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Dear Sir/Madam,

**RE: Regulated Asset Base (RAB) Model for Nuclear consultation**

Suffolk County Council welcomes the opportunity to provide a response to the consultation on a *Regulated Asset Base (RAB) Model for New Nuclear Funding by Department of Business Enterprise and Industrial Strategy (BEIS)*.

The County Council recognises the need for effective financial models to deliver further nuclear new build projects. In this response, we do not wish to comment on the effectiveness and merits of the RAB model as a financial mechanism, but only on the implications of the RAB model in relation to the consenting process which is of great interest to us as a local statutory consultee.

As a county which has been identified to host two new reactors at Sizewell, we recognise the economic and other benefits that the development of new nuclear power stations has the potential to bring. However, the Council is also particularly mindful of the potential adverse impacts of the construction and operation of the project on residents both in its own right and in combination with the large number of other energy infrastructure projects proposed locally. Specifically, in relation to the allocation of the Sizewell C site, there are a number of inherent sensitivities, and by extension potential costs, associated with this site. These sensitivities are recognised in EN6 (part 2), the associated Appraisal of Sustainability and other supporting documents.

Therefore, we consider that the operation of the RAB must balance the need to deliver a cost-effective project in a timely manner with the need for any consented scheme to fully mitigate and compensate for its likely significant impacts.

We would like to offer the following feedback on the RAB consultation document:

**A) Response to the principles of the nuclear RAB assessment process (primarily in response to Question 6)**

1. *Differential between consumer interest and wider public interest*

The current regulator (Ofgem) was set up with a focus on the consumer with little scope in its mandate to have regard for the wider public interest. This is at odds with the wide scope of planning considerations and the broad definition of public interest in the planning sphere as set out in the National Policy Statements.

2. *Need for a clear mandate of the regulator:*

In order to overcome this differential, it is essential that the mandate for the regulator of the Nuclear RAB licence will complement rather than clash with the mandate and philosophy of planning process under the Planning Act 2008 and the National Policy Statements.

Without clarity on the interrelationship between the RAB process and the planning process, there is a high risk of protracted periods of post-consent wrangling over the costs of a consented scheme, even if the incurred costs are deemed by the Secretary of State on the advice of the Planning Inspectorate (or other regulators) to be reasonable and necessary for a scheme to obtain consent. This could result in significant delay as well as uncertainty for local communities, the applicant and potential investors, and could jeopardise delivery of the scheme.

The ongoing dispute between National Grid Electricity Transmission (NGET) and Ofgem in relation to the costs and funding of the Hinkley to Seabank 400KV overhead line illustrate that this could be a real issue with significant impacts on a New Nuclear Build (NNB) scheme.

3. *Value for money assessment needs to consider wider benefits, mitigation and compensation:*

We support the proposal in the RAB consultation that the 'value for money assessment' should take account of 'wider benefits' of a New Nuclear Build (NNB) project. We believe that the principles of the RAB model should provide clear direction as to the nature of these wider benefits, including for example socio-economic benefits to the host communities and their economy.

However, host communities not only benefit from these projects but also bear the burden and disturbance of many years of disruptive construction activities with all its adverse impacts. The RAB model should therefore equally recognise the need, and reasonability of including costs, for measures required to mitigate and compensate for these adverse impacts, since such measures are essential to make the development acceptable, in planning terms, to the affected host communities.

4. *Costs incurred during project development*

The relationship between the assessment of the regulator and costs incurred during project development phase does not appear to be included in the consultation as an Allowed Revenue Building Block. Whilst it may not be appropriate to include such costs within the RAB scheme itself, it is important to reassert that these costs are reasonable and required by any developer, and by extension through a Planning Performance

Agreement (PPA) Local Authorities, to facilitate development and discussion of proposals as they emerge.

In the case of the Planning Performance Agreement it is necessary to consider the implications for the local tax payer. An attempt to reduce project development costs must not be allowed to shunt costs towards the local taxpayer by leaving the huge cost of responding to a national infrastructure project to be borne by local government rather than the developer. It is not the role of the local taxpayer to subsidise a developer by bearing significant costs arising from their development.

5. *The need for effective engagement with other departments within government*

We assume that there is a likelihood of and need for complex interactions between the RAB process and other consenting and licencing processes, notwithstanding the evident desire expressed in the consultation to isolate the RAB process from them. We believe it necessary for Government to design the RAB process in close consultation with MHCLG and DEFRA as well as other departments, given the size, scale and complexity of these projects and the expected detailed nature of the RAB regulator's assessment. This engagement would ensure that the relevant Non-Departmental Public Bodies can co-ordinate and operate effectively within the context of a project seeking a Nuclear RAB Licence.

