rights set out in connection agreements. It will provide clarity to generators as to the date at which charges will be levied and will enable the DNOs to provide upfront transparency in relation to the charges that existing and future distribution system users will need to pay.

**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?*

We believe that the exception should be calculated from April 1<sup>st</sup> 2005 for all pre-2005 generators on the basis that this was the date that the previous deep connection methodology came to an end and ongoing DG use of system charges were introduced.

Up until this date generators would have made commercial decisions based on the regulatory framework that prevailed at the time. Those investment decisions need to be recognised from 2005 onwards for the duration of 20 years.

**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?*

In the case of renewable generation, we believe that regulatory certainty is a key principal that should be considered when determining the duration of the exemption. This is something that has been recognised by government in relation to the Renewables Obligation banding levels since 2009. For renewables projects, it is particularly important that contractual agreements are upheld because of the consequential impact on investor confidence. As a renewables developer, we are acutely aware of the need to attract sufficient levels of investment in order to meet the government's 2020 targets. Without predictable levels of return, financiers are likely to look for other sectors in which to invest.

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

We believe that a proposal which takes account of the duration of the connection agreements, asset lives of the generation assets and associated local grid reinforcements as well as the underlying support mechanism would be appropriate.

**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.*

Yes, provided that the 20 year exemption is introduced to apply from April 1<sup>st</sup> 2005 onwards.

Users typically finance their projects on the basis of a given level of return over a fixed period of time in line. For renewable projects, the duration of the connection agreements broadly recognises the asset life of the wind farm and associated local grid reinforcements as well as the underlying support mechanism. Connection agreements for renewables projects vary from 20-25 years and connection agreements for per-vesting projects can be a number of decades in duration. Although on the lower end of the scale, by introducing the 20 year exemption from 2005 onwards these investment decisions would be broadly recognised.

**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?*

We believe that such generators should continue to pay ongoing O&M if they are currently paying this charge.

### **CHAPTER: Three**

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

We agree that the exemption will replace the refund proposals.

**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 exemption of all pre-2005 generators for 20 years from April 1<sup>st</sup> 2005 would reduce the complexity of agreeing the date at which sites were originally commissioned. This would be the easiest and swiftest way forward.

Otherwise Ofgem must ensure that DNOs are given sufficient time to agree contentious connection dates with individual generators where there are any discrepancies or missing information in relation to the project commissioning year.

**Question 3.3:** *Do you agree with our proposals for dispute resolution where DNOs and DGs cannot reach a settlement by 1 April 2013?*

We believe that the proposed dispute resolution process is appropriate provided that generators are given sufficient time to agree the connection date with the DNOs in cases where there is a lack of information or discrepancy in information available.

**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?*

No we would recommend the commencement of the exemption for all pre-2005 generators from April 1<sup>st</sup> 2005. This would reduce the complexity associated with agreeing on the date that connection agreements commenced or energisation dates. This would be the easiest and swiftest way forward.

**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?*

Yes, we believe that such generators should be eligible for an exemption from use of system charges. We cannot see any reason why such generators should be excluded from the exemption.

**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 agree with this proposal because it would be the simplest to implement and would mean that charges would remain more stable for all other system users from one year to the next.