

From: Graeme Cooper [graeme.cooper@fredolsen.co.uk]
Sent: 17 July 2008 13:38
To: David Hunt
Subject: CAP131 Consultation Response - Fred Olsen Renewables

David,

Fred. Olsen Renewables Limited (FORL), with about 175MW+ in operation and a further 100MW about to into construction and further projects at various stages of development, is one of the largest wind power generating companies in the United Kingdom. We welcome the opportunity to respond to the document and we hope that you take the comments constructively.

FORL, along with many others industry participants, give up valuable time and expertise freely to support OFGEM/BERR. We do this by contributing to working groups and supporting trade associations exploring and driving forward reviews and initiatives for the benefit of the industry.

It is with this commitment in mind we are concerned that OFGEM may have failed to fully understand the primary purpose of CAP131 and has then criticised industry for the way in which CAP131 amendment proposal has been approached and delivered.

The fundamental point of CAP131 was to remove one of the barriers to entry to the market replacing the Final Sums Liability (FSL). The industry's will, through ARODG, was that FSL needed to be resolved. The multiple alternatives have only come about because National Grid drafted the proposal and used the opportunity to include the 2 years TEC element to give clearer indication of plant closures rather than the current 5 week notice. The options allow for consideration of FSL with or without one of the commitment alternatives.

OFGEM has made some specific comments referring to the number of variants and the lack of legal review of the proposals. It was OFGEM that chaired ARODG which ultimately gave rise to the CAP131 proposal and if OFGEM were concerned about the approach to CAP131 it could have raised these concerns at that time if it had considered them of significant merit. It is of some frustration that OFGEM have criticised Industry for failing to properly consider legal issues when the working groups have no direct access to funding or legal advice. It would have been helpful if OFGEM could have provided legal views in its paper for industry comment.

We are disappointed that OFGEM is stating that it is minded to refuse CAP131 and all the alternatives; it has commented that this is over concerns of inherent discrimination. The CAP131 proposal does positively discriminate towards new entrants and new entrants are likely to be cleaner generators. This is to try and give weight to attempting to balance the discrimination currently towards existing generators. With consideration to the spirit of "article 14" and the government's own targets, it would seem appropriate to use discrimination as a reason for OFGEM'S minded to position.

It would appear that OFGEM are happy to pass aside the great deal of investment in both time and expense without properly grasping the benefits.

The current interim “user commitment” is working, and working well, and CAP131 takes the principles for an enduring proposal. If CAP131 does not proceed what happens to the interim user commitment?

We would like to see a “new CAP131” proposal dealing with the FSL and 2 yr commitment separately to avoid wasted industry energy in fixing the barriers to achieving renewable generation targets.

If you have any questions relating to the response then please do not hesitate to us.

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