



From: John Mills
Energy Division

Date: 22 October 2014

To: 1. Andrew Crawford
2. Arlene Foster MLA

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COR/487/2014 INFRASTRUCTURE BILL: DECC MEASURES

Issue: To respond to a letter from the Rt. Hon Matthew Hancock MP, Minister of State at the Department of Energy & Climate Change (DECC) about a number of energy issues being progressed under the above Bill.

Timing: Routine.

Need for Referral to Executive: No.

Presentational Issues: None.

Freedom of Information: Not disclosable under s35 of FOI Act.

Programme for Government / PSA Implications: Not Applicable.

Financial Implications: None – the aspects of the Bill noted in the letter do not extend to N Ireland.

Legislative Implications: None.

Statutory Equality Obligations: None.

Recommendation: It is recommended that you respond to the Rt Hon Matthew Hancock MP along the lines of the draft response at **Annex B**.

Background

1. The Rt. Hon Matthew Hancock MP, Minister of State at the Department of Energy & Climate Change (DECC) wrote to you on 9 October 2014 (**Annex A**) about the progress of a number of energy aspects of the Infrastructure Bill which was introduced into the House of Lords on 5 June 2014. The measures referred to in the letter do not extend to Northern Ireland. The letter also refers to proposals relating to the Community Energy Right and the Wood review which recommends that the Government should maximise economic recovery of oil/gas/petroleum from the UK continental shelf.

Second Comer Regime

2. This regime allows customers who pay for an electricity connection to the distribution system to recover costs from later customers who benefit from the connection. In GB connections are not only provided through Distribution Network Operators (DNOs) but also through Independent Connection Providers (ICPs) and the legislative change proposed is to allow ICPs to receive second comer payments also thus levelling the playing field between ICPs and DNOs.
3. In NI, there is a rebate scheme in place for domestic customers under the Electricity (Connection Charges) Regulations (NI) 1992. The 1992 Regulations apply to all licensed distributors - NIE is currently the only licensed electricity distributor in Northern Ireland. In 2013, the Department reviewed the 1992 Regulations at the request of the Utility Regulator which had sought to extend the rebate scheme to non domestic customers and the rebate period from 5 to 10 years. However, following further analysis and discussion with the Regulator and NIE, they agreed that not only was there no impact assessment for the proposal, any extension of the scheme would likely be unworkable and disproportionately expensive under existing NI connections policy. The Regulator in September 2014 published a call for evidence as part of a review of 'contestability' of new connections to electricity networks. This is scheduled to close at the end of October.

Introduction of a Special Administration Regime (SAR) for the smart metering Data and Communications Company (DCC)

4. The GB proposal is to introduce a SAR for the smart metering DCC which has been operating under a licence since September 2013. In Northern Ireland, you agreed in August 2014 that the original business case for the implementation of smart metering should be reassessed by undertaking a further cost benefit analysis.

Renewable Heat Incentive

5. The proposed changes to the GB Renewable Heat Incentive (RHI) include:
 - providing DECC with the flexibility to appoint an administrator other than Ofgem to ensure the long term cost effectiveness of the delivery of the RHI;
 - enabling assignment of RHI payments to a third party financier; and
 - making the RHI scheme more flexible by providing for changes to the RHI secondary legislation to be subject to negative rather than affirmative resolution.
6. The legislative power for the RHI scheme in NI is contained in the Energy Act 2011 and it would be preferable if similar legislative changes could be made in relation to the NI RHI scheme as those proposed for GB. DECC officials however advise that it will not be possible to make changes to the NI RHI via the Infrastructure Bill because of the short time available before the parliamentary elections. You may wish to take the opportunity to ask DECC to consider progressing amendments to the NI RHI legislation through a suitable legislative vehicle early in the session of the next Parliament.

Community Electricity Rights

7. The DECC measure in the Infrastructure Bill on Community Electricity Rights, which applies only in GB, creates a reserve power that, if exercised, would give communities the right to buy a stake in a renewable electricity development in their area. We will continue to monitor the GB position and consider the need for any similar action as work progresses on the forthcoming development of the draft NI Community Energy Action Plan.

Wood Review – ongoing engagement with DECC on other aspects of the Infrastructure Bill

8. DECC propose, in response to the Wood Review, to amend the Petroleum Act to establish a principle of Maximum Economic Recovery (MER) – the Petroleum Act extends to the NI territorial waters and the amendment is proposed also to extend to Northern Ireland. Colleagues in Minerals and Petroleum Branch are in discussions with DECC in relation to the detailed proposals and will advise you separately as required. Officials will also ensure that the Departmental Solicitors' Office and the Office of Legislative Counsel are advised of any proposals as they might affect Northern Ireland.

Recommendation

9. I recommend that you respond to the Rt Hon Matthew Hancock MP along the lines of the draft response at **Annex B** by thanking him for the update on the progress of the Bill and advising that you are supportive of the changes proposed to the RHI scheme and would ask that similar changes are taken forward to amend the NI RHI scheme.



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Annex A



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Annex B

The Rt Hon Matthew Hancock MP
Minister of State
Department of Energy & Climate Change
3 Whitehall Place
LONDON
SW1A 2AW

XX October 2014

Dear

INFRASTRUCTURE BILL: DECC MEASURES

Thank you for your letter of 9 October 2014, 2014 which provides a useful update on the progress of the above Bill and for your assurance that officials in DECC will continue to work closely with officials from my Department as the Bill progresses. I note that the proposed measures noted in your letter will not extend to Northern Ireland.

I am supportive of the proposed changes to the Renewable Heat Incentive (RHI). It is important that DECC has the flexibility to appoint an administrator other than Ofgem to ensure the long term cost effectiveness of the delivery of the RHI. I am also supportive of the other two proposed RHI amendments and would ask that consideration be given to making similar legislative changes for the NI RHI scheme. I recognise that changes to the NI RHI may not be possible via the Infrastructure Bill, but would ask that consideration is given to progressing amendments through a suitable legislative vehicle early in the session of the next Parliament.

Thank you for the update you have provided on the rollout of smart metering in GB which specifically referred to a Special Administrative Regime for the smart metering Data and Communications Company. I am currently considering the implementation of smart meters in Northern Ireland and have asked my officials to re-assess the cost/benefit analysis for smart metering. It is important that any smart metering solution is cost effective and offers consumers value for money given the significant costs involved in rolling out smart metering and the impact it may have on customer bills. I will be interested to see how the rollout of smart metering progresses in GB and I am grateful to you for keeping me informed of developments in this area.

Apart from the issues noted in your letter, I understand that our Departments are also in discussions in relation to the application and extent and associated enforcement of the Maximum Economic Recovery (MER) principle within Northern Ireland law as it relates to the recovery of upstream oil/gas/petroleum. I should be grateful if your officials would continue to liaise with my officials as well as other officials in other NI Departments as necessary in relation to these proposals.

Yours

ARLENE FOSTER
MINISTER FOR ENTERPRISE, TRADE AND INVESTMENT