



Claire Winters
Winters Renewables
21 Shaneragh Road
Dromore
Co Tyrone
BT78 3EJ

20 June 2017

Dear Madam

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme
Provision of a Section 21 Notice requiring the provision of evidence in the form of a written statement

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme (known as 'the RHI Inquiry') which has been set up under the Inquiries Act 2005 ('the Act').

I enclose a copy of the RHI Inquiry's Terms of Reference for your information.

You will no doubt be aware that the RHI Inquiry is conducting its investigations into the matters set out in its Terms of Reference. The Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals. In addition, the Inquiry has also now begun the process of requiring persons who have been, or who may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry Panel.

In this context, it would be of assistance to the Inquiry to have a statement from you setting out the involvement of Winters Renewables, its servants and agents, ('the

Company') with the Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the RHI Scheme').

In keeping with the approach we are taking with others, the RHI Inquiry is now issuing to you a Statutory Notice (known as a 'Section 21 Notice') pursuant to its powers to compel the provision of evidence in the form of a written statement in relation to the matters falling within its Terms of Reference.

The Section 21 Notice enclosed with this letter requires you to provide evidence to the RHI Inquiry Panel in the form of a written statement addressing the matters identified in the Schedule to the Section 21 Notice. As the text of the Section 21 Notice explains, you are required by law to comply with it.

Please bear in mind that, although the RHI Inquiry now has a good working knowledge of the RHI Scheme, the witness statement required by the enclosed Notice is likely (in common with others) to be published by the RHI Inquiry in due course. It should therefore ideally be written in a way which is as accessible as possible in terms of public understanding.

The aim of the enclosed Notice is to require you to provide all relevant evidence within your knowledge and that of the Company which is pertinent to the Inquiry's Terms of Reference. The Schedule to the enclosed Section 21 Notice provides further detail as to the matters which should be covered in the written evidence which is required from you. In the event that there is a category of information in respect of which you or the Company have no evidence, please state this in your response. Where you or the Company can provide evidence, then the more comprehensive your statement is, the less likely it is that the Inquiry will have to revert to you at a later stage for clarification, although in many cases this is likely to be necessary to some degree.

Receipt of this correspondence and its enclosures places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice with your legal representative(s), and with relevant employees, servants or agents of the Company but neither you nor they

may show, communicate the contents of, or provide this correspondence or the Notice to any other person or organisation without the express permission of the RHI Inquiry. Any breach of this duty of confidentiality is actionable at the suit of the Inquiry Chairman.

You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the RHI Inquiry has adopted in relation to such a notice. In particular, you are asked to provide your evidence in the form of the template witness statement which is also enclosed with this correspondence.

Given the tight time-frame within which the RHI Inquiry must operate, the Chairman of the Inquiry would be grateful if you would comply with the requirements of the Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

Finally, I would be grateful if you could acknowledge receipt of this correspondence and the enclosed notice by email to Patrick.Butler@rhiinquiry.org.

Please do not hesitate to contact me to discuss any matter arising.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Patrick Butler', written in a cursive style.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE

[No 313 of 2017]

1. Summarise the involvement of Winters Renewables, its servants and agents ('the Company') in each of the following areas during the period from 2010 onwards:

a. the Renewable Heat Industry in Northern Ireland;

b. the Renewable Heat Industry in Great Britain;

(such as, for example, involvement in the manufacture or supply of biomass fuel, involvement in the manufacture, supply or maintenance of biomass heating plant, involvement in any relevant representative bodies, etc.).

2. Explain any direct or indirect involvement that the Company had in the Non Domestic Renewable Heat Incentive (RHI) Scheme in Northern Ireland ('the RHI Scheme') or any aspect of it prior to its suspension in February 2016, including, in particular:

a. any involvement that the Company had in the process leading to the creation of the RHI Scheme;

b. any involvement that the Company had in the 2011 public consultation exercise concerning the proposed Scheme;

c. any involvement that the Company had in the 2013 public consultation exercise concerning the RHI Scheme;

d. the nature and number (or approximate number) of commercial transactions (if any) engaged in by or on behalf of the Company connected to the RHI Scheme (such as, for example, the supply and installation of biomass heating plant for accreditation under the Scheme) including a breakdown of the number of such transactions

engaged in by or on behalf of the Company in each relevant financial year and the name and address of the other party / parties to each such transaction;

e. whether the Company, either directly or indirectly, ever earned any tariff income from the RHI Scheme and, if it did so, provide details of each sum earned by it as well as details of when, how, the precise installations in respect of which, and the terms under which, it earned same;

f. (if applicable) the Company's experience of the amount of time (in terms of days or weeks) that typically elapsed between:

i. the date of biomass heating plant being ordered and its installation;

ii. the date of biomass heating plant being ordered and its commissioning into service;

iii. the date of biomass heating plant being ordered and its accreditation under the RHI Scheme;

iv. the date of application for accreditation of biomass heating plant under the RHI Scheme and its accreditation;

