

## **Environment and Sustainability Committee**

E&S(4)-08-11 paper 2

Inquiry into Energy Policy and Planning in Wales – Evidence from RWE npower and npower renewables

### **Submission from RWE npower and npower renewables**

This submission is from RWE npower and RWE npower renewables, part of the RWE group, a German owned energy business, generating electricity and supplying gas, electricity and related services to customers across the UK through RWE npower and renewable energy through RWE npower renewables. We are one of the largest inward investors in Wales where our current portfolio comprises a large coal-fired power station, two combined heat and power plants and numerous renewable energy schemes including both onshore and offshore wind and hydro generation. We are also a 50 per cent shareholder (with E.ON UK) in Horizon Nuclear Power to develop the option to build and operate a new nuclear power station at Wylfa. This would represent an investment of around £8bn. Other investments include:

- construction of Gwynt y Môr Offshore Wind Farm (circa £2bn)
- construction of a new high efficiency gas fired power station at Pembroke (circa £1bn)
- development of the proposed Atlantic Array offshore wind farm (circa £4.5bn)
- development of a demonstration array of tidal stream turbines off the Anglesey coast.

In total, our current Welsh capacity represents around a third of the electricity consumed in Wales and, equally important, our investments create local employment opportunities, economy and community benefits. We currently have over 350 employees based in Wales. Where feasible we will recruit and train people from the local community and to procure services locally.

You may be aware that we are awaiting the determination of the application for an environmental permit to commission and operate the new CCGT power station at Pembroke, and that the Environment Agency Wales have been directed not to determine the application by the Welsh Government. Given the ongoing nature of this process we have judged it inappropriate to consider this case in this submission.

In our submission we have summarised our view of the role that the Welsh Government has in relation to major infrastructure investments and then answered the specific questions raised in the invitation for submissions.

### **Overview of the role of the Welsh Government (WG) and the regulatory regime from an investors perspective**

A coherent UK Energy policy is currently the responsibility of Westminster although WG has a key role in the implementation of such policy in Wales. It

is that policy framework that will establish the incentive to invest in the UK energy infrastructure. Where those opportunities to invest are located in Wales then WG have a key role in scrutiny and facilitating delivery. With WG's responsibility for planning, economic development and the environment there is significant scope for influence.

It is inevitable that devolution complicates the process of investing in Wales, with an increase in the number of government departments, regulatory bodies and NGOs involved. This additional complexity should not, however, be a barrier provided that there is sufficient consistency and co-operation throughout the process. Whilst we would agree that all bodies need to preserve a level of independence and transparency, this must not detract from the ability to co-operate and should avoid unnecessary workload, bureaucracy or delays.

We feel it is important to recognise that decisions about investment within large companies like RWE have to balance investment resources against other factors such as the predictability and complexity of planning and regulatory frameworks. To succeed in attracting RWE investment, Wales has to compete effectively in a European (if not global) market. In particular, given the current economic circumstances our UK businesses have to convince our parent company, RWE AG, that projects in Wales will provide a better return than alternative projects across Europe, that they can be delivered on time and provide the expected returns in order that those assets can then operate as part of a balanced generation portfolio.

The key condition for us is a stable and predictable regulatory regime that provides us with the confidence to make the case to invest in Wales. We need to be able to deliver projects on time and to budget with no surprises or unnecessary delays that erode the confidence of our parent company. Experience gained in any country will influence the level of country risk that investors build into future investment appraisal calculations.

We need to be able to work UK Government, Welsh national, regional and local government and Wales's regulatory agencies in a constructive, transparent, predictable and efficient way to develop plans and deliver them.

An example of good practice in this area is the Anglesey Energy Island programme. The programme brings together all of these groups through a number of workstreams relevant to the bringing forward of low carbon energy projects on Anglesey and North Wales, for example supply chain and skills development, consents and infrastructure, and policy alignment. The programme ensures proper co-ordinated scrutiny is given to projects such as the new Wylfa nuclear power station, whilst at the same time removing unnecessary barriers to development and investment.

