

NORTHERN IRELAND RENEWABLES OBLIGATION

**OUTCOME FROM THE STATUTORY CONSULTATION ON THE
RENEWABLES OBLIGATION ORDER 2009**

DEPARTMENT OF ENTERPRISE TRADE AND INVESTMENT

1. INTRODUCTION

On 23 September 2008 the Department issued its Statutory Consultation document on the proposed banding of the Northern Ireland Renewables Obligation (NIRO). The content of the consultation was based largely on the policy being proposed in Great Britain as contained in a Statutory Consultation issued by Department of Business Enterprise and Regulatory Reform - now the Department of Energy and Climate Change (DECC) - in June 2008.

As the 3 Obligations operate in tandem and are all administered by OFGEM there is a high level of consistency between their detailed application and operation. Furthermore, while this paper outlines the DETI policy conclusions following its consideration of responses to the NIRO Consultation it also has regard for decisions taken by DECC in response to the outcome of its Consultation¹. The final policy outline in this paper therefore reflect changes to the policy and proposals as outlined in the Statutory Consultation and appropriate changes implemented by DECC.

There were 30 responses to the Consultation including 11 from existing generators and suppliers. Appendix A provides a list of respondents.

In addition to the specific issue for which comments were sought the Consultation stimulated some more general comments on the operation of the NIRO itself. These were:

- DETI should seek to bring offshore renewables generation within the scope of the NIRO
- DETI should consider the implications on offshore banding of support levels offered by the Irish Republic
- Cost to consumer is an area of concern
- The current concessionary level of the NIRO was the subject of opposing views – those who saw it as a constraint on renewables development in Northern Ireland and those who felt it was necessary to limit the impact on consumer costs; the latter view expressed a wish to see the concessionary level beyond 2012.
- A significant number of responses were supportive of a consistent approach to banding across all UK Obligations

The following paragraphs report on specific issues raised by the Consultation and the decisions that the Department intends to take on them. The various sections follow the chapters as presented in the Statutory Consultation.

2. PRINCIPLES OF BANDING

Banding the Renewables Obligation

This part of the consultation set out the proposed banding structure as summarized at Appendix B to this paper and also provided definitions for each of these technologies.

¹ <http://www.berr.gov.uk/files/file49342.pdf>

Generally the proposals put forward in the Consultation document were well received. The principle of banding was universally accepted. In particular, there was high level of support for awarding all microgenerators 2 ROCs and for exempting them from Grandfathering; nonetheless a number of respondents expressed a preference for a feed-in tariff form of support for microgeneration. The measures proposed in the Consultation to ease the administrative burden on microgeneration was also widely welcomed.

Landfill Gas

Of the 14 responses that commented on the proposal to retain 1 ROC for Landfill Gas, 10 were supportive and another 2 content subject to economic justification. The proposal has been submitted to the European Commission to be considered as a variation to the banding proposals submitted by DECC for State Aid approved. Implementation will be subject to acceptance of the variation by the Commission.

Wave and Tidal

The Statutory Consultation noted that generation in Northern Ireland territorial waters is handled under the GB Obligation in England and Wales; as such the multiple ROCs applicable to such generation will be 2 ROCs/MWh as proposed and agreed in that obligation.

It is noted that the Scottish Executive are proposing (subject to acceptance by the EC) to offer 3 ROCs for Tidal stream and 5 ROCs for wave generation. Responses to the NI Consultation highlighted the need to remain competitive with Scotland. However, while 2 responses suggested a higher multiple to be applied in NI waters this was not a unanimous view. There was an acceptance that perhaps other incentives might be more appropriate e.g. grants on the provision of adequate grid reinforcement. The Department therefore proposes to investigate this issue (including the potential for bringing NI territorial waters within the scope of the NIRO) further as part of the development of a wider Marine Renewables Strategy.

In the meantime the Renewables Obligation Order for England and Wales will continue to have responsibility for issuing offshore ROCs.

Offshore Generation Outside UK Waters

The GB Consultation sought views on whether there was a case for considering inclusion of generation outside UK territorial waters in the Renewables Obligation – this is not a matter within the remit of the NIRO but was highlighted in our Consultation and stimulated a response from 3 industry stakeholders who were supportive subject to certain criteria being met.

