

Francey, David

From: Thornton Tony [Tony.Thornton@energia.ie]
Sent: 11 July 2008 13:40
To: NIRO REFORM 2008
Cc: malachy.mckernan@detni.gov.uk
Subject: Proposed Reform of the Northern Ireland Renewables Obligation (NIRO)
Attachments: Energia's Response to DTI Consultation on RO.pdf; Proposed Reform of the Northern Ireland Renewables Obligation_FINAL_11 July 08.pdf

Dear Malachy,

Thank you for a little extra time to make our submission, it was appreciated.

We attach a copy of our response to the DETI consultation, as well as a copy of our response to the BERR consultation (we trust this is useful).

Please do not hesitate to contact us if we can provide any further information.

Kind regards

Tony

Tony Thornton
Consultant - Energy Regulation
Office Email: tony.thornton@energia.ie

Mob: 07769 64 59 50

(for VPE/Energia)

This correspondence is confidential and is solely for the intended recipient(s).
No warranty is given that this correspondence is free from any virus. In keeping
Viridian Group Limited, Registered Office 120 Malone Road, Belfast BT9 5HT Regist



Mill House
Ashtowngate
Navan Road
Dublin 15
T:+353-1-869 2000
F:+353-1-869 2040

Malachy McKernan
Sustainable Energy
Department of Enterprise, Trade and Investment
Netherleigh
Massey Avenue
BELFAST
BT4 2JP

11 July 2008

Dear Malachy,

PROPOSED REFORM OF THE NORTHERN IRELAND RENEWABLES OBLIGATION (NIRO).

Thank you for the opportunity to comment on this initial consultation.

By way of background, Viridian Power and Energy (VPE), through its renewable business unit, is actively seeking opportunities for wind farm developments and acquisitions across the island of Ireland. Following the purchase of Eco Wind Power, an additional 105MW of renewable power now complements our wind farm development pipeline of 75MW in Northern Ireland and our Energia supply business has more than 250MW of power offtake power agreements in the Northern Ireland and the Republic of Ireland.

Naturally, we are therefore keen to ensure that future investment decisions are not harmed by changes to the NIRO that might have a detrimental impact on wind farm development in Northern Ireland. Indeed, onshore wind development forms a significant part of the Government's sustainable development strategy for Northern Ireland with a target of 12% renewable energy by 2012.

In principle, VPE considers a banded RO approach that encourages renewable development and emergent technologies as sensible, providing it does so without harming present technological development (such as onshore wind). This consultation raises a number of important points, and we question whether sufficient analysis has been undertaken to really understand the effects of a banded approach and what form this might take for Northern Ireland, for example whether the emerging technologies listed in Annex A all warrant 2 ROCs, and to what extent? We responded to the DTI consultation on these issues and a copy of that response is enclosed for reference.

Nonetheless, we make the following comment against each of the consultation questions:

- **Q1: Are there any specific Northern Ireland aspects that need to be considered in the application of these proposed bandings – and especially the lower bandings – to the NIRO?**

Response: as we mention above, it is critical that present and future wind development in Northern Ireland is not harmed. We agree with the proposal to maintain onshore wind at 1 ROC, but want to understand how the banding proposals might affect the value of NIROCs in future, as this is a key component of value in investment appraisals. We would welcome any information that the Government could provide in respect of the likely impact of banding on ROC prices.

- **Q2: Are there any specific Northern Ireland aspects that need to be considered in the application of these Grandfathering proposals to the NIRO?**

Response: none that we can think of at this stage. Grandfathering is very important to underpin investment decisions that have been made but have a lead time to implementation. Our view is that grandfathering should apply from the point of planning consent plus an acceptable grid connection offer - this is a very clearly defined point in Northern Ireland.

- **Q3: Are there any specific Northern Ireland issues (in-addition to or associated with that outlined at paragraph 2.15) that should be taken into account in relation to the Headroom calculations for the NIRO?**

Response: given the continuing differential in electricity prices between Northern Ireland and GB, it is right to maintain the NIRO target set at a lower level than GB. It is difficult to see this changing in the short to medium term.

