



RENEWABLE HEAT
INCENTIVE INQUIRY

WIT-195701

RHI Inquiry

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Neil Elliot
Future Renewables Energy Systems Ltd
C/o Haines Watts (NI) Ltd
26 Cross Street
Enniskillen
County Fermanagh
Northern Ireland
BT74 7DX

18th May 2017

Dear Sir

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 Future Renewables Energy Systems Ltd, its servants and agents, ('the Company') with the Non Domestic Renewable Heat Incentive Scheme in Northern Ireland ('the 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 the knowledge 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 the Company has no evidence, please state this in your response. Where 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', with a stylized flourish at the end.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE

[No 172 of 2017]

1. Summarise the involvement of Future Renewables Energy Systems Ltd, its servants and agents ('the Company') in the Renewable Heat Industry in Northern Ireland (such as, for example, involvement in the manufacture, supply, or installation of biomass heating plant) during the period from 2010 onwards.

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 such as, for example, engaging directly or indirectly in the 2011 public consultation exercise concerning the proposed Scheme;

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

 - c. the nature and number (or approximate number) of commercial transactions engaged in by or on behalf of the Company connected to the RHI Scheme (such as, for example, the supply or installation of biomass heating plant intended to be the subject of an application 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;

 - d. whether the Company, either directly or indirectly, ever received some or all of the income earned under the RHI Scheme by customers whose installations were accredited and, if it did so, details of every agreement giving the Company the right to do so, as well as details of

every customer in respect of whom the Company received such income and the total amount earned in each relevant financial year by the Company under any such agreements;

e. (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;

(if, in the Company's experience there was no typical time lapse in this regard, then please provide details of both the minimum and maximum periods experienced by the Company in respect of each of the foregoing sub-paragraphs);

f. any involvement 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;

g. 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;

h. any instances of whistle-blowing by or on behalf of the Company in relation to the RHI Scheme, or any disclosures made by or on behalf of 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;

- i. 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);
- j. any involvement, whether direct or indirect, that the Company had in advertising or promoting the RHI Scheme and, in particular, the financial benefits available under the Scheme, to the Northern Ireland market including details of every step taken to advertise or promote the Scheme, the date (or approximate date) when same was taken, the persons to whom the relevant advertising or promotion was directed, and the results of such advertising or promotion.

3. 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 acting on its behalf (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 acting on its behalf (including, in particular, Clare Mitchell) and officials in the Department for Enterprise, Trade, and Investment ('DETI'), DETI Energy Division, and/or DETI Renewable Heat Branch (including, in particular, Stuart Wightman, Seamus Hughes, Dan Sinton, John Mills, or Chris Stewart) 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 acting on its behalf (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).
4. 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 on behalf of the Company, 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.

5. Identify any instances, of which 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.

6. Provide any further evidence within your knowledge or belief 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.

RHI REF: Notice 172 of 2017

Date: 30/05/2017

Witness statement of: Neil Alexander Elliott, Future Renewable Energy Systems Limited.

I, Neil Elliott, will say as follows:-

1. Future Renewables was established in 2009. Since then we have supplied, installed and maintained a range of renewables products including, Biomass, Heat pumps and Solar technologies. We supplied and installed all these technologies and had these systems accredited on the RHI for our customers.
2. a) I attended a public meeting at Stormont and was in contact with Peter Hutchinson from DETINI about the proposed scheme.

b) I attended another public meeting in Armagh and again was in contact with DETINI regarding the proposed RHI.

c) We installed approximately 100 heating systems on the Non domestic RHI, these included biomass, heat pumps and solar thermal. The majority of these were between Aug 2015 and Feb 2016.

d) Future Renewables never received any money from RHI income from our customers.

e) i. This varied wildly from 3 months initially to a few days when the scheme was closing.

ii. Again this varied wildly from 3 months initially to a few days when the scheme was closing

iii. Again this varied wildly from a few weeks to a few months and we still have customers awaiting accreditation 18 months later.
- f) We have or had no involvement with any trade groups
- g) Like most of the renewable industry we were aware the NI scheme was flawed not long after it launched. No actions were taken as we thought that DETNI would cap the scheme or amend the scheme to the same scheme as the UK mainland.

- h) We did not communicate any potential flaws in the scheme to anyone, but it was widespread knowledge within the renewable industry that the incentive was too good to be true.
- i) We did not lobby anyone but welcomed the proposed changes as it would mean the RHI scheme would last longer and we could help more customers reduce their carbon footprint and tackle climate change.
- j) We advertised the benefits of the RHI widely, both in print, on facebook and at trade events as did many other suppliers.

3:

- a) To my knowledge the only communication we had was that the scheme was changing in November 2015 and we may have asked for clarification on the date of the change, we didn't lobby for any changes.
- b) We have no record of any communication
- c) N/a
- d) N/a

4:

- a) We were in daily contact with Seamus Hughes from DETINI. This was to simply clarify the date the scheme would close. We had equipment on order from Austria for customers, and were concerned we would be left with this if the scheme ended before these boilers were installed.
When this was finally confirmed we had no further contact with Seamus Hughes.
- b) None that I am aware of
- c) None that I am aware of

5:

- a) I am not aware of anyone breaching the relevant standards
- b) Again I am not aware of anyone breaching the relevant standards

6:

I have no further evidence that is relevant to enquiry.

Statement of Truth

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

Signed:  The signature consists of a cursive 'ml' followed by a circular stamp or mark that has been crossed out with a horizontal line.

Dated: 1/6/17