

169

Frazer, Helen

From: Brennan, Mike
Sent: 23 January 2017 08:26
To: Sterling, David
Cc: Morelli, Emer; Scott, Michelle
Subject: FW: Assurance re OfGEM Issues
Attachments: NI interim legislation - assumptions risks and options_20170110.docx

David – there were a number of discussions with Minister / Eoin over weekend. They now seem minded to go back to the 'robust' business case approval letter that we had last Sunday – with the safeguards on fraud recovery, embedded DoF economist, 100% inspections etc.

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From: McCormick, Andrew (DFE)
Sent: 22 January 2017 21:00
To: Sterling, David
Cc: Brennan, Mike; McMurray, Stephen; Marten, Lucy
Subject: Fw: Assurance re OfGEM Issues

David,

As discussed, we have clear confirmation from OfGEM that the tariff change is deliverable. You will see from the email below and the attachment that they very quickly addressed a range of practical issues and these have been resolved to DfE's satisfaction. Any of the points affecting the draft Regulations were sorted before the latter were laid before the Assembly on 13 January. For example, regarding the issues relating to the new regulations as set out in Section 5 of the OfGEM note attached, all of these points have been covered off to OfGEM's satisfaction with the new tariffs coming into effect from 1 April 2017 and aligning to the anniversary of accreditation. Also all of the risks identified by OfGEM in Section 4, apart from JR risk, are considered manageable through mitigation measures involving managed procedures and attention to resource demands. The JR risk has clearly been identified by all of us, and the legal advice is as helpful as we could reasonably expect – including the Report from the Examiner of Statutory Rules just received (next email).

On your second point about inspection and enforcement in the short term, I can provide a firm assurance that DfE will be maintaining a very tight grip on this issue with OfGEM between now and the date when our new contract for inspection, audit and enforcement comes into effect (obviously we have no alternative agent for the short term). I will be writing again to Chris Poulton shortly with a view to resolving a point about the way in which they can require beneficiaries to provide information to demonstrate and support eligibility, for example where an installation has a domestic aspect (some heat for domestic purposes can be eligible, but we have been concerned that OfGEM had been taking too laissez-faire a view and we have legal advice that will help on this point, which backs up the need for OfGEM to obtain evidence from the applicant that they are operating a business in line with their application. Our contract with OfGEM requires them to carry out some further inspections in the next three months (I'll get you details tomorrow), and we are also able to ensure that where particular concerns arise (eg if we or OfGEM receive specific or generalised allegations against beneficiaries of the scheme, OfGEM can take the appropriate action to investigate and advise us on what may be found.

I hope this is helpful

Many thanks.

Andrew