In addition, we are very concerned that planning restrictions and grid connection limitations will significantly limit the development of windfarms in Northern Ireland for the next 5 -10 years. Northern Ireland may lose out to other regions of the UK, and there may need to be a significant catch-up once grid issues in particular have been resolved. There may need to be specific provision for flexibility with respect to Northern Ireland, to enable it to get to 20% target level, at a time when other parts of the UK are at that level.

- **Q4: Are there any specific Northern Ireland aspects that need to be considered in relation to the above proposals?**

Response:

We comment on two aspects:

(a) *Cliff Edge Mechanism - it is important to maintain the value of ROCS, and the presence of a mechanism to reset the headroom for over compliance seems sensible.*

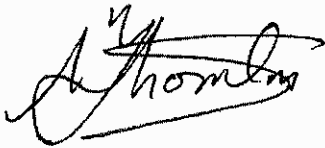
(b) *Funding – we agree for the costs incurred to be covered via the Buy-Out Fund, providing these can be proved to be efficient and necessary, and do not undermine investor confidence.*

- **Q5: Do you have any comments on any of the provisions in the draft Energy (Amendment) (Northern Ireland) Order (AnnexC)?**

Response: none specifically at this stage. As this is just an initial consultation, we would expect a further opportunity to comment once the proposals are more clearly defined for Northern Ireland.

Please do not hesitate to contact us if we can assist further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tony Thornton', with a stylized flourish above the name.

Tony Thornton

Consultant – Energy Regulation
(for VPE/Energia)

Energia's Response to Part 1 of the DTI Consultation on the Reform of the Renewables Obligation

Introduction

Energia was formed in 1999 as the competitive retail arm of Viridian Group PLC. Energia is one of a number of second tier suppliers trading within the competitive Northern Ireland (NI) market.

The NI trading environment is different from Great Britain (GB) in that there is a smaller system (1700 MW peak) with higher underlying energy prices. NI is interconnected with adjacent Republic of Ireland (ROI) market which currently has a different renewable support mechanism. The 500MW Moyle Interconnector between NI and Scotland facilitates trading between NI and GB.

Subject to the NIRO from 1st April 2006, as set out by DETI, we welcome the opportunity to comment on the DTI - The Reform of the Renewables Obligation and Statutory Consultation on the Renewable Obligation Order 2007 as it has implications for ROC trading, electricity prices to consumers and renewable development in NI.

Executive Summary

It is very important that investors confidence in the value of the RO is maintained. This is to protect existing investments and to ensure that those renewable projects that are now in the planning process become operational. It is therefore critical for the RO that the necessary long term investment signal is underpinned by a stable legislative and decision making environment.

The proposal for a banded Obligation could have a significant negative impact on investor's confidence in the RO. Considering the development timescale and lifecycle of renewable projects, the concept that every few years some technologies eligibility for ROCs could decrease or be removed is not a positive signal to potential investors.

The RO was devised as a technology-neutral instrument designed to encourage the most economic forms of renewables. Care must be taken that the promotion of emerging renewables by the introduction of banding is not at the expense of more cost efficient technologies. There is a significant danger that projects which would be economic under the current arrangements could find themselves uneconomic if banding down occurs. The goal is to maximise the number of projects at minimum cost.

If banding down is not set correctly it could have the effect of reducing the number of projects going operational. This is especially true where there are significant variations in regional and site specific projects, where averging to set bands could have a very negative effect.

Co-firing is one of the most economic technologies eligible for ROCs. It was included only as a transitional technology to encourage the establishment of biomass supply chains, particularly energy crops and therefore it was limited by capping. There should be no change to current capping arrangements.

This response addresses the questions raised in the order in which they appear in the statutory consultation document and references the various sections with the paragraph numbers used where appropriate.