(if, in the Company's experience there was no typical time lapse in this regard and/or if the typical time lapse changed as each year passed, then please provide details of both the minimum and maximum periods experienced by the Company in respect of each of the foregoing sub-paragraphs and/or break your answers down by reference to each relevant year);

- g. any involvement of the Company in representative, trade, or other similar groups along with other persons or bodies with an interest in the Renewable Heat Industry in Northern Ireland and/or the RHI Scheme;
- h. any involvement, whether direct or indirect, that the Company had in advertising or promoting the RHI Scheme (including, in particular, making unsolicited visits or approaches to potential applicants under the Scheme), and/or providing information, education, assistance, guidance or advice regarding the Scheme (including, in particular, in respect of the financial benefits available, and the possible rate of return and/or income that was achievable, under the Scheme), to the Northern Ireland market including details of every step taken in this regard, the date (or approximate date) when every such step was taken, the persons in respect of whom every such step was taken, and the results of same;
- i. any involvement of the Company:
 - i. in preparing or conducting applications for accreditation on behalf of applicants under the RHI Scheme including whether, if the Company had such involvement, the said services were provided in connection with a related commercial transaction involving the Company (e.g. a contract for the installation of biomass heating plant);
 - ii. in directing its customers to any other persons who could provide services in respect of preparing or conducting applications for accreditation under the RHI Scheme on behalf of those customers;
- j. any involvement of the Company in, or any knowledge on the part of the Company of, any arrangement or practice under which Ofgem gave priority to certain classes of applicant for accreditation (e.g. applicants in a particular sector in the economy, applicants associated with

particular suppliers or installers, etc.), including full details of any such arrangement or practice;

- k. any potential risks, flaws, problems, anomalies, loopholes, or other issues regarding the proposed RHI Scheme, or the RHI Scheme as enacted, which came to the Company's attention, including details of when the Company first became aware of each such issue and the actions (if any) taken by the Company as a result;
- l. any instances of whistle-blowing by or on behalf of, or to, the Company in relation to the RHI Scheme, or any disclosures made by or on behalf of, or to, the Company raising concerns about the RHI Scheme, of which you are aware, including details of when such communications occurred and to whom, and by whom, each such communication was made;
- m. any instances of lobbying or encouragement, by or on behalf of the Company, of Ministers, Special Advisers, Civil Servants, politicians, political parties, their respective servants or agents, or other relevant persons in relation to the terms of the RHI Scheme and/or the introduction, non-introduction, variation or delay of the introduction of cost controls into the Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure).

3. Based upon the Company's technical experience and expertise, please explain the following:

- a. Typical life-spans of biomass heating plant (including an explanation of how, if at all, this is affected by load factor) and the options available, and associated costs, for seeking to extend the life-span of such plant;

- b. The process for rating such plant (including, in particular, the difference between biomass boilers rated at 99kW and those rated at 100kW and how such rating is achieved, verified and monitored);
 - c. The technical and environmental reasons why one might, or might not, use a multiple number of lower rated boilers at a particular site rather than a lesser number of higher rated boilers at the site.
4. Without prejudice to the generality of the foregoing:
- a. summarise the involvement (if any) of the Company in the Non-Domestic Renewable Heat Incentive Schemes in each of Great Britain ('the GB Scheme') and the Republic of Ireland ('the ROI Scheme');
 - b. summarise the key differences (if any) between:
 - i. the GB Scheme and the RHI Scheme;
 - ii. the ROI Scheme and the RHI Scheme;of which the Company was aware prior to November 2015, with particular regard to biomass heating plant;
 - c. clarify whether the Company, prior to November 2015, considered the RHI Scheme to have the potential to provide a greater financial return, for persons seeking to generate heat through eligible biomass heating plant and/or for those persons commercially connected to them such as suppliers or installers, than the GB Scheme and/or the ROI Scheme, and, if it did so consider, explain the Company's reasoning in this regard;
 - d. clarify whether the Company, prior to late November 2015, considered the RHI Scheme to be potentially more open to abuse or gaming, for persons seeking to generate heat through eligible biomass heating plant and/or for those persons commercially connected to them such as suppliers or installers, than the GB Scheme and/or the ROI

Scheme, and, if it did so consider, explain the Company's reasoning in this regard;

- e. if the Company at any such time considered the RHI Scheme to have the aforementioned potential to provide a greater financial return, and/or to be potentially more open to abuse or gaming, than the GB Scheme and/or the ROI Scheme, set out in detail the actions (if any) taken by the Company as a result of, or which were influenced by, such knowledge or belief on its part (e.g. focussing its commercial activities in the NI, rather than the GB or ROI, market, or communicating with Ofgem or other persons about potential abuse or gaming).

