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Malachy McKernan
DETI
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Our Ref: 00057-000149

Dear Malachy,

**NIRO - Statutory Consultation
Response from RES UK & Ireland Ltd**

RES UK & Ireland Ltd (RES) welcomes the opportunity to comment on the proposed amendments to the Northern Ireland Renewables Obligation Order.

By way of introduction, RES is an international renewable energy company with businesses in the UK, mainland Europe, North America and Australia. It is a wholly owned subsidiary of Sir Robert McAlpine, a large UK, family owned construction group. The business began in the early 1980s and has since grown rapidly now employing some 300 staff. To date the RES Group has successfully completed more than 1300MW of wind energy capacity around the world including projects in the UK, Ireland, France, Portugal, Jamaica and the USA. With the increasing global growth of wind energy around the world the Group currently has 900MW of capacity in construction, predominantly in the USA.

In the Northern Ireland context RES has completed 7 wind farms totalling 78 MW of capacity with a further 4 currently under construction totalling a further 54.5MW. In response to the implementation of the NIRO mechanism RES has invested substantially in the market and continues to view the NIRO as an essential requirement for the successful development of renewable energy in Northern Ireland. We consider that there is a critical need to amend the Order in light of the introduction of a Single Electricity market covering Northern Ireland and the Republic of Ireland and agree fully with the intent of the proposed amendments.

The format of this response reflects responses to the specific queries raised in the consultation and concludes with some additional comments that represent a distillation of the observations previously submitted to the Department in various correspondence in relation to the consultation.

Responses to Specific Questions

Q1: Do you agree that the introduction of SEM introduces complications for the issue of NIROCs to generators?

A1: Yes, we consider the introduction of the SEM seriously threatens the ability of operators to make the required declarations for ROC eligibility.

Q2: Do you agree that a solution is needed to ensure the continued viability of the NIRO?

A2: Yes, we consider that amendments are crucial for the NIRO to continue to operate successfully.

- Q3: What, if any, other complications do you envisage the introduction of SEM might hold for NIRO?*
- A3: In addition to the potential problems for GB based generators importing into Northern Ireland, there is a potential problem for generators wishing to export via GB interconnectors into GB for the purposes of obtaining GB ROCs. Since all output from greater than 10MW projects is required to be sold through the SEM Pool, generators wishing to export to GB cannot do so via bilateral contracts. Though this is not a problem for the NIRO itself, it does represent a problem for Northern Ireland based renewable plant since GB ROC eligibility for such exports to GB would not be guaranteed. Under Paragraph 16(5) of the Renewables Obligation Order 2006 (SI No. 1004), any such exports must be shown to flow directly from the generating station to the an interconnector between GB and Northern Ireland during each relevant period. This would not be possible under the SEM.
- Q4: Do you agree that action must be taken to address the potential complications for the issue of NIROCs to generators?*
- A4: Yes, we consider that the Do Nothing scenario would lead to the collapse of the NIRO and the failure of Northern Ireland to meet its renewable energy development targets.
- Q5: Do you agree that an assumption based on the average pool mix does not represent an appropriate solution? If not, please explain.*
- A5: Yes, this solution is considered unworkable in any practicable sense and does not allow individual generators to trade as they see fit.
- Q6: Do you agree that confirmation by the Administrator of the SEM pool does not represent an appropriate solution to the complication posed to the NIRO? If not, please explain.*
- A6: Yes, as in A5 above, this totally circumscribes the ability of a generator to freely trade within the market. The implementation timetable would create a hiatus in ROCs being issued for 2007 and would therefore not be acceptable to existing generators.
- Q7: Do you agree that a system based on the assumption that renewable generation is the first to be consumed in each jurisdiction does not represent an appropriate solution to the complication posed to the NIRO? If not, please explain.*
- A7: Whilst we can envisage this system operating in principle we are concerned that the audibility requirements of NIAUR and OFGEM would make uncertain ROC eligibility for projects making financing more difficult.
- Q8: Do you agree that a tracking system based on certificates such as REGOs does not provide a solution that can be implemented as required from 1 November 2007? If not, please explain.*
- A8: Since REGOs can be traded independently from the energy, it cannot provide a solution for satisfying NIAUR/OFGEM eligibility requirements.
- Q9: Do you agree that a system based on bilateral contracts between generators and suppliers offers the optimum approach to addressing the SEM-NIRO difficulty by 1 November 2007?*
- A9: Yes, given the existing time constraints, we agree that a system of financial contracts represents the most appropriate approach.
- Q10: Does the Contract for Difference approach provide a suitable template basis for addressing the SEM-NIRO issue?*
- A10: The proposed amendments to the Order do not specify that a Contract for Difference should be the precise form of contract but merely that a contract between the supplier and the generator should be in place comprising, inter alia, the provisions set down in the amended Order. Notwithstanding this, we are satisfied that the proposed relevant arrangements are a suitable basis for addressing the problems subject to the specific comments on the wording of the proposed amendments to the Order made below.

