

To: Matthew Harnack[Matthew.Harnack@ofgem.gov.uk]
Cc: Keith Avis[Keith.Avis@ofgem.gov.uk]; McCutcheon, Joanne[Joanne.McCutcheon@detini.gov.uk]; Hutchinson, Peter[Peter.Hutchinson@detini.gov.uk]
From: Hepper, Fiona
Sent: 2012-10-04T13:51:28Z
Importance: High
Subject: NI RHI
Received: 2012-10-04T13:52:05Z

Dear Matthew

Ahead of going on leave, I thought it important to drop you a short e-mail - I did phone but there was no response and I appreciate you will have many other demands on your time.

Just to re-iterate the importance of meeting the 1 November launch date for the NI RHI. I am sure you agree that we are beyond the point where any slippage can happen. I will be signing the Regs on my return, following the Assembly debate, and we have a media campaign which kicks in on 3 November to maximise publicity for the scheme - and this includes having TV slots etc booked. So, we will certainly be doing everything at our end to ensure 1 Nov go-live is a success.

To that end, the effort now needs to focus on the agency agreement. We have sent back comments on the draft and I understand your internal machinery is looking at these. I would like work and discussions to continue on this while I am away with a view to sign off on my return. However, I would not like to think that if we haven't dotted all the 'i's' so to speak that this would jeopardise the launch. You will have seen our comments by this stage and it is fair to say that the draft was somewhat different to what we had expected. However, nothing is insurmountable and I suggest that you have a look at the original draft framework that was sent to us at end June by Keith (21 June), I think this would be more the style and coverage we anticipated and covers many of the issues raised in our comments and would be more like what the DETI Accountability and Audit teams would expect to see. In case you can't access this easily, I'll send by separate e-mail.

It is also very important that we see the revised operational costs that you mentioned to me in our telephone conversation a week or so ago. I know you are pressing back on those and I would hope to see figures which are significantly closer to what was in the feasibility study and I know that is your hope too. Just to add - the agency agreement would need to include the section that is in the framework (fleshed out) to show total cost transparency, including how the costs going forward are to be calculated, - that is what our auditors will expect and what I will have to account against to my Board and the Minister.

In my absence, Joanne and Peter will be your points of contact on the agency agreement and the costings and it would be helpful if they could have a revised draft next week for consideration. I appreciate you have your internal processes, but we also have to put this through the DETI system to ensure everyone at this end is content. We look forward to receiving the next draft.

Best regards

Fiona

Fiona Hepper

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www.ni2012.com

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To: Matthew Harnack[Matthew.Harnack@ofgem.gov.uk]
Cc: McCutcheon, Joanne[Joanne.McCutcheon@detini.gov.uk]; Hutchinson, Peter[Peter.Hutchinson@detini.gov.uk]
From: Hepper, Fiona
Sent: 2012-10-04T13:53:22Z
Importance: High
Subject: FW: RHI NI Meeting on 26 June
Received: 2012-10-04T13:55:23Z
[RHI \(NI\) Administration Arrangement v1.docx](#)

Matthew
this is the framework referred to in my earlier e-mail
Regards
Fiona

Fiona Hepper

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From: McCutcheon, Joanne
Sent: 04 October 2012 11:09
To: Keith Avis
Cc: Hutchinson, Peter; Hepper, Fiona
Subject: FW: RHI NI Meeting on 26 June

Keith
Further to my previous e-mail.
I was looking through the initial broad framework you sent to us (attached above) and I notice that some of what we are now seeking was contained in it – particularly items 4, 6-9,12 and 19 & 20 – not sure why the draft you sent doesn't include them but if they could be reinstated I think that would go some way to addressing many of our issues.
Hope this is helpful
Regards
Joanne

Joanne McCutcheon

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The Northern Ireland Renewable Heat Incentive Scheme

Draft framework for an Administration Agreement

From	Ofgem
To	DETI
cc	
Date	21 June 2012

1. Introduction

- 1.1 The following headings are intended to facilitate discussions with the Department of Enterprise, Trade and Investment ("**DETI**") about the content of, and issues arising from, any arrangement made between GEMA and DETI pursuant to section 114 of the Energy Act 2011, under which GEMA would administer the Northern Ireland Renewable Heat Incentive Scheme (the "**NI Scheme**").
- 1.2 For the avoidance of doubt, none of the headings or explanatory text shall be incorporated (either by reference, or impliedly) into any arrangement made between GEMA and DETI for the administration of the NI Scheme, and this document shall not otherwise form evidence of the parties' intentions when interpreting the terms of any such arrangement.

2. Framework for Administration Agreement

1 Background to the arrangement

2 Definition and Interpretation

- "Commencement date" – Scope for migration from DETI to GEMA following go-live date?
- "Functions": Primary functions under the Regulations (Section 3 below) and ancillary functions (Section 4 below)
- Retained functions (see Section 5 below)

3 Appointment (appointment of GEMA)

4 GEMA's Obligations

- Obligations must be such as to avoid conflicts of interests and to preserve GEMA's independence

5 DETI's Obligations

- Adoption of GB amendments?

6 Indemnity

- Scope

7 Calculation of Administration fee

- Development costs
- Operational costs

8 Amendment to the Services and Administration fee

- Likely cost dependencies:
Changes to scope of administrative functions
Divergence from GB Scheme (timing and process)

9 Payments

- Timing of first instalment to provide for development costs.
- Separate dispute resolution procedure?

10 Compliance with laws and regulations

11 Duration and Termination

- Fixed/until terminated?
- Use of long-stop date?
- Run-off period?

12 Effects of Termination

- Assets
- Disposal of confidential information

The Northern Ireland Renewable Heat Incentive Scheme

Memo

- Access to, and migration of, information (subject to applicable legislation)
- 13 Confidentiality**
 - Freedom of Information requests
 - Data security requirements
- 14 Force Majeure**
- 15 Entire Agreement**
- 16 Amendments**
- 17 Assignment**
 - Prohibition on sub-contracting carve-outs
- 18 Freedom of Contract**
- 19 Waiver**
- 20 Severability**
- 21 Rights of Third Parties**
- 22 Notices**
- 23 Dispute Resolution**
 - Use of Counsel's opinion
- 24 Governing Law and Jurisdiction**

3. Primary functions under the NI Scheme

1. Establishing and maintaining a central information database
2. Preliminary accreditation of eligible installations
3. Accreditation of eligible installations
4. Registration of producers of biomethane for injection
5. Payments Processing - Calculating and administering payment of periodic support payments; administering overpayments and offsetting.
6. Determining fuel use, including fuel sampling
7. Ownership transfers
8. Notifications
9. Enforcement
10. Site inspections
11. Review procedures
12. Publication of statutory guidance
13. Reporting to DETI
14. Other?

4. Ancillary functions/activities

1. Auditing compliance with ongoing obligations
2. Customer Relationship Management, including a telephone and/or email-based customer support service and advice.
3. (Sub-)Contract management
4. Establishing and maintaining information input/output systems, including:
 - consumer website(s); and
 - software for data/payment processing.
5. Advising in connection with consultation exercises; feedback to DETI generally on operation of the scheme.
6. Establishing and complying with DPA/cookie and privacy policies
7. Resolving FOIA requests
8. Other?

5. Functions retained by DETI

1. Calculation and publication of tariffs?
2. Publication of anonymised information/data
3. Other?