DECC, for its part, has concluded that the matter needs to be considered further in light of the forthcoming new Renewables Directive and, in the meantime has decided to retain the restriction of eligibility to within the UK and its territorial waters.

Micro-generation

There was widespread approval for all micro-generation being awarded 2 ROCs, although a number of respondents expressed the view that a Feed-In Tariff (FIT) would be a more appropriate form of assistance.

The possibility of this enhanced support for all microgeneration was not generally regarded as providing a perverse incentive to install sub-optimal plant particularly in micro-generation from Landfill Gas and Sewage Gas, and there was wide support for applying 2 ROC band to all micro-generation.

The question of raising the micro-hydro threshold above 50kW to help avoid sub-optimal developments (developments that capped their capacity at 50kW simply to get 2 ROCs) received mixed reaction, and while there was support for raising it or adopting a 2-tier ROC band (awarding 1 ROC for any output associated with generation beyond what a 50KW plant would produce) some respondents urged caution against setting a precedent for other small-scale generation.

In the circumstances we have decided that all microgeneration (i.e. plant of up to and including 50KW capacity) will receive 2 ROCs while plant in excess of this will be banded according to their technology.

Definitions

Two respondents commented on the proposal to change the definitions of gasification and pyrolysis, arguing that both these sources had been regarded as Advanced Conversion Technologies to date and therefore should continue to be treated as such and awarded 2 ROCs in the new banded Obligation. This is an area where DECC, as part of its statutory consultation process, has carried out detailed analysis primarily aimed at ensuring differentiation of gasification/pyrolysis from standard incineration and also promoting the use of efficient means of gasification/pyrolysis. As a result of this detailed work DECC has concluded that 3 definitions should now be considered for gasification and pyrolysis:

- (a) Pre-banded – projects which are already accredited or achieve preliminary accreditation by 31st March 2009 and full accreditation by 31st March 2011, will continue to receive 1 ROC/MWh
- (b) Standard gasification/pyrolysis – which meet a specified quality level for the syngas will also receive 1 ROC
- (c) Advanced gasification/pyrolysis – which meet a specified higher quality level for the syngas will receive 2 ROCs

Following from the GB consultation small changes have been proposed to some other definitions:

- (i) Amend Hydro generating stations definition to clarify needs to be generated by water and turbines including Archimedes screws.
- (ii) Offshore wind – plan to alter the wording - all turbines need to be located in offshore waters but allow aspects on land ie generating station.
- (iii) Wave/Tidal ambiguous replace sea with “from the motion of naturally occurring waves on water” or “tidal currents in water”

In the interests of consistency on these detailed aspects the Department intends to align the NIRO with the definitions proposed in GB and to align also with the banding levels with the exception of Landfill Gas.

Grandfathering and Transitional Banding Arrangements

This chapter of the statutory consultation provided for existing generating stations using technologies that are to move to a lower band under the new arrangements to retain the 1ROC/MWh award for the future; this is intended to reflect the fact that investments decisions may have been made in the expectation of receiving 1 ROC for each MWh. However, some exceptions – notably Co-firing – were included as well as provision for some existing projects (eg microgeneration) to move to the proposed higher band. In some cases, this ability to move to the higher band would be conditional on repayment of grant that may have been provided to the project. The proposals also made provision for some existing projects (primarily in gasification/pyrolysis) that might become ineligible because of a revised definition of the technology to retain their existing ROC entitlement until the next banding review.

Eleven of the respondents commented on the Grandfathering proposals of which 8 indicated their support, including support for the transitional arrangements for those technologies whose definition had been changed. Notable points made in the responses were;

- concern about the rationale for the requirement to repay grants for those stations that are banded up and its impact on emerging technologies;
- that the critical dates used for determining eligibility for banding and Grandfathering should be different in Northern Ireland from those being proposed for the whole of the UK.
- that critical dates/milestones should be linked to financial closure of the project rather than accreditation.

The Department is content that the proposals as contained in the Statutory Consultation and which generated positive response are appropriate. In relation to concerns expressed the Department notes the potential State Aid implications for grants being retained by existing stations that band up and is conscious of the importance of maintaining a higher degree of consistency on trigger dates across the UK particularly given OFGEM's responsibility for administering the obligation in all 3 areas. However, it is intended to give further consideration to the detailed application of the requirement to repay grant – particularly in relation to some cases (particularly in microgeneration) where grant payments would not have State Aid implications and where repayment would be at disproportionate cost.