However, whilst we accept that major infrastructure projects must be properly assessed to ensure no unintended consequences, we have also experienced additional work load and project delays due to poorly managed interfaces between environmental agencies. We will closely follow proposals for the merger of Environment Agency (EA) Wales, CCW and Forestry Commission Wales. This implies a greater separation of EA Wales from the EA in England

and would be detrimental to Wales if this led to greater complexity through the adoption of different approaches across the UK.

As a major investor in energy infrastructure we need to have confidence that high value complex projects can be planned, consented, built and permitted in a competent, well managed way. Our recent onshore wind experience with local planning and Public Inquiry in Wales (see examples later) does not provide the confidence, at this time, to support the transfer of further energy powers to WG. This view is unlikely to change until we can see a track record of such projects consistently being delivered in a reliable, timely and competent manner. WG also need to publicly support and implement existing policy and intervene where projects which support policy are not being progressed effectively at local level.

### **Specific questions raised by the Committee.**

#### ***How the current devolution arrangements for energy policy and planning affect the delivery of the desired future energy mix.***

We support the current arrangements for projects above 50MW and welcome the proposed changes to the planning process. It is now important, however, for that process to deliver.

For projects under 50 MW we have concerns that the planning process in Wales is slow and unpredictable compared to competing countries. There are frustrations regarding the political will, skills and resources available in Wales to focus on timely delivery of projects.

#### ***What are the implications for Wales if responsibility for consenting major onshore and offshore energy infrastructure projects remain with UK Gov?***

The IPC and its successor will continue to consider and determine applications with WG's involvement and in line with the NPS' developed with WG's involvement. It seems unlikely, therefore, that any scheme located in Wales could be consented if there are justifiable concerns that have not been addressed. We welcome the involvement of Welsh Commissioners in this process providing that there are sufficient resources allocated to avoid unnecessary delays to the process.

From a developers perspective our concern lies not in who has responsibility for decision making but in the level of confidence we have in their ability to manage the process professionally, setting out process and timescales and adhering to them so all parties have common expectations.

The large Round 3 offshore wind project in the Bristol Channel, Atlantic Array (1500MW) is being developed by RWE npower renewables. This project sits mainly in English waters but some of the turbines, potentially up to 20%, may ultimately be in Welsh waters. Under the current system with the IPC/ UK Government roles, the process for consenting of this project is relatively straightforward with one body running the process. If the division between

English and Welsh waters introduced the need to go to two separate consenting authorities this would not be helpful.

***How does this affect achievement of WG's aspirations for various forms of renewable and low carbon energy?***

Leaving the major infrastructure consenting with UK Government will continue to deliver large scale energy projects in Wales in consultation with WG.

Welsh authorities need to focus on determining planning applications for projects under 50MW in accordance with policy and in a timely manner in order that progress can be made towards WG aspirations. It is through genuine commitment to achieving the Welsh Government's own TAN 8 targets that the wind industry will build up its confidence in Wales.

The Mid Wales and Anglesey transmission upgrades also need progressing as a priority.

To deliver new renewable electricity generation and the associated socio-economic benefits, we require Welsh Government (WG) officials to work with industry representatives over coming months to deliver on a range of issues as set out below (further details in Appendix 1):

- Production of clearly defined renewable electricity targets
- Clarity over TAN 8 targets
- Acceptance of the need and visible support for Mid Wales grid upgrade
- Co-ordination of Mid Wales transport and access policy
- Support for the supply chain and provision of facilities
- Resources for Local Planning
- Stimulus for marine

***How does it affect delivery of WG's target of 3% p.a. reduction in GHG emissions from 2011?***

The 3% p.a. reduction in GHG is from non traded sectors so is not impacted by consenting decisions for major electricity generating schemes that emit GHG. Hence it is not apparent to us how the transfer of energy policy powers from Westminster to WG would have any significant impact on the delivery of this target.

