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Enabling the competitive deployment of storage in a flexible energy system: changes to the electricity distribution licence - RWE Response

Dear Andrew,

RWE welcomes the opportunity to respond to the Ofgem consultation on “Enabling the competitive deployment of storage in a flexible energy system: changes to the electricity distribution licence” published on 29th September 2017 (the Consultation Document). We are responding on behalf of RWE Supply and Trading GmbH and RWE Generation plc. This is a non-confidential response.

We support the introduction of an explicit prohibition on electricity generation including the operation of storage facilities by DNOs. Time-limited exceptions for the prohibition should only apply in defined circumstances and be related exclusively to generation or storage facilities required for the provision of uninterruptible supplies at DNO sites, emergency response and maintenance fleets and islanded networks. Exceptions should identify the specific generation or storage facility assets and their utilisation which should be limited to ensuring the safe and reliable operation of the network for the relevant DNO.

Our detailed comments on the questions in the Consultation Document are included in Annex 1.

If you have any comments or wish to discuss the issues raised in this letter then please do not hesitate to contact me.

Yours faithfully

By email

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Annex 1: RWE Response to the consultation questions

Introductory Comments

The draft prohibition in DNO licensees relates to preventing DNOs from “*engaging in the activity of electricity generation*” (Draft Condition 43B of the Distribution Licence in Appendix 1 of the Consultation Document). This draft makes no direct reference to “electricity storage” or “electricity storage facilities”. Therefore we are interpreting this condition to apply to all activities classed as electricity generation including storage facilities that may be defined as generation. This interpretation is consistent with Paragraph 1.14 in the Consultation Document which states that Ofgem “*concluded that storage should be treated as a form of generation within the existing framework*” (Page 7).

The Consultation Document makes reference to the exemption regime applicable to generation, with the suggestion that DNOs should not operate “*storage that benefits from an exemption to hold a generation licence*” (see for example Chapter 2, question 1 below). Therefore we assume that Ofgem consider the Generation Licence exemption regime applies to electricity storage facilities where such facilities are classed as generation..

Storage Facilities with Associated Demand

The draft Generating Licence includes a provision (Condition E1(1)) relating to the “primary function” of a storage facility (Ofgem consultation “Clarifying the regulatory framework for electricity storage: licensing”, Ofgem, 29th September 2017). This states that “*the licensee shall not have self-consumption as the primary function when operating its storage facility*”. Therefore Ofgem consider that “storage facilities” are only classed as generation if this is the “primary function”. This means that there is a class of storage or storage facilities that are not generation.

Scope of the Prohibition

As noted above, the draft Condition 43(B) prohibition applies to DNOs from “*engaging in the activity of generation*” and we assume that this applies to “*storage facilities*” that are classed as “*generation*”. From this definition it appears as though the prohibition does not apply to sites with electricity storage and storage facilities which are not classed as generation. This is a serious omission and may permit DNOs to own and operate storage facilities not classed as generation. We do not believe that this is Ofgem’s intent. DNOs should not be permitted to own and operate any storage or storage facility. Therefore the draft prohibition in DNO licensees should be amended and relate to a prohibition on “*engaging in the activity of electricity generation including the activity of storage and ownership of a storage facility for any purposes with the exception of those activities permitted by the Authority*”.

Chapter 2. Proposed new condition in the electricity distribution licence

Question 1: Do you agree that the proposed new condition will ensure legal unbundling of DNOs from the operation of storage that benefits from an exemption to hold a generation licence?

Article 26 of the Directive envisages that distribution system operators “*shall be independent at least in terms of its legal form, organisation and decision making from other activities not relating to distribution*” (Article 26 (1) Directive 2009/72/EC Of The European Parliament And Of The Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive

2003/54/EC). It is for the DNO to determine whether it is compliant with the Directive regarding the legal unbundling of distribution activities from the ownership and operation of generating stations including storage facilities that benefit from an exemption to hold a generation licence.

The proposed DNO Licence change should ensure that DNOs are prohibited from engaging in the activity of electricity generation including operation of storage that benefits from an exemption to hold a generation licence subject to exceptions permitted by a Direction from the Authority.

We note that this question relates to the “*operation of storage that benefits from an exemption to hold a generation licence*”. It should be clarified that the proposed licence change applies to the operation by DNOs of generating stations including storage facilities that are subject to a Generation licence as well as licence exempt storage (even if the DNOs does not own the relevant station).

Question 2: Do you agree that the same principles of unbundling should apply to IDNOs? Do you have any views on the application of the specific new condition proposed here applying to IDNOs?

The principles of unbundling in the Directive (Article 26) apply to IDNOs where they undertake activities as Distribution System Operators. This ensures a level playing field for all aspects of Distribution System Operation.

The specific new condition proposed should apply to both IDNOs as well as DNOs.

Question 3: Do you agree that DNOs should be able to directly own and operate small-scale storage for the purposes of providing uninterruptible power supplies (UPS) at substations? Do you agree that DNOs should be able to directly own and operate small-scale storage for the time-limited purposes of emergency restoration and maintenance? Do you think DNOs should be able to directly own and operate storage for any other specific applications?