In the circumstances the Department has decided to proceed on the basis outlined in the consultation document and being proposed for implementation in GB. The key points are:

- Co-fired stations without CHP will not be grandfathered.
While Microgenerating stations (50kW and under) will all move on to the new 2ROC band they will not be grandfathered for future reviews; however, it is intended that they

will retain the 2ROC status will be maintained following the next Review in 2013 subject to any decisions on a transfer to a Feed-in Tariff form of support.

- Biomass and waste plants will not be grandfathered. They will receive the same band as new plants of the same description. There is an expectation that future banding decisions will move towards banding down as technology costs decrease and biomass supply chains mature.
- Stations in receipt of a grant will be expected to repay this in order to be eligible for higher ROC support.

Co-firing

Co-firing (of biomass with fossil fuel) has had limitations imposed on its involvement in the NIRO (and the wider UK Obligations): there is currently a cap (10%) on the proportion of a supplier's Obligation that can be met each year with Co-fired ROCs and it has been the intention to exclude Co-firing from the Obligations from 2016. However, with the introduction of banding and a greater acceptance of the contribution Co-firing can make to carbon reduction the UK government decided that the 2016 exclusion should not be implemented and the cap should be raised to 12.5% from 2010/11.

The Consultation document noted that there has been limited scope for co-firing in Northern Ireland to date. Views have differed on its inclusion in the NIRO from those who see co-firing as a means of helping reduce carbon emissions to those who believe it has no place in the NIRO as it is not totally renewables based. These differing views continued to be evident in responses to the statutory consultation although there was a greater acceptance of co-firing being included with only one respondent expressing concern that supporting co-firing would extend the life of old and inefficient fossil-fuelled plant.

Most of the responses discussed the differentiation of co-firing with regular biomass or with energy crops and scenarios with or without CHP as well as whether the fuels are burned separate from the fossil fuels and whether there are separate generators. In the circumstances we have decided that implementation of the co-firing banded arrangements in line with those proposed in the consultation document with a requirement for the separate fuels to be burned in separate boilers represents an appropriate way forward; this is also in line with the implementation in GB.

Key points are:

- Co-firing will not be excluded from the NIRO post 2016.
- Co-firing with regular biomass will receive 0.5 ROCs/MWh.
- Co-firing with energy crops will receive 1 ROC/MWh.
- The cap on suppliers meeting more than 10% of their obligation from co-fired with regular biomass ROCs will be increased to 12.5% from 2010/11.
- Co-firing with regular biomass and CHP will receive 1 ROC/MWh.
- Co-firing with energy crops and CHP will receive 1.5 ROCs/MWh.
- The Order will be amended to provide for the use of fossil fuel to purge the fuel system without rendering the generating station ineligible.

Good Quality Combined Heat and Power (GQCHP)

The existence of GQCHP has been an eligibility criterion in some technologies particularly where waste is involved. This chapter of the consultation sought to consider the continuation of a CHP element particularly in the context of the higher efficiencies now established for Good Quality CHP by the new Cogeneration Directive.

Responses to the consultation accepted that CHP should be a consideration within the NIRO although there was an understanding that the position was likely to change if a Renewable Heat Incentive were to be introduced. There was widespread acceptance for the proposal to allow lower efficiency levels (35%) for plant of 25MWe and over those stipulated and over those stipulated in the Co-Generation Directive.

Much of the criteria currently surrounding CHP in the NIRO are based on the UK's CHP Quality Assurance Programme (CHPQA) and therefore a UK-wide application of these criteria in the Renewables Obligations is needed.

In this context, the UK's CHP Quality Assurance Programme (CHPQA) indices have been revised to ensure renewable CHP in the UK can achieve the level of ambition needed to meet Renewable Energy Strategy targets. DECC has revised Guidance Note 44 to incorporate these changes, the new version has been released along with DECC's Response to their statutory consultation.

