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Submitted via email to: [offshore.enduring@ofgem.gov.uk](mailto:offshore.enduring@ofgem.gov.uk)

Swindon, 9<sup>th</sup> October 2012

RE: Consultation on Draft Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2012

Dear Martin,

This response is submitted on behalf of RWE npower renewables, a wholly owned subsidiary of RWE Innogy GMBH. RWE npower renewables is one of the UK's largest renewable energy developers and are in the process of developing a number of projects which will be affected by these draft regulations. We welcome the opportunity to comment on these draft Regulations. This response sets out some high level points in relation to the provisions contained in the draft regulations and some more detailed comments in relation to specific regulations.

Our key concern is the trend towards more onerous obligations on developers particularly in relation to the strengthening of requirements on developers which we believe are already sufficiently robust. In particular, we do not believe that it is necessary to increase the obligations on developers around asset transfer (regulation 21); we believe that there are already sufficient incentives to encourage developers to transfer the transmission assets as soon as possible.

We believe that the developers' payment and security should be clearly communicated to the developer from the outset with the Authority's ability to update such requirements limited to minimise costs and uncertainty to developers.

We welcome the inclusion of a share sale agreement and the additional flexibility that this provides to developers. Although we also welcome the additional flexibility given by the change in definition to developer groups, it is unclear to us how this change affects developer rights and obligations. We also note that the draft regulations allow Ofgem to allow changes to bidder groups post appointment of the preferred Bidder, we ask that Ofgem keeps the developer informed of any potential changes so as to facilitate optimal progress to Asset Transfer.

The terminology transitional tender exercise no longer seems appropriate to refer to generator build projects as participating in a "transitional tender exercise" given that we expect projects will continue to use this model in the long term. It is particularly confusing at present given that one of our projects is part of the existing transitional tender regime and yet future generator build projects will continue to be classified as transitional.

This document as well as the May consultation document<sup>1</sup> (para 3.16) set out Ofgem's intention to make provision for the recovery of ITT bid costs for an OFTO build tender exercise. We believe that this provision should be used with caution because any increase in the cost of an OFTO build tender process, may further reduce its appeal compared to a generator build tender process where the costs and uncertainties can be controlled more easily. If bidder costs are to be reimbursed, the developer should be kept informed on an ongoing basis, as to the potential scale of such costs. We note the associated obligation to provide ongoing information to the Authority in relation to OFTO build pre-construction costs does not seem to be matched by a provision to provide similar information to developers in relation to potential bidder costs. Another way of addressing this uncertainty may be to amend the definition of bid costs to more clearly define eligible costs.

Please do not hesitate to contact me should you have any questions in relation to our response.

Best regards,  
Diana Chklar

Grid Regulation Manager  
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**RWE Npower Renewables**

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<sup>1</sup> Offshore Electricity Transmission: Updated proposals for the enduring regime, Ref 72/12, May 2012