***What will be the impact if consenting decisions on major infrastructure projects are not taken in accordance with Welsh planning policy?***

Given both the involvement that Welsh authorities will have in major infrastructure consents affecting Wales, and that Welsh planning policy is likely to be compatible with UK energy policy, it seems unlikely that there would be significant consequences. The NPS recognises Welsh policy and decisions will have to be made giving due regard to Welsh policy. If consents don't fully reflect Welsh planning policy, there will be opportunities for the projects to be challenged at a later stage which will result in additional cost and delay to developers and failure to reach low carbon energy aspirations in Wales.

### ***The role of different consenting agencies***

Potential investors need a consenting and permitting process that is competently managed, coherent and delivered in a timely and effective manner to provide confidence in progressing investment decisions.

#### Uncertainty in timescales

At present, developers are exposed to an open ended process for obtaining consents and permits. In respect of permits if the environmental regulator seeks an extension to statutory timescales (which is quite normal) other than agreeing, the only alternative available to the developer is to withdraw the application and appeal to the Secretary of State.

We respect the independent nature of the decision making processes and agree the EA needs to come to robust conclusions but there is a need to explore ways of reducing the uncertainty in timescales.

It is essential that statutory bodies and regulators are sufficiently resourced, experienced and competent to expedite the consultations.

A more contractual approach with clear obligations on parties to adhere to programme and financial compensation if parties default may encourage more thought up front on what needs to be done and how long it will take – but care would have to be taken not to undermine the independence of the decision making process.

#### Ability of parties to frustrate the process

It is apparent that parties opposed to proposals can frustrate the processes by not adhering to consultation timescales and drip feeding information to regulators that they then feel compelled to consider. This soaks up time and resources and prevents progress in reasonable timescales. We hope that this will improve as the Planning Act (as amended by the Localism Bill) takes full effect.

Obligations on parties to submit evidence within agreed timescales and avoid “drip feeding” information should still allow interested parties to participate in a well managed process and raise valid issues or objections, but remove the ability to frustrate the process. We believe that ways need to be found that discourage interested parties from presenting “new” evidence after set deadlines - one possibility could be deferring the consideration of “new” evidence until the relevant consent or permit is next open for review.

#### Repeated effort going over same ground at different stages

Staged applications should allow evidence to be considered and decisions made in a progressive manner such that any significant or controversial issues can be identified and considered early, thus either saving effort if they cannot be overcome or making a useful contribution to the process by reaching early conclusions if they can be resolved. It should not be necessary to revisit decisions at later stages in a well managed staged approach unless genuinely new information is revealed that justifies such a review. Recent experience, however, has proved that this is not always the case and therefore the benefits of work in the early stages can be lost. We need to

establish how we can make it possible to create a progressive process that builds information and evidence, does not revisit decisions once they have been made, avoids backtracking or replicating effort and reduces potential for surprises later in the process.

If a staged approach cannot be made to work effectively then another possible option is a regime which allows both the consent and the environmental permit to be concluded at the same time as proposed in the NPS's, within agreed time limits. This approach also presents difficulties, specifically in gaining sufficiently robust information from plant suppliers to allow the permit conditions to be resolved satisfactorily. As we would not have placed a contract, it would be difficult to deal with different suppliers' plant configurations and performance characteristics. Equally it would be problematic to expect plant suppliers to provide reliable information before they know they have been selected for the work. There could also be a considerable time lag between construction consent and operational commencement where an operational permit is obtained a significant time in advance of operation. It should be considered whether a permit be constructed to allow for these circumstances

There is merit in giving the developer the option to choose which permitting route is the most suitable for each project; consent and permit at the same time, a staged approach or sequential consenting and permitting.