3. OPERATING THE BANDING REGIME

Calculating the Obligation

This chapter outlined the banding proposals that are at the heart of the proposed new Obligation. With the proposed departure from the standard one-to-one relationship between the number of ROCs and the renewable output (1ROC for each MWh) the calculation of the Obligation level must move from one based on output to one based on the number of ROCs that must be presented. The chapter described the detailed and somewhat complex proposal for effecting this change – requiring an estimation to be made of the number of ROCs that would be issued for renewables generation in a certain year across the UK, increasing it by 8% to provide 'headroom' and allocating the requirement across the 3 Obligations

There was a general acceptance of the calculation methodology although 2 consultees found it complex and expressed a preference for the retention of a NIRO level in MWh terms rather than in ROCs. The need for accuracy in estimating anticipated renewables generation for the next obligation period was seen as critical to the integrity and operation of the banded obligation and some additional sources of information were suggested to help maximise the accuracy in the calculation. The need for a high degree of accuracy is well accepted and it is intended to implement the calculation methodology as proposed in the consultation document.

Advice on setting future Banding levels

Proposals were set out for reviewing the bands to take account of changes in the structure and costs of the renewables sector. The first review was proposed for 2013 with the provision that Ministers could initiate emergency reviews if circumstances demanded. The review process was seen as involving an assessment by independent consultants whose outcome would be reviewed by the Renewables Advisory Board.

The majority of respondents supported the proposals put forward in the consultation for the process of reviewing and setting new bands. The importance of regular Reviews was highlighted in one response which indicated, for example, that since the analysis had been carried out to help establish the proposed bands, offshore wind costs have already increased significantly.

The suggested process of analysis by independent consultants with a peer review by RAB was widely accepted. Some consultees, however, did stress the importance of ensuring adequate weight is given to NI-specific aspects through, for example, local seminars/consultations. Responses to the GB consultation sought some clarity on the process and specifically how the industry itself can input to it.

Responses to the consultations both here and in GB have been largely consistent on this issue and it is intended that the policy will be implemented as proposed in the consultation.

4. BIOMASS AND WASTE ISSUES

Sustainability Reporting

In line with concerns raised in many quarters during consideration of proposals for the Renewables Transport Fuel Obligation to promote biofuels about ensuring the sustainability of biomass production, the statutory consultation contained proposals aimed at ensuring the application of certain standards to the use of biomass in renewables generation. Essentially this would involve generators preparing reports for OFGEM and if these were not prepared or were not satisfactory OFGEM could either refuse to issue ROCs for the generation or to revoke ROCs that had already been issued.

All responses were in favour of the Sustainability Reporting process that was put forward in the consultation with one consultee suggesting that a less detailed report should also be provided by micro-generation (the consultation had suggested exemption for smaller generators).

The need for OFGEM to provide clear guidance was seen as important and there was strong support for a degree of discretion to be used by OFGEM in the deadline for submitting reports. For example one consultee suggested that generators should not be penalized on contracts entered into before implementation of the Reporting requirement. Another urged that refusing or revoking ROCs for failure to comply with the requirement should only be used as a last resort and another suggested that up to 1 year should be allowed for submission.

These points were reflected also in responses to the GB consultation and DECC has agreed to work with OFGEM on the detailed application taking account of such considerations. In the GB consultation, some respondents raised concerns over the sustainability of the use of certain specific biomass feedstocks in the Renewables Obligation, given that in some cases, such as tallow, there is a limited supply; as a result DECC has decided to carry out further analysis as part of the wider work on sustainability before coming to any final conclusions.

Determining the Renewable Content Of Waste and fuels produced through anaerobic digestion, gasification and pyrolysis

The proposals in this chapter were aimed largely at determining how the biomass element of waste (for example municipal waste) could be determined to allow decisions to be taken on its eligibility and on the proportion of the electricity generated that should be eligible for ROCs. The consultation proposals suggested that subject to initial measurement of the fuel content waste could be 'deemed' as having a 50% renewable content without requiring ongoing measurement. The proposals also put forward suggestions for how the biomass content of fuels produced from anaerobic digestion, gasification and pyrolysis could be measured

All respondents regarded these proposals as acceptable – in particular those relating to the 'deeming of waste'. However, the need for regular audits as well as additional evidential requirements to supplement composition contracts was widely regarded as important to ensure the accuracy of measurements.