- Q11: What, if any, other potential solutions would you regard as appropriate to addressing the SEM-NIRO complication*
(a) by 1 November 2007
(b) for the longer term?
- A11: (a) None
 (b) RES intends to write further to the Department on this issue.
- Q12: Do you agree that the solution being proposed in this consultation adequately addresses the legal complication posed form the NIRO by the introduction of the SEM? If not, please explain.*
- A12: Yes, subject to the approval of NIAUR/OFGEM that the proposed relevant arrangements are sufficient to satisfy the ROC eligibility requirements.
- Q13: (a) What, if any, additional costs do you envisage being associated directly with the solution being proposed in this consultation?*
(b) Please describe and quantify any such additional costs.
- A13: For existing projects, existing bilateral power offtake contracts will need to be converted to appropriate Contracts for Differences or other agreements as required under the Order. For new projects, there should be no net additional costs in legal set up or operating costs.
- Q14: What, if any, option do you envisage to enable electricity not covered by a relevant arrangement under the proposed NIRO amendment to be eligible for NIROCs?*
- A14: Generators under 10MW may opt not to accede to the SEM TSC and trade their output using conventional bilateral power offtake contracts. However, the wording of the proposed amendments appears not to allow this. See further, specific comments on the wording of the proposed amendments below.
- Q15: Do you envisage any other NIRO-related issues as a consequence of the introduction of the SEM? If so, please explain.*
- A15: RES intends to write to the Department further on this issue.

Specific Comments on the Proposed Amendments

- 1) Generators under 10Mw may opt not to accede to the SEM TSC and can thereby avoid needing to sell their power through the SEM Pool. They may choose to trade their output using conventional bilateral power offtake contracts with suppliers and, by so doing, make the required declarations as is done currently. However, the wording of the proposed amendments appears not to allow this. Paragraph 16(10) states:

(10) The operator of a generating station is entitled to make the declarations referred to at paragraphs (4) and (6) if and to the extent that:

(a) the relevant electricity has been (or is to be) sold by him through the SEM Pool;

An unforeseen consequence of the wording of this paragraph (in particular the underlined words) is that projects that do not sell their output through the SEM Pool are not entitled to make the relevant required declarations for ROC eligibility. This would need to be reworded to ensure that paragraph (10) referred solely to projects that sell their output through the SEM Pool.

- 2) We are concerned that paragraph (11)(a) appears to require half-hourly balancing of the operator's input into the pool and the supplier's purchases from the pool as the "trading period" is defined by reference to the same term in the TSC. This is impractical and a serious bureaucratic hurdle to the

effective auditing of the system. The rest of the NIRO Order refers to “obligation periods” being 1 year periods. Whilst aggregation and balancing over a full year is acknowledged to be too long for the purposes of this paragraph, we would propose that the balancing or reconciliation period should be over the current one month / four weekly period. The period should be chosen to reflect the meter reading and data collection periods required under the SEM to avoid additional cost implications of the audit process.

- 3) We are concerned over the wording of paragraph 16 (11)(a) in relation to an ambiguity that is created concerning the amount that is referred to in line 2. It can be read as either referring to the amount purchased through the SEM Pool by the designated electricity supplier or the amount specified in the agreement. We would propose amending the wording as follows:

(a) purchase through the SEM Pool an amount of electricity specified in or determined under the agreement, ~~which amount~~ and the amount specified in or determined under the agreement shall not exceed the amount of electricity sold through the SEM Pool by the operator in that period;

- 4) We are concerned that the wording of paragraph 16 (11)(c) does not accurately reflect its intent. The “aggregate” that is referred to in line 2 should not be the amount of electricity purchased through the SEM Pool by the designated supplier, but rather to the sum of all the relevant agreements. We therefore propose amending the paragraph as follows:

(c) supply to customers in Northern Ireland an aggregate amount of electricity which is not less than the ~~aggregate amount of electricity~~ sum of the amounts referred to in sub-paragraphs (b)(i) and (b)(ii).

Yours sincerely,

Michael Harper