



Awel y Môr Offshore Wind Farm

Update on Negotiations with Rhyl Flats Wind Farm Limited and North Hoyle Wind Farm Limited at Deadline 7

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RWE Renewables UK Swindon Limited

Windmill Hill Business Park
Whitehill Way
Swindon
Wiltshire SN5 6PB
T +44 (0)8456 720 090



Registered office:
RWE Renewables UK Swindon Limited
Windmill Hill Business Park
Whitehill Way
Swindon

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1 Update on Negotiations with Rhyl Flats Wind Farm Limited and North Hoyle Wind Farm Limited

1.1 Rhyl Flats Wind Farm Limited (RFWFL)

- 1 The Applicant and Rhyl Flats Wind Farm Limited (RFWFL) are continuing active discussions in relation to the protective provisions and the Applicant hopes that an agreed position on the majority of points in the protective provisions can be reached before the end of the Examination. The Applicant sent a revised version of the protective provisions to RFWFL's solicitor on 24 February 2023 and received a response on 7 March 2023.
- 2 The Applicant and RFWFL fundamentally disagree about the relevance of wake loss in the determination of the Awel y Môr DCO application. Other than the wake loss provision, the Applicant and RFWFL have agreed the majority of points relating to the protective provisions. The main outstanding point of disagreement relates to the indemnity provision and whether the indemnity provided to RFWFL under the protective provisions should be capped.
- 3 Should protective provisions not be agreed by the close of the Examination, the Applicant intends to submit its preferred set of protective provisions in the final version of the dDCO at Deadline 8 with an explanation of why these are considered appropriate. It is anticipated that RFWFL will also submit its preferred set of protective provisions to the ExA. It will then be open for the ExA to recommend that either set of protective provisions (or another form of protective provisions) is included in the DCO should it be granted by the Secretary of State.
- 4 The Applicant and RFWFL will continue to negotiate the protective provisions after the close of the Examination and if agreement is reached the Applicant will submit the agreed set of protective provisions to the Secretary of State to take into consideration when making the final decision.

1.2 North Hoyle Wind Farm Limited (NHWFL)

- 5 The Applicant and North Hoyle Wind Farm Limited (NHWFL) are continuing active discussions in relation to the crossing agreement and the Applicant hopes that it can be agreed before the end of the Examination. The Applicant provided comments on a few remaining points to NHWF on 1 March 2023. The main outstanding points of dispute are:
- The Applicant considers that the indemnity provided in the crossing agreement should be limited to works undertaken within the vicinity of the cable crossing rather than in consequence of the construction, use, maintenance of the authorised development more widely. NHWFL maintains that the indemnity should cover any loss or damage in consequence of the construction, use, maintenance of the authorised development more widely.
 - The Applicant considers that the indemnity under the crossing agreement should be capped.
 - As the crossing agreement covers both the initial crossing works that will be carried out by the Applicant and also any future works in the vicinity of the cable crossing that may be required to be carried out by either party, the Applicant considers the indemnity for loss or damage as a result of any such future works should be mutual.
- 6 The Applicant considers that these are standard industry provisions and that the position is consistent with the purpose of crossing agreements which is to provide protection for any loss or damage suffered as a result of the carrying out of crossing works by AyM and future work in the vicinity of the cable crossing by either party. They are not intended to provide wider compensation for the existence of the rest of the development. The Applicant's position is also consistent with the original template crossing agreement that NHWFL provided to the Applicant as an example of the basis of the form of agreement on which the AyM/NHWFL crossing agreement could be based (and a position that the Applicant is aware NHWFL has agreed with other third parties that have crossed NHWFL's cables previously).

- 7 The Applicant does not consider that it is necessary or appropriate to include protective provisions in favour of NHWFL on the basis that the relationship between the parties should be dealt with by a crossing agreement as is standard within the offshore industry. This will include reciprocal obligations on both the Applicant and NHWFL in relation to approval of works which is in both parties' interests. The protective provisions drafted by NHWFL do not contain such reciprocal obligations.
- 8 Although the Applicant is hoping that the crossing agreement will be finalised and signed before the close of the Examination, it is common practice for crossing agreements to be finalised and signed after the close of the Examination.



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