Banding the Renewables Obligation

Q1 Is banding the Renewables Obligation the best available option for adjusting the RO to provide more targeted support for a range of renewable technologies?

The consultation paper points out the following: -

- that capping of ROCs is unattractive and could impact negatively on the income available to investors whom have substantial sums invested in renewable energy projects.
- that all ROC price risk should not be held by the Government at a potential significant additional cost to taxpayer.
- that ROC price risks are a major issue in the developing and financing of renewable energy projects.
- that investment in renewable projects needs attractive long-term mechanism for providing appropriate support levels.

In the light of these points, we are concerned that banding could have a negative impact on the value of the RO for existing projects and extreme caution is recommended. We would prefer other measures to be encouraged, such as: -

- (1) more work on the removal of blockages in the Planning System and
- (2) appropriate levels of investments earmarked for grid enhancement to accommodate more economic renewable sources of generation.

However where a technology becomes not eligible for ROCs, eg landfill gas, there may be a case to allocate that technology's ROCs for banding up for other technologies.

Q2 Before making a decision on whether and how to band we are seeking views on the impact banding the RO would have on investment decisions.

Investment decisions on renewable projects are based on long- term market signals. The possibility that certain renewable technologies may not be eligible for ROCs within a few years will encourage investors to reassess the risk and the required returns for renewables

projects. This may be counter-productive in encouraging investment in certain renewable technologies.

Q3 Do you agree that a multiple ROC approach is the most appropriate option for banding the RO on a UK-wide basis?

Given our reservation about the introduction of banding, in the event that the Government intends to proceed with banding, a multiple ROC approach is preferable to a multiple obligation approach. This will protect the position of existing contracts and will maintain the functioning of an UK-wide ROC market.

Q4 Do you agree with these key principles as the basis for the development of a UK-wide banded Obligation?

Q5 How important are these principles for the successful operation of a banded system?

If banding is to be introduced then: -

- grandfathering is crucial in protecting the position of existing investments and investor's confidence in the RO.
- Notification of any reduction in support must be made known well in advance. In consideration of the significant lead-in time for renewable projects, this notice should be in excess of 4 years. Wind projects, for example, currently 2 years in planning and 2 years turbine lead in time.
- Transparency/reliability needs to be carefully addressed to get acceptance from both industry and stakeholders.

Q6 Do you agree with the discussion in paragraphs 2.19 to 2.25 of how a banded Obligation might work in practice?

Q7 Do you agree that it will be important to maintain a broad balance between banding up and banding down?

The concept of banding, such that there are support levels for different renewable technologies in order to encourage investment in more expensive renewable sources to meet Government long-term targets, must be carefully managed in a limited and controlled manner to avoid being detrimental to more economic renewable projects. The broad balance between banding up and banding down will be impossible to achieve.

Unless there is a limited and controlled banding up there will be a substantial mismatch between the number of ROCs and the actual MWh of renewable energy produced. Incentives will be geared towards those technologies, which attract multiple ROCs.

Q8 Do you agree with the proposals to set bands by technology?

Any banding proposal must be based on proven technologies and capacities. Where the technology is not proven, support should be provided elsewhere, for example by capital grants.

Q9 How many bands there should be in a banded Obligation?

Q10 Should bands also be set to cover subsets of technologies?

The principle that bands will take account of full project costs (ie scoping, planning, construction, grid connection, transmission charges etc) and the possible potential impact on the number of ROCs generated is encouraging.

In order not to lose sight of the economic signal of ROCs as a single renewable support mechanism, the number of bands should be kept to a minimum and subsets should not be used. The treatment of micro generation and associated metering is still unclear.

Only in very limited circumstances, such as landfill gas, to facilitate banding up, should technologies be banded down.

However we note that assignment of multiple ROCs to some technologies may have the same effect of banding down to other technologies.

Q11 Views are invited on the best approach to setting bands. Do you support the principles outlined in paragraph 2.28?

