

From: [Moore, Stephen \(DETI\)](#)
To: [Woods, Michael \(DETI\)](#)
Cc: [Rooney, Eugene](#); [Pauley, Alberta](#); [Kelly, Andrea](#)
Subject: FW: Northern Ireland RHI scheme State Aid Notification - Phase 2 Review Non-Domestic Renewable Heat Incentive
Date: 02 March 2016 10:25:32
Attachments: [COMP Answer to UK request \(Art. 36-49\) of 5-08-2014.docx](#)
[2014 - 2020 GBER - Reg 651 2014 - 17 June 2014.pdf](#)
[2014 environmental protection and energy guidelines.pdf](#)

Michael

As mentioned in my last email, please see below the email discussion last February.

Stephen

Stephen Moore

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From: Moore, Stephen (DETI)
Sent: 10 February 2015 09:58
To: Wightman, Stuart; Hughes, Seamus
Cc: Pauley, Alberta; Kelly, Andrea; Ryan, Damien
Subject: FW: Northern Ireland RHI scheme State Aid Notification - Phase 2 Review Non-Domestic Renewable Heat Incentive

Stuart / Seamus

As discussed yesterday briefly with Seamus, it doesn't look like the GBER would provide you with all the State aid cover you will need so I think you need to start working on a full notification for the inclusion of:

- Air Source Heat Pumps
- District Heating
- Deep Geothermal
- Large biomass over 1MW
- Extending the existing 6.3 pence biomass tariff up to 199kW

When do you need a decision from the Commission?

You will see that the GB extension notification took three months from pre-notification to the decision, so you need to allow at least three months for your notification to get through the system.

You must also have a close look at the GB domestic decision – see weblink below.

As you will see the Commission (and DECC) consider ‘landlords’ to be undertakings and hence subject to the State aid rules. In the GB case, you will see they notified the domestic scheme, possibly because the domestic scheme was put in place before the 2014 – 2020 Environmental Aid Guidelines and the 2014 – 2020 General Block Exemption Regulation came into effect.

In our case, **I think we are also providing State aid to landlords via our domestic scheme**, but, we should be able to avoid a full notification by availing of Article 43 in the GBER.

We can use the GBER if:

- a. The aid per unit of energy does not exceed the difference between the total levelized costs of producing energy from the renewable source in question and the market price of the form of energy concerned.
- b. The levelized costs are updated regularly and at least every year;
- c. The maximum rate of return used in the levelized cost calculation does not exceed the relevant swap rate plus a premium of 100 basis points. The relevant swap rate shall be the swap rate of the currency in which the aid is granted for a maturity that reflects the depreciation period of the installations supported.
- d. Aid is only be granted until the installation has been fully depreciated according to generally accepted accounting principles.
- e. Any investment aid granted to an installation is deducted from the operating aid.

However, as the scheme is now live, I would be keen that you start work on the GBER registration ASAP and provide me with the information requested in Part I of Annex II of the GBER.

I would also remind you that no State aid can be granted to an undertaking unless it is from an ‘approved’ GBER scheme/ad hoc project or a Commission decision.

Happy to discuss.

Stephen

Stephen Moore

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www.eucompni.gov.uk

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From: Mukherjee Sinjini (International Energy EU & Resilience)
[\[mailto:sinjini.mukherjee@decc.gsi.gov.uk\]](mailto:sinjini.mukherjee@decc.gsi.gov.uk)
Sent: 09 February 2015 10:34
To: Moore, Stephen (DETI); Kate Porter (kate.porter@bis.gsi.gov.uk)
Cc: Wightman, Stuart; Pauley, Alberta; Hughes, Seamus; Kelly, Andrea; Ryan, Damien;
Irrelevant information redacted by the RHI Inquiry; Irrelevant information redacted by the RHI Inquiry
Subject: RE: Northern Ireland RHI scheme State Aid Notification - Phase 2 Review Non-Domestic Renewable Heat Incentive

Stephen,

DECC did look at whether the RHI could fit under the revised GBER (and whether we could make use of Article 43 for future amendments to the scheme). We came to the conclusion that at present the risks on this were too high for us to be able to advise ministers to rely on GBER. We worked on this quite a while ago so I have to admit that my memory is a bit fuzzy on all the detail so it may be best for colleagues in Northern Ireland to contact policy leads here directly (Irrelevant information redacted by the RHI Inquiry).