#### Associated Development

Another area which has the potential to result in different views and approaches is in the area of infrastructure planning and Associated Development as governed by the Planning Act 2008. In England, Associated Development can be considered by the IPC as part of an application for a Development Consent Order. In Wales, however, given the impact of the Devolution Settlement, the nature of Associated Development is much more limited, thereby requiring developers to make different applications to a variety of different bodies in respect of a significant infrastructure project. This means that aspects of nationally significant infrastructure projects (eg the substation for the Mid Wales grid upgrade) do not benefit from the accelerated timescales and streamlined process that have been adopted specifically for nationally significant infrastructure projects. There is the potential for this application to 'get stuck' in the planning system and it may be appropriate, in circumstances such as these, for WAG to consider using its "call-in" powers.

We need a consistent and co-ordinated process across UK Government and devolved administrations that avoid conflicting views and approaches that could disrupt a process that, for energy infrastructure projects, starts in Westminster and ends with a regulatory regime that is the responsibility of a devolved administration.

#### Permit review

We need to bear in mind that the environmental regulators have the powers to review permits at any time. If the regulator decides to review a permit the only challenge lies if we are not satisfied it was carried in accordance with due process. This could, however, allow permits to be granted early in the

process and reviewed later if changes to plant design or performance change to such an extent that a review would be appropriate.

#### Environment Agency and Countryside Council for Wales

We have experienced significant difficulties and uncertainty arising from the interaction between the EA and the Countryside Council for Wales. The impact of this kind of issue on investment confidence should not be underestimated

Their precise roles and relationship need to be clarified.

Amalgamating the two bodies could help to reduce the difficulties. We would, however, like to understand more detail of what the new body would look like, the scope of its duties, mode of operation etc. If they do merge then a clear process should be in place to minimise any potential delays due to ill defined roles within the new body.

We would also need to understand how the change would affect the complexity of the environmental regulatory regime across the UK.

#### ***The relationship between UK NPS's and Wales planning policies***

We believe that the UK NPS's and Welsh Planning Policies are compatible. Both documents aim to deliver low carbon energy against relevant targets. We acknowledge that the NPSs require the IPC to have regard to Welsh AG policy and that it expects applicants to take them into account when submitting proposals.

#### ***The potential for renewables to meet WG's aspirations for generation and GHG emission reductions***

Wales has a challenging target of achieving 22.5GW of renewable energy by 2025. The renewables sector is already injecting some £160m into the Welsh economy and, if significant projects are built, it is estimated to be contributing in the region of £1b to the Welsh GDP by 2020.

The Gwynt y Môr Offshore Wind Farm is currently under construction with the onshore electrical substation and cabling well advanced and offshore construction starting in the Autumn and scheduled to run for 3 years to 2014. Some key contributions Gwynt y Môr makes to Wales:

- Wales largest renewable project;
- Has already provided over £20m in construction contracts to local North Wales firms;
- Employment during construction;
- Some 90 full time staff will be employed to operate the project, most of whom will be based at our operations base at Mostyn Port.

RWE NRL is a key company in helping to deliver the targets and already contributes about half of Wales' renewable energy generation (314MW) with some 2487MW of projects currently in planning or going through consultation. Our projects are typically taking over 3 years to progress through the local planning process with only 7 turbines consented in 7 years.

Wales will continue to miss its renewable energy targets and the associated economic benefits unless projects are consented and built. The following issues need resolving quickly to stand a chance of achieving this:

1. Developers and investors must have confidence in a clear, transparent, competent and efficient planning process in Wales in order to successfully

*Example:*

*Mynydd y Gwair Wind Farm (40MW)– This site sits within Strategic Search Area E. A planning application was made to The City and County of Swansea in September 2008 and one year later in October 2009 an appeal was lodged against the failure of the Council to progress and determine the application.*

*A Public Inquiry was held to examine the appeal during July and August 2010 and a decision was made by the Welsh Ministers in February 2011, to dismiss the appeal and the Common Land Exchange Orders. The reasons cited for dismissing the appeal related to the impact of the proposal upon peatland ecology and the location and management arrangements associated with the land to be exchanged into the Common.*