Following discussions with Ofgem, DECC had become aware as part of the consultation process that some further clarification is required regarding the circumstances in which a fuel can be defined as biomass (or treated as biomass by virtue of being part of a mixture of fuels with a combined energy content which is at least 90% derived from relevant material) for the purposes of the Renewables Obligation. DECC have therefore revised the definition of biomass so that any fossil fuel cannot be intentionally added in order to "boost" the fuel. However, a biomass fuel may contain a small amount of fossil fuel in the certain circumstances.

Overall the proposals of this section have been accepted – the following are the highlights:

- The definition of biomass is clarified to preclude fossil fuels being added to boost the fuel.
- There is no maximum level for the renewable content of waste where the operator can prove the renewable content of the waste stream is greater than 50% through direct measurement.
- The 50% level for inferred measurement will be permitted and will reduce in line with the Landfill Allowance Trading Scheme (LATS).
- DECC agree to accept evidence that residue char for gasification and pyrolysis is less than 100% renewable.
- DECC intends to continue working with Ofgem to develop further guidance.

Mixed Fuel Scenarios

This chapter considered instances where generation was from a mixture of fuels – this occurs where biomass or waste are used as part of the feedstock. The consultation sought to clarify the permutations and proposals generally aimed at providing ROCs according to the type of individual fuels used.

Respondents on this section of the Consultation were not aware of any such existing scenarios and had no specific comments to make except that fossil-fuels (including waste which is not renewable) should be excluded from receiving ROCs.

Respondents in GB were able to identify more scenarios and DECC therefore intends to implement a regime for ROC issue based on 16 separate mixed fuel situations.

Neutrality to Solid Recovered Fuel (SRF)

Few consultees commented on this proposal to allow co-fired stations to burn SRF alongside biomass and fossil fuel without being ruled ineligible for NIROCs on the biomass element.

We therefore propose to follow the GB line on this. This will allow neutrality of SRF in co-fired stations but DECC intend to introduce a minimum standard for SRF to ensure against untreated waste receiving the benefits of SRF neutrality (as well as the Enhanced Capital Allowances that are available for SRF combustion equipment).

DECC has also undertaken, following its consultation, to look further at the application of neutrality beyond stations which co-fire biomass and fossil fuels.

5. TECHNICAL AND ADMINISTRATIVE CHANGES

Funding Administration Costs from the Buy Out Proceeds

This consultation proposal arose primarily from the fact that currently OFGEM's costs of administering the GB Obligations are met from license fees charged to gas and electricity network operators and it was felt more appropriate for these costs to be met by those more directly involved in the Obligations. The situation is somewhat different under the NIRO where NIAUR's costs are met from the Authority's annual budget allocation from government. Nonetheless, the proposal if implemented should apply to all the administration costs of the UK Obligations.

There was a general consensus that the Regulators' administration costs should be met from the Buy Out fund. One respondent, however, did see the proposal as disadvantaging complying suppliers by reducing the amount to be redistributed to them and suggested the costs should be met through a surcharge on the Buy-Out price. It was recognised that the proposal to meet the costs from the Buy-Out Fund would have minimal impact on ROC prices.

The Department agrees therefore that NIAUR's costs should be met from the Buy-Out Fund. In the event of the Buy-Out Fund having insufficient proceeds to meet these costs in full the balance will continue to be met, as at present, from NIAUR's budget.

In its response to the statutory consultation in England and Wales DECC also stressed that the Buy-Out Fund will only be used to fund the administration of the Obligations and not any other environmental programmes (for example, administration of Climate Change Levy Exemption Certificates (LECs)).

Operation of the Late Payments Fund

Proposals put forward in the consultation were aimed at avoiding disproportionate costs that would be associated with paying out a small Late Payments Fund not only from the OFGEM/NIAUR perspective but also from the point of view of suppliers who would be receiving, in some cases, very small payments. The intention was to hold back the Late Payment Fund and pay it out as part of the redistribution of the following Obligation Period's Buy-Out Fund.

There was overall approval for the proposal to hold back the Late Payment Fund and roll it into the following year's Buy-Out Fund for redistribution if the amount in the Fund was small. Furthermore, the majority of respondents commenting on this issue agreed the proposed threshold of £50,000.

One consultee held the view that it was inequitable to recycle it on the basis of the next years Buy-Out Fund which would probably have a different payout pattern to that in the obligation period to which the Late Payment related. However, the small amount involved could be expected not to merit any more complicated method.