We did give BIS some questions on this to pass on the Commission which were included as part of a UK list submitted before summer 2014 – the answers on the environmental protection provisions are attached – you will see that there were quite a few on Article 43 (most the questions came from our RHI team so hopefully useful to you).

Kind regards
 Sinj

From: Moore, Stephen (DETI) [<mailto:Stephen.Moore@detini.gsi.gov.uk>]
Sent: 06 February 2015 16:40
To: Mukherjee Sinjini (International Energy EU & Resilience); Kate Porter (kate.porter@bis.gsi.gov.uk)
Cc: Wightman, Stuart; Pauley, Alberta; Hughes, Seamus; Kelly, Andrea; Ryan, Damien;
Irrelevant information redacted by the RHI Inquiry
Subject: Northern Ireland RHI scheme State Aid Notification - Phase 2 Review Non-Domestic Renewable Heat Incentive

Sinj / Kate

Please see the email below from colleagues in Energy Division that relates to a widening of the scope of the NI RHI scheme (SA.34140 – see attached).

I see that the UK has twice re-notified the original UK scheme (SA.32125).

State aid No SA.35766 (2013/N) – United Kingdom Extension of the Renewable heat Incentive (RHI) to the domestic sector

http://ec.europa.eu/competition/state_aid/cases/249393/249393_1508242_89_2.pdf

State aid No SA.37562 (2013/N-2) – United Kingdom Amendments of the Renewable Heat Incentive (RHI) scheme for the non-domestic sector

http://ec.europa.eu/competition/state_aid/cases/249933/249933_1516864_75_2.pdf

Before we start work on a full notification of the NI scheme, I was wondering whether it would fall within any of the provisions in the 2014 GBER.

In particular, I see that Article 43 exempts operating aid for the promotion of energy from renewable sources in small scale installations.

I note in the definitions, 'energy from renewable energy sources' means energy produced by plants using only renewable energy sources, as well as the share in terms of calorific value of energy produced from renewable energy sources in hybrid plants which also use conventional energy sources and that 'renewable energy sources' means the following renewable non-fossil energy sources: wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases.

I also note that the notification thresholds for operating aid for the promotion of energy from renewable sources in small scale installations is EUR 15 million per undertaking per project.

Can either of you clarify whether Article 43 is intended for schemes like the RHI?

Have there been any discussions with the Commission on whether Article 43 could be used to amend our RHI schemes, rather than submitting a full notification?

Happy to discuss.

Stephen

Stephen Moore

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From: Hughes, Seamus
Sent: 03 February 2015 12:15
To: Moore, Stephen (DETI)
Cc: Wightman, Stuart; Pauley, Alberta
Subject: RE: State Aid Notification - Phase 2 Review Non-Domestic Renewable Heat Incentive

Stephen

In summary the phase 2 review will bring in new technologies/tariffs, namely:-

Air Source Heat Pumps
District Heating
Deep Geothermal
Large biomass over 1MW
Extending the existing 6.3 pence biomass tariff up to 199kW

I hope this helps.

Regards

Seamus

Seamus Hughes

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From: Moore, Stephen (DETI)
Sent: 03 February 2015 09:48
To: Hughes, Seamus
Cc: Wightman, Stuart; Pauley, Alberta
Subject: RE: State Aid Notification - Phase 2 Review Non-Domestic Renewable Heat Incentive

Seamus

Can you send me some details on how the Phase 2 review changes the RHI scheme?

Thanks

Stephen

Stephen Moore

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From: Hughes, Seamus
Sent: 03 February 2015 09:26
To: Moore, Stephen (DETI)
Cc: Wightman, Stuart
Subject: State Aid Notofication - Phase 2 Review Non-Domestic Renewable Heat Incentive

Stephen

I had a brief chat yesterday with Stuart about the State Aid Notification in terms of the phase 2 review of the RHI and would be grateful for your initial advice on what needs to be done. I note in the original RHI State Aid Notification there is a reference to a further notification being submitted f additional technologies are being introduced to the scheme, and this is likely to be the case under the phase 2 review.

I suppose my first question would be, is a new full notification required or would it be an addendum to the original?

Many thanks

Regards

Seamus

Seamus Hughes

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