

DEADLINE 8

RHYL FLATS WINDFARM LIMITED – RESPONSE TO DEADLINE 6 SUBMISSIONS

Table 1 – Response to Applicant’s Comments on Responses to the Examining Authority’s Second Written Questions [REP-6-003]

Question Number	Addressed to	Question	RFWFL Deadline 5 Response	Applicant Deadline 6 Response	RFWFL Deadline 8 Response
3.8	Rhyl Flats Wind Farm Limited (RWF)	<p>Wake effects</p> <p>The Applicant provided its view on the matter of wake effects in respect of RWF in response to ExQ1.3.27 [REP1-007]. Do you agree with the points raised, and if not, do you have any substantive evidence of your own to support your concern on this matter?</p>	<p>Response to Applicant Views on Wake Loss</p> <p>RFWL responded to the views of the Applicant on this matter in their comments at Deadline 2 [REP2-057] and again at Deadline 4 [REP4-047]. RFWL does not agree with the points raised by the Applicant. The Applicant raises 3 main points which are addressed in turn:-</p> <p style="padding-left: 40px;">1) Crown Estate Siting Criteria</p> <p>The Applicant maintains that ensuring a suitable distance between existing and new offshore wind farms was considered as part of TCE’s siting criteria and there are no further siting requirements placed on the Applicant in relation to the design of AyM. It is accepted that the Crown Estate’s siting criteria include set off distances from existing offshore wind farms but it important to take account of</p>	<p>The Applicant considers that there are three main points to address in relation to RFWFL’s response:</p> <p style="padding-left: 40px;">1. Agreement for Lease</p> <p>The Applicant has an Agreement for Lease (AfL) with The Crown Estate (TCE) for the AyM wind farm (the array area). This permits the Applicant to locate wind turbine generators (WTGs) anywhere within the AfL area without the consent of RFWFL.</p> <p>The need for RFWFL’s consent is entirely separate from the Applicant’s array area. There is no link between the requirement for RFWFL’s consent for cable works within the 250m restriction zone and the wake loss claims made by RFWFL. It is important that these two matters</p>	<p>In relation to the points raised by the Applicant:-</p> <p style="padding-left: 40px;">1. Agreement for Lease</p> <p>It is understood that the Applicant is seeking to submit that the wake loss issue is unconnected to the need for RFWFL’s consent to the Crown Estate lease; and that, provided the protective provisions are included in the DCO, there is no reason why consent should not be forthcoming.</p> <p>Essentially, the Applicant is arguing that, when deciding whether to consent to the lease, RFWFL is limited to considering the works within the zone for which the consent is required and must shut its mind to the potential impact of works outwith that zone. Without prejudice to the outcome of a</p>

			<p>the context for these criteria and how they fit with the policy in EN-3.</p> <p>Crown Estate leases for offshore wind farms typically set restriction zones around the leased area which restrict the granting of new interests. Within the first restriction zone (typically up to 250m from the perimeter of the lease), the consent of the existing tenant is required if the Crown Estate wish to grant a lease for other works. This provision has been referred to by both parties and is why the granting of the lease by the Crown Estate to the Applicant is subject to RFWL's consent.</p> <p>For some offshore windfarm leases (such as the existing RFWL lease) there is also an extended restricted zone prohibiting the granting of a lease for the construction of additional turbines which would result in reduction of energy output from an existing wind farm unless certain criteria are met.</p> <p>The Crown Estate siting criteria need to be seen in the context of the Crown Estate's contractual position in relation to existing wind farms. The siting guidance seeks to avoid new proposals</p>	<p>are not conflated.</p> <p>The Applicant will have a lease with TCE for its offshore cables (the offshore transmission assets). At present it is anticipated that this lease will include a small area which intrudes into the 250m restriction zone around the RFWF array leased area. The need for the Applicant to undertake works in the restriction zone is yet to be confirmed. However, in the event that AyM needs to undertake works in this restriction zone, the consent of RFWFL is needed. The Applicant believe that, based on other TCE offshore lease drafting, RFWFL's lease with TCE will contain an obligation for RFWFL in such circumstances not to unreasonably withhold or delay consent and not to deliberately take any actions to frustrate a neighbouring project. In so far as it will be required, RFWFL's consent is therefore a leasing issue where its consent cannot be unreasonably withheld (assuming such a provision is included in RFWFL's lease). There is no reason why RFWFL's consent (if needed) should be given different status to any other offshore interaction between AyM and other existing infrastructure.</p>	<p>prejudice to a decision on any formal request for consent, RFWFL does not necessarily agree with this categorisation of the scope of the issues which they may consider in determining whether to give such consent.</p> <p>2) Policy</p> <p>In relation to the Applicant's NPS Tracker, the ExA can read this for themselves. However, in RFWFL's submission it is clear that the references to compliance with the NPS in relation to offshore wind farms is not limited to reference to good practice on consultation. The whole purpose of the Tracker table is to demonstrate how the project has complied with the NPS. The refence to consultation here is to demonstrate that the Applicant has complied with the consultation requirements with affected offshore operators, including operating of existing offshore wind farms. It is not a generic reference to good practice.</p> <p>Furthermore, the Tracker makes express reference to paragraph 2.6.179 of NPD-EN-3 and explains</p>
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			<p>development on existing offshore wind farms. Indeed they have assessed that impact in the ES but have just not extended that assessment to consideration of potential wake loss impact.</p> <p>3) Wake loss is a private commercial matter</p> <p>The applicant submits that any claims of wake loss are a commercial matter between the parties and are not relevant to the AyM examination and decision. RFWL operate a electricity generating station. If the proposed development impacts on the ability of the station to generate electricity then that is an impact on a statutory undertaker. It is not simply a private matter. Furthermore, if AyM would result in a reduction of power generation from a neighbouring generating station then this reduces the overall net contribution that the development would make to renewable energy targets. Regardless of how the NPS is interpreted, the issue of wake loss is still therefore an issue which the ExA must consider.</p> <p>Evidence of wake loss</p>	<p>during operation will be controlled by the protective provisions included in the DCO. No information or detail has been provided by RFWFL on the 2% figure so the Applicant is unable to comment on this assessment. In any event, even if 2% wake loss was correct, the Applicant does not consider this is sufficient to demonstrate that AyM has not sought to avoid or minimise disruption or economic loss on RFWF or that it will affect the future viability of RFWF.</p> <p>RFWFL's status as a statutory undertaker (SU) has no relevance with regards to its claims regarding wake loss. There is nothing in legislation or policy which guarantees income or revenue stream to SUs and the protections afforded to SUs primarily relate to protecting land, rights and infrastructure. Sections 127 and 138 of the Planning Act 2008 do not apply as these only relate to onshore SU land or to the extinguishment of rights or removal of apparatus. Appropriate protection for RFWF's infrastructure will be provided through the protective provisions.</p> <p>Outside the protective provisions to regulate the Applicant's cable works,</p>	<p>figure suggested by RFWFL. It is for the Applicant, not RFWFL, to show what is has done to minimise impacts. As set out above, there is nothing before the examination to this effect.</p> <p>It is not necessary for an impact to impact on viability in order for the Applicant to be required in terms of NPS-EN3 to show what they have done to minimise impacts. Where there is an impact on viability then 2.5.185 requires that this impact should be given substantial weight in decision making.</p> <p>RFWFL is not suggesting that legislation guarantees income for statutory undertakers. They are simply submitting that impacts on their apparatus should be properly assessed and mitigated as required by the relevant NPS.</p>
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