In our view the role of OFGEM, or another regulator, is to ensure that good value is achieved for the development on the basis of the Examining Authority's report and the Secretary of State's final decision. It must not be the regulator's role to gainsay the balanced opinion reached during the planning process. It is through such a sequential approach that other Government departments have to be appropriately involved.

6. *Timeliness of this consultation process and the need for resolution*

Given that Sizewell C is in an advanced planning stage, the County Council is concerned about the current uncertainty around the role of the regulator and the design of the RAB process, including its relationship with the planning system. We expect that this uncertainty may continue to be an issue for the foreseeable future, until the RAB model is fully implemented. This may negatively affect the ability of the applicant and relevant consultees to negotiate effectively. The Council hopes that BEIS is able to move rapidly to final proposals; however in the meantime we would urge Government to provide a clear interim advice and process to guide the applicant and the consultees, as the Sizewell C project is expected to move rapidly to submitting its DCO application.

**B) Detailed comments on the consultation material**

Based on the principle issues set out above, this section responds in detail to the content of the consultation.

1. *Requirements for granting of the RAB*

The RAB funding model should define the headline documentation that will be required for a Nuclear RAB Licence to be granted, to both provide clarity for the applicant, regulator and stakeholders and ensure strength of the regulation.

## 2. *Relationship of the Regulator to other consenting processes*

We agree that the role of the RAB regulator must be separate from other regulatory regimes such as the Development Consent Order (DCO) and Nuclear Site License (NSL), however the relationships between these various processes/ consents/ licences must be clearly stated and must confirm that the RAB process must not interfere with the DCO process. As a result, the full RAB costs cannot be finalised until such time as the DCO and NSL are approved

We do not consider it adequate for paragraph 71 of the consultation document to state that BEIS ‘...would expect the granting of a nuclear RAB license to be informed by the granting of, or substantive progress towards the DCO (Development Consent Order) and NSL (Nuclear Site License)’.

This paragraph needs to state that the RAB license has to include a ‘requirement’ to ‘take account of and be fully consistent with’ the DCO and NSL. A failure to be clear about this would mean that the regulator might undermine the decisions made quite properly as part of the planning process. The Planning Inspectorate’s hearings must be able to consider all the relevant matters in a transparent way allowing consultees to respond to the actual development proposal. If the development could be changed at the suggestion of the regulator after the planning process, we cannot see how the planning process could be seen to be sound or transparent.

## 3. *Role of the Regulator*

Linked to this, the ‘Role of the Regulator’ section (paragraphs 57 – 60) should state the separate and distinct regulatory role of the Planning Inspectorate and Secretary of State in examining and granting permission via a DCO and its accompanying certified documentation and legal agreement/s or obligations. These consented documents set out the measures, mitigations and compensations that are deemed necessary to make the development acceptable in planning terms, including that the impact on host communities is mitigated and compensated.

Therefore, we consider that the role of the regulator should be limited to the regulation of funding for the consented scheme as approved by the Secretary of State including the costs of all measures licences and consents required for delivery of the scheme.

## 4. *Evolution of costs over time*

The principles of the RAB model set out in the consultation document do not seem to adequately reflect that, of necessity, project costs will evolve over time during the development phase. Final project costs can only be firmed up at a late stage of project development. Given the high costs of project development for NNB prior to gaining any consents, developers are likely to need investment sooner than this. Thus, developers may wish to cover within the RAB financing the stage of project development at which investment is required to ensure project viability.

The RAB model should therefore set out when in the project development process RAB will/can kick in. It should also include a mechanism for cost refinement at relevant stages of project development, including for example once other regulatory consents (such as the DCO) are issued.

The detailed RAB model should include a headline list of costs that can be accounted for. In addition to development and construction costs, the following should also be included:

- The costs of all mitigation, compensation and standards that have been found necessary through other separate regulatory processes such as the Development Consent Order and other necessary licenses and/or consents.
- The costs to other public bodies of their necessary engagement during the development, planning and implementation phases of an NNB project. Given the scale and complexity of NNB projects, it is beyond the resources of public bodies to service their long term and intensive resource needs without placing unacceptable pressures on other services and customers. The RAB model should therefore include for the costs of Local Authorities and other statutory bodies engagement in NNB projects via fully costed Planning Performance Agreements and as part of Section 106 agreements.

We trust you will find these comments helpful. Please do not hesitate to contact us if you wish to discuss any of our comments further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bryn Griffiths'.

Bryn Griffiths  
Assistant Director for Infrastructure and Waste