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**Cc:** Rita Chohan[Rita.Chohan@ofgem.gov.uk]  
**From:** Keith Avis  
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Please find attached the minutes, representing a record of our teleconference on 26 June. Happy to pick up on any comments here as part of the first item on the agenda when we meet on 3 July. Suffice to say, progress on the actions points identified will also be a key part of that meeting.

Regards

Keith

**Keith Avis**

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# Minutes

## Northern Ireland RHI Ofgem / DETI Meeting

Teleconference between officials from DETI and Ofgem to discuss the development of the Northern Ireland Renewable Heat Incentive Scheme

From Keith Avis  
Date and time of Meeting 26 June 09:00 – 10:00  
Location 9 Millbank

29 June 2012

### **1. Those Present**

Ofgem

DETI

Luis Castro  
Keith Avis  
Andrew Amato  
Paul Heigl  
Marcus Porter  
William Elliot

Joanne McCutcheon  
Peter Hutchinson

### **2. View on Regulations**

2.1. DETI confirmed that it was their intention that the NIRHI regulations would replicate the GB RHI regulations, although possibly with differences in the tariff structure, some amendments to the definitions section and no provision for payments for biomass installations over 1MW. Ofgem Legal had fed in comments on the regulations (including some changes of a permanent nature included in DECC's interim cost control Regs) which DETI said were helpful and would consider as part of the process to finalise the regulations. DETI confirmed that it was their intention to have a phase two update to the regulations in summer 2013 which will reproduce the amendments on which DECC intend to consult this Summer.

2.2. **Action:** DETI to work on final draft of the regulations which they will share with Ofgem before laying before the NI Assembly. Timetable is to obtain clearance before summer recess, if possible, and then lay during recess. However, if all necessary signatures are not obtained in time this could lead to 4 to 6 weeks delay.

### **3. GB RHI Legislative Amendments**

3.1. Ofgem raised concerns over the potential impact of the amendments to the GB regulations coming into force shortly after the NI RHI regulations. As the draft NI RHI regulations replicate the GB regulations as they currently stand, Ofgem could see logistical and presentational issues with the NI scheme initially being without these improvement updates. The point was made by Ofgem that that this would mean replicating the issues that have proven necessary to address in the GB regulations. Ofgem's advice was to wait until the GB regulations are amended as the amendments will serve to negate any risk that the regulations currently pose. However, DETI were clear that they have a commitment with their Minister to bring the regulations into force by the end of September and this could not be put back to dovetail into the legislative updates to the GB regulations. It was also felt that to do otherwise would also put financial arrangements in jeopardy

**Action:** In response to issues raised by Ofgem on embedding DECC GB RHI amendments into NI RHI regulations, DETI confirmed that this would need to be taken forward after their regulations came into force late September/October.

#### **4. Administrative Agreement**

4.1. Ofgem had sent a framework of the agreement to DETI prior to the meeting. DETI recognised that this was a critical workstream that would need to be taken forward at pace. William Elliot (seconded with Ofgem Legal) agreed to work on the first draft of the agreement which would be the focus for discussion between the two parties. It was recognised that agreement on the development workstreams (cost, scope, timescale etc.) would need to be secured quickly, so this is to be de-coupled from the Administrative Agreement and agreed as soon as is practicably possible.

**Action:** William Elliot to produce first draft of the Administrative Agreement.

Development requirements to be separated from the Administrative Agreement and produced over the next two weeks, for discussion and agreement. Paul Heigl to take this forward. DETI to consider whether there were any functions arising from the regulations that should not be carried out by Ofgem.

It was agreed that, at the least, it appeared appropriate that, as in the case of the NIRO agreement, taking enforcement action should be for DETI to undertake, though facilitated by associated Ofgem investigatory work and information gathering.

#### **5. Timescales**

5.1. DETI confirmed that they are committed to a scheme go-live late September ideally or during October if there is any slippage. The date was dictated by whether the regulations could be laid before summer recess. Ofgem expressed concern over the tightness of the September delivery timescale and said that October delivery would be preferable. However, as had previously discussed, if September delivery was essential for DETI, Ofgem felt that they could ensure that this was not compromised by manning enquiries, pending all operational requirements being in place.

**Action:** It was agreed that interim solutions would need to be explored to facilitate a September go-live.

#### **6. State Aids Approval**

6.1. DETI confirmed that they now had state aid approval for the NI RHI scheme. Ofgem Legal raised the issue of whether DETI had notified the draft Regulations to the Commission and other member states under the requirements of the Technical Standards Directive as the explanatory note stated that this was the case. In particular, the point was made that this would need to be done before the Regulations were signed, i.e. whilst they were still in draft, that it would entail a *minimum* 3 months standstill period requirement (running from the date of the notification) and that failure to comply with the requirements of the directive would result in the Regulations being unenforceable as a matter of law. DETI said that this

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was something that they would need to explore with their internal EU colleagues and lawyers, and took an action away to do this.

**Action:** DETI are to consider their obligations under the Technical Standard Directive with a view to ensuring that DETI's timetable can be met.

#### **7. Date of next meeting**

The next meeting has been set for 10:00 on 3<sup>rd</sup> July. Keith Avis agreed to put in place further weekly catch-up meetings into the calendars of those in attendance.

#### **8. AoB**

Paul Heigl will arrange a date for DETI to visit Ofgem over the next few weeks. Key focus for the day will be to discuss the first draft of the Administrative Agreement, the development phase proposal/cost and to meet the new Glasgow Band C.

Keith Avis

29 June 2012