Q12 What should be the approach for emerging technologies? Do you support the idea of limiting higher levels of support for emerging technologies to a given level of installed capacity with reductions as capacity increases?

Q13 Would you support a process which sought to give an early indication of likely bands – perhaps prior to the passage of legislation through Parliament?

In order not to distort the economic signal of the RO, emerging technologies should be grant aided. It is critical, in encouraging higher cost technologies that lower cost technologies are not neglected and there is an inherent danger in supporting one technology at the expense of another. The goal is to maximise the number of projects at minimum cost.

The visibility of proposed bands prior to the passage of legislation would be welcomed.

Q14 Should there be a statutory limit on how often the bands can change? Should this be expressed in terms of time or installed capacity? What should this limit be?

Q15 Should there be a caveat to allow an early review in extreme cases?

There should be a review every few years on those technologies bands above unity (ie those technologies that receive more than 1 ROC per MWh). This review must be in the

context of the proposed grandfathering arrangements in order to maintain investors confidence.

There should be provision made for a caveat on the review timescales for technology bands, to facilitate significant changes in technology costs.

Q16 Do you agree that projects should be guaranteed that their band would not be reduced, once operational?

Investors in renewable technologies need to see stable signals and once it is set it should remain for the lifetime of the project.

Q17 Is the point of first supply of electricity the most appropriate for grandfathering? Is there any other legally robust point that would be better?

Q18 Are there any other ways in which we could protect investments?

In general the lead-time for renewable projects can be considerable and this is where the grandfathering concept becomes difficult. Significant financial commitment is made well in advance of any construction works and therefore the point of first supply of electricity would not be acceptable.

Planning consents plus an acceptable grid connection offer would be a more appropriate set point for grandfathering and will send a positive signal to investors, considering the development timescale for renewable projects.

Q19 Do you agree that co-fired plant should not be grandfathered?

Energia welcomes the Government's assessment that it would not be appropriate to grandfather bands for co-fired plant.

Q20 Do you agree that projects in emerging technologies that become operational (first supply electricity) before the introduction of banding, but had not yet begun construction when the Energy Review Report was announced should move up to their new bands when those come into force, to prevent delays?

There is a potential conflict here: -

Projects that have become operational would have been based on the ROC support at that time and any additional ROC support would be seen as an additional cost to the customer. However if certain technologies needed band certainty then this could potentially delay the commencement of those projects.

Q21 Is there anything else we can do to prevent delays?

As stated earlier, much more needs to be done to reduce the time that existing, viable and cheaper renewable technologies spend in the planning process. Also there needs to be

significant investment in grid infrastructure to accommodate these renewables. This investment needs to begin now to meet the needs in 4/5 years time.

Obligation Levels Beyond 2015/16

Q22 Would the method of estimating generation and raising Obligation levels work in practice? Are there any alternatives? Should the requirement to raise Obligation levels be made a statutory one?

Our preference would be for the Government to increase the obligation to 20% by 2020. This will provide maximum certainty to investors and should provide adequate headroom.

We support the Government's assessment that ROC price certainty will be critical to the success of a banded Obligation. However banding has the potential to increase costs to customers even further.

Q23 Is a guaranteed headroom of 1% adequate, given the ability of suppliers to bank ROCs and our intention to also remove the risk of a ROC price crash through a "ski slope"-type mechanism?

Energia supports in principle the "headroom" and "ski slope" type mechanism. However this would need careful analysis and monitoring to protect against a ROC price crash. We are unable to comment on the adequacy of the 1% headroom, due to the lack of analysis presented in the Consultation paper.

Q24 Do you support the introduction of a ski-slope mechanism for ROC prices?

The Government's proposal to boost investor and developer confidence in ROC prices over the remaining life of the RO, by amending the RO to allow ROC prices to taper smoothly down rather than fall sharply, is welcomed.

Q25 Are the mechanisms discussed in Section 3 viable approaches?