The role of DNOs with regard to the ownership and use of generating stations that include storage facilities for the provision of uninterruptible power supplies, emergency response and maintenance fleets must be clearly defined for each DNO. The definition should only relate to the activities that ensure the safe and reliable operation of the relevant network. The generating stations including storage facilities that deliver these services should be subject to a specific Direction from the Authority. This Direction should identify the relevant assets and define the circumstances in which they will be utilised. The Direction may need to be updated from time to time to reflect additions to or deletions from the relevant asset list and only relate to uninterruptible power supplies, emergency response and maintenance fleets.

DNOs should not normally be able to directly own and operate generating stations including storage facilities except in “exceptional circumstances” where this relates to the safe and reliable operation of the system. An application for a direction related to “exceptional circumstances” must include a description of the events that give rise to the request. Any Direction issued by the Authority should identify the relevant assets and define the circumstances in which they will be utilised. The Direction may need to be updated from time to time to reflect additions to or deletions from the relevant asset list

Question 4: Do you have any views on the treatment of existing islanded system generation currently owned by DNOs?

Do you have any views on the treatment of future use of DNO owned and operated generation of storage in similar island situations?

The role of DNOs with regard to the ownership and use of generating stations including storage facilities for the provision of islanded system generation must be clearly defined for each DNO. The definition should only relate to the activities that ensure the safe and reliable operation of the relevant islanded network. The generating stations including storage facilities that deliver these services should be subject to a specific Direction from the Authority. This Direction should identify the relevant assets and prescribe the circumstances in which they will be utilised. The Direction may need to be updated from time to time to reflect additions to or deletions from the relevant asset list and only relate to storage facilities that enable islanded system generation.

Chapter 3. Guidance document

Question 1: What are your views on the three high-level criteria proposed as the basis for assessing applications for consent?

Do think there are other criteria which should also be included?

The high level criteria as set out in the consultation document provide a sound basis for evaluating any applications by a DNO for consent DNO to operate a generating station including a storage facility.

It is for the DNO to determine whether the application is compliant with all aspects of legislation including the relevant Directives and Regulations in force. In this context we note that the draft Electricity Balancing Guidelines due to come into force later this year includes a number of high level objectives which apply to DSOs in operating their networks (Article 3). These should be taken into account in evaluating any proposal for a Direction as envisaged under the DNO licence amendments.

Question 2: Do you have any other views on the scope or content of the proposed guidance document?

The Guidance Document should relate to the specific circumstances that give rise to a requirement for a DNO to engage in the activity of electricity generation. These circumstances should only relate to the operation of

- uninterruptible supplies at DNO sites;
- emergency response and maintenance fleets;
- Islanded system generation; or
- generation assets required in exceptional circumstances.

It should be clear that any Direction should only be granted where they relate to the safe and reliable operation of the DNO network. Each application for a Direction under the licence should include the following information:

- a description of the generating station including storage facilities,
- the location of the generating station including storage facilities;
- a list of the assets involved;
- the operating characteristics of the assets;

- the metering arrangements at the site
- the procurement process utilised for the provision of the generating station including storage facilities;
- the process for reporting and monitoring the operation of the generating station including storage facilities in accordance with the licence and the Exception regime; and
- the circumstances in which the generating station including storage facilities will be utilised in order to ensure safe and efficient operation of the relevant network.

Question 3: Do you have any views on the process that should apply to the assessment of applications?

The process that should apply to the assessment of applications must involve at least a detailed evaluation of the circumstances that give rise to the DNO application in the context of the high level criteria, publication of initial conclusions by the Authority and an opportunity for consultation prior to an Authority decision.

It should be clear that the applicant must provide the information set out in the Guidance Document to enable an application to be considered.

Chapter 4. Reporting and monitoring

Question 1: Do you have any views on reporting requirements for DNOs that own/operate storage assets?

The DNO should be required to provide periodic reports on the operation of a generating station including a storage facility that is subject to the Direction under the licence. This should include:

- the energy delivered and consumed by the storage facility for defined periods;
- the circumstances that give rise to the utilisation (dispatch) of the facility;
- an ongoing assessment of the requirement for the DNO to operate and utilise the storage facility;
- an assessment that there remains no other market solution and that a DNO operated facility remains the most economic and efficient solution; and
- an assessment of the measures that DNO has taken to minimise conflicts of interest and the mitigations measures in relation to potential market distortions.

Question 2: Are there any particular types of data that, if published, could facilitate entry of competitive parties?

Given that it is envisaged that there are limited circumstances that give rise to the need for a DNO to operate a generation we do not believe it is appropriate to consider the publication of data or the entry of competitive parties. The Guidance Document should make it clear that DNOs can only operate generating stations including storage facilities in specific circumstances.

Is there any other information or data that you think DNOs hold about the deployment of storage on their networks that they could usefully make public?

The deployment of generating stations including storage facilities to provide services to the DNO is dependent on the development of the regime that enables DNOs to more actively manage the relevant network as a Distribution System Operator. The development of such a regime appears to

be beyond the scope to this consultation. However we would note that the role of a DSO closely resembles the role of the TSO and as such has many shared features including the requirement to balance the network and the provision of certain ancillary services from third parties. We look forward to further consultation on these issues.