5. Without prejudice to the generality of the foregoing:

- a. please provide details of all communications, passing in either direction, between the Company or any person connected to it (on the one side) and Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents (on the other side) in relation to the introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure), in particular during 2015 (providing the nature, date, and place of each communication as well as details of the persons between whom each such communication occurred);
- b. in particular and, once again, without prejudice to the generality of the foregoing, please provide details of each and every communication between the Company or any person connected to it and officials in the Department for Enterprise, Trade, and Investment ('DETI'), DETI Energy Division, and/or DETI Renewable Heat Branch in relation to the introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure), in particular during 2015 (providing the nature, date, and

place of each communication as well as details of the persons between whom each such communication occurred);

- c. identify each and every document containing, recording, or relating to the communications to which reference is made in sub-paragraphs a. and b.;
- d. please provide details of all communications, passing in either direction, between the Company or any person connected to it (on the one side) and any persons other than Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents (on the other side) in relation to the introduction, non-introduction, variation or delay of the introduction of cost controls into the RHI Scheme (including, but not limited to, the amendment of tariffs, tiering, degression and Scheme suspension or closure), in particular during 2015 (providing the nature, date, and place of each communication as well as details of the persons between whom each such communication occurred).

6. In respect of the period prior to the suspension of the Scheme in February 2016, and to the extent that it has not already been covered when addressing the issues raised in the preceding paragraphs of this Schedule, please provide details of all dealings that the Company, or other persons connected to it, had with:

- a. Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents;
- b. Ofgem, its servants or agents;
- c. persons *other than* Ofgem, Ministers, Special Advisers, Civil Servants, politicians, political parties, or their respective servants or agents

which are relevant to the matters that the RHI Inquiry is investigating as set out in the Inquiry's Terms of Reference.

7. Identify any instances, of which either you or the Company is aware, where a Minister, Special Adviser, Civil Servant or any other person involved in the RHI Scheme (including, if applicable, yourself):
 - a. breached relevant standards (including, but not limited to, the Nolan Principles, the Ministerial Code of Conduct, the Civil Service Code of Conduct, the Code of Conduct for Special Advisers and/or terms or conditions of employment or service) or acted in a way incompatible with their duties;
 - b. acted in circumstances relating to or touching upon the Scheme in any way where they had a real or perceived conflict of interest;

in respect of any such instances, providing details and specifying the basis for any belief that there has been a breach of a relevant standard or duty or that a conflict of interest arose.

8. Provide any further evidence within your knowledge or belief, or that of the Company, which is relevant to the matters that the RHI Inquiry is investigating as set out in the RHI Inquiry's Terms of Reference.

NOTE:

It is important for the efficiency of the RHI Inquiry that the issues identified above are addressed as fully as possible and by reference, where available, to the dates and locations of specific incidents to which reference is made. The statement should be broken down into paragraphs, which should be numbered sequentially from '1' to the end. The use of appropriate section headings or sub-headings is also encouraged. A template witness statement is provided with this Notice for your assistance and should be used as the format for your response.

INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 313 of 2017

Date: 23/06/17

Witness Statement of: Gavin Winters T/A Winters Renewables

I, Gavin Winters, will say as follows:-

1a Winters Renewables (WR) is an agent for Guntamatic Biomass boilers. We import them from Austria and distribute them across Northern Ireland. We also grow willows which we harvest, dry, screen and sell to biomass boiler owners. Barry Winters is self-employed and looks after all the maintenance of the installed biomass boilers.