Q26 Which do you think is the best approach?

The virtual method is more practical but there are implementation issues with all the options presented. We agree with the Government assessment that an acceptable and practical solution will need to be found before the adoption of a specific ski slope mechanism.

Q27 Is there any other way to remove the risk of a steep fall in ROC prices in a situation of over-supply?

Increasing the Obligation and/or maintaining an adequate amount of headroom will reduce the possibility of over-supply in the first place. Whilst this will be necessary to

support a banded Obligation and avoid a steep fall in ROC prices, this option will increase the cost to the customer.

Co-firing

Q32 Do you agree with this approach of uncapping co-firing and reducing its support through banding?

Q33 Are there likely to be any significant negative consequences?

Yes, the removal of the cap on co-firing could potentially have a very significant negative effect on other renewables, by driving down ROC prices.

Q34 Views are invited on the reports on the sustainability and economics of co-firing that are being published alongside this consultation document.

Co-firing is one of the most economic technologies eligible for ROCs. It was included only as a transitional technology to encourage the establishment of biomass supply chains, particularly energy crops and therefore it was limited by capping.

There is the concern that the removal of the cap, even under a banded Obligation, would send a negative signal to investors. Even if co-firing is banded down it is essential that capped levels are retained to avoid undermining the economics of other technologies

Q35 Views are invited on options for addressing any remaining barriers in the Obligation to the burning of wastes.

It is generally accepted that one of the original concepts of providing support within the RO for biomass/waste treatment by the production of syngas using Advanced Conversion Technology (ACT) techniques of Pyrolysis & Gasification (P&G) has not proved to be very successful. The eligibility criteria for ROCs has not significantly enhanced the opportunity for P&G as a solution. The 2006 RO review introduced ROC eligibility for EfW plants to CHP applications but for Northern Ireland such applications are unrealistic in practice and hence will do nothing for the promotion of Energy from Waste (EfW) solutions as a means of treating biomass. Bearing in mind that the thermal efficiency of larger EfW plants are higher than that of smaller ACT plants it seems that EfW ought to be incentivised without the need for an inclusive CHP application whereby ROC eligibility would be applied on the % of biomass within the waste.

Q36 Do you agree with the approach of putting the co-firing of energy crops in a higher band than other forms of co-firing? Is there an alternative way to continue to support energy crops?

The government's commitment to promoting energy crops is welcomed. Farmers will need clear signals on the RO to ensure that there will be a market for their product.

It is also apparent that this form of biomass is not as economic as other sources of biomass. If the price of carbon were sufficiently high, co-firing would not need support from the RO.

Q37 Views are invited on how to ensure the sustainability of co-firing over the long term.

In the longer term co-firing should be sustainable, underpinned by market prices, after an initial transitional period.

Q38 Would you support the development of an accreditation based approach to sustainability issues for biomass use?

Energia supports the government's assessment that the most sustainable forms of co-firing are incentivised. There should be an accreditation scheme, which should incentivise the increased use of energy crops.

Q39 Would you support a requirement on generators claiming biomass or co-fired ROCs to publish information on the sources of biomass used in their power stations and any relevant sustainability information?

This information should be part of the accreditation process.

Q40 Are there any alternative approaches for ensuring sustainability in the biomass sector?

No comment

Future Funding of the Administration of the RO

Q41 Views are invited on the approach outlined in Section 5 for meeting the costs of administering the RO.

Q42 Are there any alternative approaches for funding these administration costs?

It is proposed that not just administration costs but also any costs associated with changes to the RO be paid out of the Buyout fund. One significant cost mentioned would be the cost associated with changes that would have to be made to Ofgem's IT systems for a banded Obligation.

Energia would be concerned that any tampering with the buyout fund would send a negative signal to investors and the addition of an unknown variable in determining the value of the ROC.

If it was decided to fund the cost of administering the RO from the buyout fund, we suggest that there should be a cap of no more than 0.2%.