*Having reviewed the minister's decision, RWE NRL believed that the conclusions reached by the Inspector at the Public Inquiry were flawed, in that the conclusions did not follow clearly and logically from the evidence presented at the inquiry. As a result, RWE NRL challenged the Inspectors report.*

*In July, 2011, a High Court Judge announced that he had upheld our challenge against the Inspectors report, meaning that the planning application will potentially go back to public inquiry for redetermination. The High Court did not uphold our challenge over the refusal to grant Common Land consent.*

*WG have since challenged the High Court decision and we are waiting to see if they are granted leave to be heard in the Court of Appeal. The project remains in the legal process with no date for resolution. This is frustrating as this wind farm is within a SSA and could have made an important contribution to 2010 targets that WG failed to meet.*

progress projects.

2. WG must provide robust, clear support for renewables in order to retain the interest of investors and encourage the development of the supply chain which is essential to the success of the renewables sector and the Welsh economy. WG must also monitor progress towards delivering its own policies and actively intervene where necessary to impress on local authorities the importance of meeting targets and delivering renewable energy



*Example:*

*Fforch Nest Wind Farm (25MW)– This site straddles the boundaries between Bridgend County Borough Council and Rhondda Cynon Taf and lies in Strategic Search Area F. The Planning applications were submitted in 2006, with supplementary Environmental Information submitted by RWE NRL in 2008. In 2009, Bridgend resolved to approve their application and planning permission was issued in 2011 (the delay was due to s106's). Bridgend had to resolve some difficult issues posed by having 2 competing schemes in close proximity yet they still manage to determine this application nearly 2 years before RCT determined theirs. The remainder of the site in Rhondda Cynon Taf was finally refused at Committee in February 2011 and RWE NRL have appealed this decision. A Public Inquiry will start in October 2011.*

3. Grid issues in Mid Wales must be resolved to allow projects to be progressed through planning and to ensure that projects can be built and can connect to the grid

4. The Mid Wales access issue must be resolved to allow projects to progress through planning and construction.

5. Where projects are to be determined by DECC, on occasions we have found input from Local Authorities in Wales is not forthcoming and has prevented DECC from determining projects.

*Example:*

*Carnedd Wen Onshore Wind Farm (150MW) –Section 36 application was submitted to DECC in 2008 but Powys County Council are reluctant to provide a 'Form B response' until grid and access issues are resolved in Mid Wales. The project can not be progressed but has the potential to make a significant contribution towards the onshore wind target of 430MW in SSA B.*

*This is just one of 16 proposed wind farms in Mid Wales that are in planning but that could contribute up to 1.4GW towards Wales' target of 2GW by 2015*

### ***The potential role for other forms of energy production - e.g fossil, nuclear, coal-bed methane and shale gas***

Mitigating climate change is a fundamental element of national and international energy policy. Massive investment is required in low carbon sources of energy.

Wylfa on Anglesey is one of the UK's best sites for a potential new nuclear power station. It is a large, hard rock site with good infrastructure, an established nuclear skill base and supply chain and widespread local public support.

A new nuclear power station at Wylfa would deliver up to 3.3GW of baseload low carbon energy. On a levelised cost basis nuclear is at least as affordable as the other providers of major low carbon energy.

We anticipate the new station would provide around 5,000 direct jobs during the construction phase, and around 800 high quality permanent jobs for at least two generations during operation. Detailed socio-economic studies are being prepared as part of a consent application we aim to submit in 2013, but the benefit from demand for goods and services from the local community is likely to run into the tens of millions during operation and hundreds of millions during construction. The project is highly complex and long term and involves a range of associated developments alongside the main site. This requires close co-ordination with Welsh and UK Government and Agencies. The Anglesey Energy Island Concept provides a strong platform for early sharing of consistent information, identification of issues and co-ordination. It also enables us to ensure a joined up approach to strategies for the development of the local supply chain and skills pipeline.

Major low carbon projects, will inevitably take some time to be delivered. In the transitional phase there will still be reliance on fossil based energy to provide secure low cost supplies and technologies such as carbon capture and storage are being developed to provide a place for fossil fuels in the future energy mix.

