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Cc: Jonathan Buick[Jonathan.Buick@actionrenewables.co.uk]
From: Mark Compston
Sent: Wed 3/23/2016 12:19:24 PM
Importance: High
Subject: Mr McNaughton information
MAIL_RECEIVED: Wed 3/23/2016 12:19:37 PM
[Mr McNaughton application details.doc](#)

Hi David

Thank you for taking the time to meet with us this morning.

Please find attached a document explaining the context and background, followed by the timeline of the case with the McNaughtons including account and application reference numbers. We also summarised the meeting with the following observations:

- The McNaughtons application is fully eligible and was properly made but for the dispute over the press of the 'Submit' button
- All appropriate information was uploaded on 15th October, over one month before RHI tariff reduction and Action Renewables believe it was submitted correctly
- Ofgem have asked us to produce evidence that the button was pressed however they do not provide us with the evidence i.e. an email confirmation

A link to the legislation cited by both Ofgem and DETI is contained below for reference:

http://www.legislation.gov.uk/nisr/2012/396/pdfs/nisr_20120396_en.pdf

From this legislation I would like to draw attention to the following section on page 9; Part 3, 22, section (6):

It states that, "Where an application for accreditation has, **in the Department's opinion**, been properly made, **and the Department is satisfied that the plant is an eligible installation the Department must..... accredit the eligible installation**"

This appears to permit the Department some discretion or at least scope to consider Mr McNaughtons installation as eligible. Issues with the subcontractors IT systems should not make an application ineligible.

Regards

Mark

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REDACT

Background to Application reference RHI [Personal information redacted by the RHI Inquiry] (ac ORG0000017991) - Mr Sean McNaughton:

The Renewable Heat Incentive (RHI) tariff reduced significantly on 18th November 2015. Mr McNaughtons business and financial case for procuring a wood boiler for his farm was based on the higher rate tariff. Following a site visit on 13th October 2015, the application was uploaded on 14th October 2015 (over one month before tariff reduction) and believed to have been submitted. Mr McNaughton is therefore eligible for the higher rate of incentive. Apparently the application did not submit correctly and Ofgem are disputing whether the 'submit' button was pressed on this date. Action Renewables believe a likely cause is a computer glitch (and have evidence of many such glitches) but Ofgem maintain the button was not pressed. The priority is to secure the tariff which Mr McNaughton is entitled to, given that his boiler commissioning date and all eligible information was uploaded on time.

Of approximately 650 total RHI applications successfully submitted by Action Renewables, it appears that application [Personal information redacted] did not submit correctly and the cause is unknown. Action Renewables only became aware of this situation in January and have been appealing to both DETI (which manages the RHI fund) and Ofgem (which administers the RHI programme from a Glasgow office).

Both Ofgem and DETI have said they are able to view that the application and all related information was uploaded on time and allocated a reference number, however the application does not show as being submitted on 15th October 2015. Action Renewables asked DETI and Ofgem to discuss the matter and asked for their understanding, bearing in mind the potential financial implication this has for Mr McNaughton.

Ofgem have been given every opportunity to respond in a positive way but have simply said they cannot operate outside the rules and contract set down by DETI. They have admitted that special circumstances have allowed other applications to progress previously where supporting evidence can be provided. It is very difficult to prove or disprove computer glitches or human error but Mr McNaughtons livelihood should not be detrimentally affected on this basis.

As at 21st January 2016, Action Renewables wrote to DETI asking them to put pressure on Ofgem to process Mr McNaughtons application with an effective date of 14th October. Given Ofgems response that they are bound by the contract and agreement with DETI, Action Renewables put forward the following argument for DETI to use in our favour:

"As you know, Ofgem have a huge backlog of Northern Ireland RHI applications. Despite stating they are strictly following the DETI guidelines in the case of Mr McNaughton, it could be argued that they are operating outside the guidelines' timescales and service levels. This is understandable due to the deluge of applications submitted to Ofgem before the tariff reduction. However, on one hand I am informed that Ofgem are not permitted to be flexible, on the other hand Action Renewables and its clients are expected to be flexible, with over 30 outstanding applications from October and 69 applications from November stuck at 'submitted' status i.e. not even in review. We then have a further 20 applications from this same period which are only now at 'in review status'. Therefore presumably Ofgem are

allowed some discretion around the contract delivery, otherwise they would clearly be in breach of the contract”.

Furthermore we stated the case of one client who should have been in receipt of £80,000 by that date but his application was not even approved after almost 12 months with Ofgem.

REDACT

Mr McNaughton Timeline**October 2015**

9th October - AR asked by FG Renewables to carry out site visit
 13th October - site visit performed by Action Renewables
 14th October - paperwork received in to the office and processed
 15th October - application apparently submitted, as recorded in the Excel table (AR's backup record)

January 2016

6th January - FG asked an update on application
 7th January - Ben reset the password – application was 'awaiting declaration' and not submitted. Jonathan Buick was informed of the situation.
 8th January - Email sent to Jonathan (which explains the situation + proofs of everything completed on the 15/10/2015). Jonathan spoke to Seamus at DETI. Jonathan forwarded an email with the details to Luke Hargreaves and also to Teri Clifton in Ofgem.