The Department has therefore decided that, in line with GB

- Where the late payment fund is £50,000 or less it will be rolled forward and redistributed with the following year's buyout fund.
- Interest will accrue on any late payments which are rolled forward and then redistributed alongside the fund.
- Ofgem will notify all licensed suppliers if the late payment fund is to be rolled forward.

Private Wire Networks

These proposals were intended to allow renewables generation across a private wire system to benefit from ROCs; currently this would not be the case as the RO requires the electricity to be supplied to consumers by a licensed supplier. This proposal would be an extension of the current arrangement whereby on-site use can be eligible for ROCs without being sold to a supplier and bought back again.

While there was general agreement to the proposal to include Private Wire Networks as a 'permitted way' for generation one respondent did note that they were not aware of any such networks that would be captured by the proposal. One consultee expressed the view that the

capacity limit (200kW was proposed in the consultation) should be increased to capture industrial scale wind turbines; in this context GB has decided following its consultation to increase the threshold to 10MW. It is accepted, however that these networks should not be operated over a publicly licensed distribution system. One respondent suggested that the arrangements should be simplified so that, like microgenerators, there is not a need to enter into a sell and buy back arrangement.

It is intended to proceed with the proposals to allow eligibility for this generation and supply on such networks up to a maximum of 10MW.

Facilitating Microgeneration

There has been ongoing pressure to reduce the administrative requirements for microgenerators. Some have been introduced in previous changes to the NIRO and the consultation this time sought to extend these by allowing greater flexibility in timescales for taking meter readings and permitting microgenerators to change agents that represent them in claiming ROCs. It also sought views on the introduction of a Code of Practice for agents.

Proposals for simplifying the processes for microgenerators were strongly endorsed by responses to the consultation. However, a number did argue that a Feed-In Tariff would be a more suitable form of support for microgeneration. In this context the GB decision to insert in the 2008 Energy Act provisions to allow the introduction FIT for generators up to 5MW has led to a decision to suspend work on developing a Code of Practice (which was widely supported in responses to the NIRO Consultation). It is intended that we will proceed with other proposals as follows:

- Microgenerators will be able to take annual meter readings up to 2 months following the end of the obligation period.
- The form notifying Ofgem that a generator wishes to use an agent can be sent to Ofgem either by the generator or their agent.
- There will be no change to the current arrangements restricting a microgenerator's ability to switch agents during an obligation period.
- A decision on developing a Code of Practice for agents will now be delayed to allow the role of agents to be assessed in the context of the introduction of a feed-in tariff form of support.

LIST OF RESPONDENTS

Airtricity
Alliance Party
Aquamarine Power
Arc21
B9 Energy
Balcas
British Hydropower Association
Carbon Trust
Council for Nature Conservation and the Countryside
E.ON Climate & Renewables UK Ltd
General Consumer Council for Northern Ireland
Geothermal Energy
NIE Energy Supply
North Down Borough Council
North West Region Waste Management Group
Northern Ireland Authority for Utility Regulation
Northern Ireland Energy Agency
Northern Ireland Environmental Link
OFGEM
RES Ltd
RWE npower
Scottish Power
Southern Waste Management Partnership
Strangford Lough Wildfowlers & Conservation Association
Sustainable Energy Association
Ulster Anglers Federation
Ulster Farmers Union
Viridian Power and Energy Ltd
Vykson
Waring Estate

NORTHERN IRELAND RENEWABLES OBLIGATION

BANDING PROPOSALS IN STATUTORY CONSULTATION

Band	Technologies	Support Level (NIROC/MWh)
Established	Sewage gas; Co-firing of non-energy crop (regular) biomass	0.5
Reference	Onshore wind; Hydro-electric; Landfill Gas; Geo-pressure; Co-firing of energy crops; Energy from Waste with CHP; Co-firing of biomass with CHP; Other not specified	1
Post-Demonstration	Offshore wind; Dedicated regular biomass; Co-firing of energy crops with CHP	1.5
Emerging Technology	Wave; Solar PV; Pyrolysis; Geothermal; Gasification; Tidal stream; Microgeneration; Anaerobic Digestion; Tidal impoundment (<1GW); Dedicated biomass with CHP; Dedicated energy crops with CHP; Dedicated biomass with energy crops;	2