Energy Intensive Industries Team
Department for Business, Energy and
Industrial Strategy
Energy Intensive Industries
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Making a positive difference
for energy consumers

Email: REDevelopment@ofgem.gov.uk

Date: 16 September 2022

Dear Sir/Madam,

Ofgem's response to review of the energy intensive industries exemption scheme.

Ofgem is the GB energy regulator and a non-ministerial government department. The administration of government schemes is one of the enduring duties that we undertake, in parallel with the regulation of the gas and electricity markets.

Ofgem welcomes the opportunity to respond to the Government review of the energy intensive industries (EIIs) exemption scheme. Ofgem understands that suggested policy changes and associated timelines might have to be adjusted in line with Prime Minister Liz Truss's announcement last Thursday (8th September 2022). We have provided responses to the original proposals that relate to our administration of the Renewables Obligation (RO) and Feed-in Tariffs (FIT) schemes and Ofgem's role as the regulator more widely.

We recognise that the UK Government and Scottish Government have powers to undertake their own respective assessments of any possible policy changes and we will work with both governments to ensure administrative efficiency in relation to any future policy changes.

Should you wish to discuss any points raised in this letter please get in touch with us by emailing REDevelopment@ofgem.gov.uk.

Yours faithfully,

Laura Nell
Deputy Director
Policy & Scheme Development

Annex 1 - responses to consultation questions from Ofgem

1. **What benefits does the electricity relief exemption scheme provide to energy intensive industries including, how the scheme addresses the issue of carbon leakage for you?**

   No comment.

2. **Do you agree with our proposal to replace the reference to UID with AIEA in the guidance?**

   Ofgem is not involved in reviews of requirements for potential applicants for the EII scheme. We therefore have no comments on this question.

3. **Do you agree that we, where relevant, use a five-year rather than three-year baseline to reflect the impact of the Covid Pandemic to businesses? Please explain why.**

   Ofgem has no oversight of the processes. We trust that BEIS will benefit from inputs from stakeholders across the section.

4. **Should we consider accepting applications from businesses with fewer than two financial quarters of financial data?**

   As above – no comments.

5. **Is the 85% level of exemption sufficient to for your business or sector? If not, please provide supporting evidence to demonstrate why not.**

   We trust that stakeholders will provide BEIS with input.

6. **If we were to consider increasing the subsidy intensity level, what level would be appropriate? Please provide supporting evidence for your answer.**

   The energy market is facing a huge challenge due to the unprecedented increase in global gas prices, incomparable with anything we have seen since the RO scheme was launched in early 2000s. Nevertheless, the RO scheme continues to play an important role in supporting the UK's transition towards the Net Zero future.

   We recognise that the Government's intention to reduce energy bills for the EII is driven by the need for increasing competitiveness of the UK EII companies in international markets. In setting the subsidy level, it will be important to consider the impacts of this policy on all customer groups and how it will interact with other recently announced interventions to protect customers from high wholesale prices.

7. **Do you agree that supporting industry to decarbonise through existing decarbonisation and net zero strategies is the appropriate approach for EIIs? Please add further information to support your response.**

   Ofgem recognises that the RO scheme and the funding of the legacy renewable electricity schemes, namely FIT and RO are currently under revision as indicated in the Heat and Buildings Strategy published in October 2021.

   In addition, Ofgem is currently undertaking a separate review of suppliers' financial resilience ahead of next compliance periods. In our policy consultation published in June 2022 we sought stakeholders' views on proposed changes to the standard licence conditions (SLCs) of domestic electricity supply licences to protect money collected to meet RO payments. If we decide to proceed with the licence modifications, they may offer additional protection to suppliers (and ultimately customers) from the mutualisation costs the suppliers will incur in the event of their competitors' insolvency or payment default. While this proposal should lead to a lower cost of supplier failure for all electricity users, there will of course be implementation costs associated with this policy in the near term, should we decide to proceed. Given that we are still considering stakeholders' feedback, we would welcome further conversations with the Government about the impacts of this policy in the context of the recent announcements.

8. **Should any changes be made to the EII exemption as a result of this consultation, do you agree with our proposal to adjust the 2023/24 renewable obligation level as outlined in the 'Publication of the 2023/24 obligation level' section of the consultation document? If not, please explain why and, if possible, suggest alternative approaches.**

   Ofgem is obliged by legislation to calculate and publish the RO mutualisation threshold before the start of an obligation period. In our calculations we use BEIS's annual publication of the total obligation level. In an event of the Government adopting a different approach to introduce the new relief intensity than the adjustment outlined in the consultation document, Ofgem would welcome a one-off deadline extension for our publication of the mutualisation threshold for the 2023/24 compliance period. To grant this extension the Government may want to consider exercising powers they are given by the Electricity Act 1989 (as amended) and amending the RO Order 2015 (as amended). Similar, to the approach it took in early 2021 in the Renewables Obligation (Amendment) Order 2021, which created a specific deadline for calculating and publishing the mutualisation threshold for the obligation period beginning on 1st April 2021 by introducing article 86 (1)(da)(i) of the RO Order 2015 (as amended).

9. **Should any changes be made to the EII exemption as a result of this consultation, do you consider that a minimum of three months' notice between the revised obligation level being published and implemented is reasonable? If not, please explain why and, if possible, suggest alternative approaches.**

   Whilst the proposal to bring changes in for the 2023/24 obligation year seems reasonable, it is likely to impact our administration. Additional resources to amend our internal and external guidance, and to engage with stakeholders might be needed regardless of when the policy change come into force. We will also require EMRS, who provides us with the EII data on behalf of the LCCC, to clearly indicate the data set for which the new exemption level applies.

   One of our key priorities as the administrator of the RO and FIT schemes is to ensure that the schemes are run efficiently and cost effectively. Given administrative benefits of alignment between the RO, FIT and EII schemes' timelines, our preferred approach would be for these changes to come into force at the start of a scheme year (e.g. from 1st April 2024) rather than after quarter one (Q1) of the 2023/24 scheme year. Should the current exemption level change after quarter one (Q1) of the 2023/24 scheme year, it will add to the complexity and therefore the costs of our internal processes. To illustrate how this might impact our delivery, we could be required to administer different relief level in Q1 of the 2023/24 year and then a separate, potentially higher, relief level for suppliers with an obligation against the RO and FIT schemes in the remaining quarters of that scheme year. Further, if this proposal is to be implemented from the 1st of July 2023, changes to the Register, the online system we use to administer the RO scheme, will be required at least once for the 2023/24 period and then again ahead of the 2024/25 compliance year. A similar approach will have to be adapted for FIT Year 14 and FIT Year 15 with necessary amendments to the Central Feed-in Tariffs Register (CFR). Consequently, these operational and IT changes are going to increase our administration costs in the 2023/24 and 2024/25 financial years.

Overall, the 3 months' notice period should be sufficient for us to update the Registers and provide stakeholders with necessary guidance. However, we would welcome an information on expected outcomes of this consultation and clarity on a new relief level sooner than 3 months before the start of the 2023/24 compliance year.