Francey, David

From: Thornton Tony [Tony.Thornton@energia.ie]
Sent: 11 July 2008 15:53
To: McKernan, Malachy
Cc: NIRO REFORM 2008
Subject: RE: Proposed Reform of the Northern Ireland Renewables Obligation (NIRO) - Addendum to the Response from Viridian

Dear Malachy,

As we have assumed that we would get another opportunity to comment when you publish the next consultation, we deferred comment on the draft regulations. However, I thought you would appreciate these initial thoughts I have just received from our lawyer to add into your thinking.

- Revised Art 52 (4) seems to leave out the concept of counting suppliers together in the current Art 52 (2).
- Revised Art 52 (6), should the reference be "55A", not "52A".
- Under the present system, before a new order is made there is a list of people who have to be consulted (Art 52 (5)) – this is not present in the proposed order. This is important as the consultation process gives the market a warning of proposed changes and an indication of what they maybe.
- The provisions that cover the Grandfathering transitional provisions need to be robust (not sure we are quite there yet). As our main response notes, this element is critical for securing investor confidence.
- The Revised Paras 53 2 (c) & (d) seem to envisage the situation where the Government can give a total ROC target and then specify what that can be made up of (i.e. the non fossil fuel split). We would expect to be consulted on this.
- 54 (B) allows for the banding, and will of course be subject to what evolves as we go forward. Consequently, we have not studied this too closely at this stage.

I trust this additional information is support of our response helps. Again, please don't hesitate to contact me if we can help in anyway.

Kind regards

Tony

Tony Thornton
Consultant - Energy Regulation
Office Email: tony.thornton@energia.ie

Mob: 07769 64 59 50

(for VPE/Energia)

From: McKernan, Malachy [mailto:malachy.mckernan@detini.gov.uk]
Sent: 11 July 2008 13:54
To: Thornton Tony
Subject: RE: Proposed Reform of the Northern Ireland Renewables Obligation (NIRO)

Many thanks Tony.

Best wishes

Malachy

24/09/2008

Malachy McKernan

Sustainable Energy
Department of Enterprise, Trade & Investment
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: 028 9052 9269 (ext: 29269)
Mob: 078-1054-2903
Textphone: 028 9052 9304
Web: www.detini.gov.uk

Please consider the environment - do you really need to print this e-mail?

From: Thornton Tóny [<mailto:Tony.Thornton@energia.ie>]
Sent: 11 July 2008 13:43
To: McKernan, Malachy
Subject: FW: Proposed Reform of the Northern Ireland Renewables Obligation (NIRO)

Malachy,

This time with the correct email address for you!

Kind regards

Tony

From: Thornton Tony
Sent: 11 July 2008 13:39
To: 'NIROREFORM2008@detini.gov.uk'
Cc: 'malachy.mckernan@detni.gov.uk'
Subject: Proposed Reform of the Northern Ireland Renewables Obligation (NIRO)

Dear Malachy,

Thank you for a little extra time to make our submission, it was appreciated.

We attach a copy of our response to the DETI consultation, as well as a copy of our response to the BERR consultation (we trust this is useful).

Please do not hesitate to contact us if we can provide any further information.

Kind regards

Tony

Tony Thornton
Consultant - Energy Regulation
Office Email: tony.thornton@energia.ie

Mob: 07769 64 59 50

(for VPE/Energia)

This correspondence is confidential and is solely for the intended recipient(s).

24/09/2008

No warranty is given that this correspondence is free from any virus. In keeping
Viridian Group Limited, Registered Office 120 Malone Road, Belfast BT9 5HT Regist

The Department's computer systems may be monitored and communications carried on them recorded to secure the effective operation
of the system and for other lawful purposes

This correspondence is confidential and is solely for the intended recipient(s).
No warranty is given that this correspondence is free from any virus. In keeping
Viridian Group Limited, Registered Office 120 Malone Road, Belfast BT9 5HT Regist