1b N/A

2a N/A

2b N/A

2c N/A

2d

2 boilers sold in 2013:

Mahon's hotel, Irvinestown Co Fermanagh

Slieve Na Mon Nursing home, Omagh Co Tyrone

9 boilers sold in 2014

Clanabogan House B&B, Omagh Co Tyrone

Colin Newell, Ballymoney Co Antrim x2

LW Surphlis & Son Ltd, Drumlegagh Co Tyrone

Michael Nugent Ltd, Pomery Co Tyrone

Scott & Ewing Ltd, Omagh Co Tyrone

Rivervale Nursing Home, Donaghmore Co Tyrone

The Conway Group, Magherafelt Co Derry x2

Gavin Winters, Dromore Co Tyrone x2

32 boilers sold in 2015

Tilery Nursing Home, Enniskillen Co Fermanagh

Necarne Mannor, Irvinestown Co Fermanagh

Dereck Longwell, Omagh Co Tyrone

IJ Property & Trading Ltd, Omagh Co Tyrone x3

C Elkin, Omagh Co Tyrone x2

Baronagh Ltd, Omagh Co Tyrone x2

Heating and Energy Solutions, Cullybacky. – Sold wholesale

Michael Nugent Ltd, Pomery Co Tyrone

Colloide Engineering Ltd, Cookstown Co Tyrone – Sold wholesale x7

Recyco Ltd, Omagh Co Tyrone x4

Strathroy Dairy Ltd, Omagh Co Tyrone x2

Scott & Ewing Ltd, Omagh Co Tyrone x4

Woodvale Construction Ltd, Omagh Co Tyrone x2

Winters Renewables – Youth Sport Omagh - Boiler supplied as an ESCO.

8 boilers sold in 2016

Colloide Engineering, Cookstown Co Tyrone – Sold wholesale x 8]

2 e

In 2015 Gavin Winters T/A Winters Renewables registered two biomass boilers. These are used to supply heat to the woodchip drying floor. In 2015 they earned £34115.68 in tariff payments. In 2016 they earned £60503.77 in tariff payments. In 2017 to date they earned £31255.90 in payments.

In 2015 Gavin Winters T/A Winters Renewables installed and registered a biomass boiler in Youth Sport Omagh. The boiler is owned by Gavin Winters and the heat supplied to Youth Sport as an energy supply contract. In 2016 it earned £23521.48 in tariff payments. In 2017 to date it has earned £9084.40 in tariff payments.

2 f

If a boiler was ordered and a deposit paid, it was delivered within 7 days. It would then take about 2 weeks to install it and commission it. WR filled in a few RHI applications in 2015 but it was taking up too many staff hours so we decide to get Action Renewables to do the rest.

2 g N/A

2 h WR tried some direct marketing in 2013 to promote the scheme and this resulted in a few sales. It got to the stage in 2014 that we were too busy installing boilers and we hadn't time to approach potential customers. All of our sales from 2014 onwards resulted from word of mouth recommendations from existing customers.

2 i i WR filled in applications for Mahon's Hotel, Slieve Na Mon nursing home, LW Surphlis & Son, Colin Newell and The Conway Group.

2 i ii The remaining applications were processed by Action Renewables.

2 j No

2 k No

2 l No

2 m No

3 a Boilers have an indefinite life span if they are serviced regularly. Typical service intervals are 2000 hours. During these services boilers are thoroughly cleaned down, wearing parts checked and replaced if necessary. All parts including heat exchangers, combustion chambers can be replaced, so in theory a boiler can go on forever. Software is updated when updates are made available by uploading it using a SD card.

3 b The boilers are rated by the manufacturer and are given test certificates by relevant bodies to show how efficient a boiler is at this output.

3 c It might be cheaper to put in two separate boilers on a site than install one central boiler if there are separate heating systems in place. Or if a site is spread too far apart and district heating becomes too expensive.

4 a N/A

4 b i The GB scheme is two tiered and has a cap on the amount that can be claimed from each boiler. The NI RHI scheme is not tiered and there is no cap on the amount that can be claimed from each boiler.

4 b ii Don't know.

4 c The scheme had the potential to provide a good financial return for the person who invested in the installation of a boiler. For example:

If a building owner had a high heating bill of £25000/year from oil.

They could install a 99kw biomass boiler for £50k, spend £17.5k on biomass fuel and earn £32k from RHI payments. That's a £39.5k turn around on the heating bill!

That's the reason it did so well.

4 d It was open for abuse because there were no caps on the upper limit that a boiler could earn.

4 e N/A WR were not involved in installing boilers in the GB or ROI

5 a N/A

5 b N/A

5 c N/A

5 d N/A

6 a N/A

6 b N/A

6 c N/A

7 a N/A

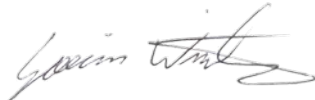
7 b N/A

8 N/A

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed:



Dated: 23/06/2017