11th January – Mark Compston started in AR and was made aware of this RHI issue of Mr McNaughton, due to induction week it was a day or two before the situation and its implications could be understood fully. Mark Compston then discussed it with Terry Waugh and Jonathan Buick
 14th January – with the contact details for Teri and Gregor at Ofgem Mark tried to make contact and left a voice mail for Teri
 15th January – Mark asked the RHI team to check the details of the application in case it was given discretion, this was in order to minimise queries and smooth the process if the application was to be processed with the original date. A couple of minor amendments were made to the Heat Loss Calculation
 15th January – Mark attempted to contact Teri and Gregor again. Ofgem call handler would not provide Gregors direct line, email address, surname or even say when he would be available.
 18th January – Attempted to contact Teri and Gregor again, was advised they were both on leave but would return on Tuesday
 19th January – Mark spoke with Gregor about Mr McNaughtons application and was advised that Ofgem would not be in a position to show any discretion but Gregor would look into it and ring back, which he did with the same news. Mark pushed for this to be raised with Teri and for her to call me. I also asked for the details of the NI RHI accreditation manager
 19th January – Mark spoke to Seamus in DETI who intimated that he had a conference call with Ofgem and Teri next Monday 25th. I set out to inform both Seamus and Teri of the facts so they could hold an informed discussion and come to a favourable conclusion.
 19th January – as advised by Gregor, Mark sent an email to the RHI general enquiries mailbox for Gregor to pick up and raise the issue with Teri. I spoke to him in the afternoon to ensure he received it, he was unavailable but a colleague passed on the message.
 20th January - Gregor rang Mark back to say he received the email from the previous day, detailing the facts and had shown it to Teri. Teri was busy for couple of days but would call me on Friday, ahead of the DETI conference call.

21st January – Mark emailed Seamus about Mr McNaughton and a separate email about the delays/backlog in the Ofgem system

22nd January – Seamus rang to say he had all the details for the conference call and would raise the issue. He also confirmed that he had looked back to a report they received from Ofgem in October and could see Mr McNaughtons application number sitting against the 15th October date. I expected a call from Teri which I did not receive.

25th January – Seamus rang following the conference call with Ofgem and advised that Teri would call me to discuss further. Teri rang in the afternoon to advise that evidence would be required to prove the application was submitted. I said that evidence of a user pressing a button would be very difficult to obtain but Ofgem and DETI could both see that the application was loaded on time and not touched again until January, so we genuinely believed it was submitted. I therefore advised that we were unlikely to have evidence the button was pressed but appealed for discretion in this instance. However, I said I would speak with a colleague who had been involved in the application but was currently on leave, in case there was anything relating to IT issues.

27th January – spoke with RHI team (Aaron, Mark (2) and Charlene) to establish if there were any Ofgem IT errors in support of our case for Mr McNaughton

28th January – Mark sent an email to Teri (Ofgem) and Seamus (DETI) outlining Ofgem IT issues we had experienced around the October date, including an attachment outlining errors encountered

February 2016

1st February – due to the announcement that the NI RHI was to close soon, Mark spoke to Teri to ask if we should submit the application to have it on the system, even at the lower rate, Teri confirmed this was the best action. Discussed the IT issues email and Teri said I would hear the outcome of the investigation by the end of the week. I explained I would be under pressure to find out before then so please perform this sooner if possible

2nd February – I rang Seamus at DETI who said he would speak with Teri again and appreciated the implications of not processing this application at the higher rate

3rd February – Seamus rang Terry from AR about something unrelated but Terry enquired about the status of the issue, Seamus advised that we should expect an outcome from Ofgem by the end of the week.

3rd February – I emailed about a further serious IT issue with Ofgem and had spoken to Gregor at Ofgem, Teris email response was that it was indeed an IT issue. However, the case of Mr McNaughton was now effectively closed as they had found no evidence that we had tried to submit the application. The email we sent included a screenshot proving that Mr McNaughtons application was indeed on the correct account before submission

3rd February – Seamus rang Terry and Jonathan and said that the IT error appeared to be unacceptable and gave weight to our argument, Seamus said he would speak to Teri himself to try to resolve

16th February – Mark spoke with Seamus who followed up with an email confirming that Ofgems decision was final

25th February- I tried to call Mr McNaughton, no answer. Spoke to him around 13.30 to arrange meeting for next day

26th February – Jonathan Buick and Mark Compston met with Mr & Mrs McNaughton and discussed the issue at length. The next step was agreed to speak with the local North Antrim MP at the first available opportunity. Later that day it as scheduled for 3rd March at 15.30