RWE npower's Aberthaw power station, designed to burn South Wales coal, plays a key role in the energy mix and supports local economy by a contribution of over £75m to the Welsh economy per year. As the energy mix progressively comprises intermittent wind and baseload nuclear generation it will be the fossil plant that provides the secure load following capability. This flexible generation role will initially be carried out by existing coal and gas plant which will gradually be replaced by affordable new low carbon flexible plant options.

Our soon to be commissioned £1bn Pembroke power station is the most efficient CCGT in the UK and although its early generation will be baseload it will at some stage be required to provide the flexible demand following generation that wind and nuclear are not suited. Based on our experience of other operational CCGT's an annual impact on the local economy of around £10 million is expected. The plant will create around 80-100 long-term high-quality jobs.

Nuclear is a tried and tested base load low carbon technology but its deployment is to a large extent influenced by public acceptance. Delivering a nuclear new build programme remains central to plans to decarbonise electricity supplies in the UK. Wylfa is our lead new build nuclear site with potential for 3.2-3.3GW.

## ***Appendix 1***

### ***Key action areas for achievement of WG's aspirations for various forms of renewable energy***

- Production of clearly defined renewable electricity targets - Clear targets are needed for delivery, including publication of the "Energy Route Map" as the signal to industry and infrastructure, to gear up for the future.
- Clarity over TAN 8 targets: despite the Ministerial Clarification letter from John Griffiths to local planning authorities in July 2011, there is still confusion about whether the indicative capacities identified in TAN8 for each SSA can be exceeded or are maximums.
- Acceptance of the need and visible support for Mid Wales grid upgrade - Grid upgrade is essential for the export of Mid Wales energy, to meet 2020 targets. National Grid has completed its consultation on line routing options and the optimum location for a Mid Wales substation. Announcement of the location of the new Mid Wales substation is expected in Autumn 2011. The planning application for the substation, a strategically important infrastructure project is to be decided by Powys County Council. Appropriate resource should be allocated to dealing with this application in a timely and efficient manner.
- Co-ordination of Mid Wales transport and access policy - Due to the close proximity of SSAs B, C and D there are likely to be significant numbers of abnormal loads moving through similar areas in Mid Wales. This is a cumulative issue for all developers that needs to be managed at a strategic level to limit the impacts on public amenity, tourism and all road users. The full support of key stakeholders, especially WG and Welsh Police forces, is essential if we are to achieve and deliver an industry led solution to managing transport and access.
- Support for the supply chain - For Welsh industry to take advantage of the major infrastructure and manufacturing opportunities, this will require public support from WG for renewable energy and a commitment to address existing barriers to development including planning delays and access to grant aid. In essence, without planning permission being issued, there will be significantly reduced opportunities for Welsh businesses.
- Provision of facilities - RWE npower renewables is proposing to develop a project of up to 1500MW in the outer Bristol Channel, known as Atlantic Array Offshore Wind Farm. The offshore wind farm industry presents a great opportunity for the UK supply chain and we have been working with The Crown Estate to hold a number of supply chain events for UK companies. The events aim to provide advance project information to the local supply chain and support businesses to be well equipped to tender for relevant contracts within the renewable energy sector. Any support provided by WG for these businesses would be welcomed.

- Resources for Local Planning Authorities - Support is required to enable LPAs to manage wind farm applications in a timely and effective manner in order to deliver on renewable energy targets. We recommend that WG continue to make additional resources available to enable LPAs to make decisions on projects within a reasonable timeframe.
- Stimulus for marine - The current revenue support mechanism in Wales is not sufficient to make tidal stream and wave technologies an attractive investment for commercial projects. Wave and tidal technologies are far less mature commercially than wind technology, and are therefore a more expensive and risky investment. WG must review the capital grants and revenue support mechanisms currently available to make them more attractive to developers to enable a balanced mix of generation technologies to be deployed and to harness more of Wales' natural energy resources.