

## **Details of Respondents**

Energy Power Resources Limited ("EPRL") is a renewable energy generator which owns and operates five biomass power stations (113MWs in total) in the UK, commissioned between 1992 and 2001.

CLP Envirogas Limited ("CLP") is a related entity, generating renewable energy from landfill gas, operating from 25 sites across the UK with around 65MWs of installed capacity. CLP's sites have been developed between 1998 and 2011.

Between EPRL and CLP there are over 30 Connection and/or Use of System Agreements, with capital connection payments of close to £10m having been made to DNOs. The five EPRL power stations are classified as EDCM sites and the vast majority of CLP's sites have received GDUoS credits under CDCM arrangements since 1<sup>st</sup> April 2010.

## **Executive Summary**

We are broadly supportive of Ofgem's proposals to provide pre-2005 distributed generators with an optional time limited exemption from generator use of system charges and the manner of its implementation, with the presumption that EDCM generators will opt out and CDCM generators have opted in unless there is formal confirmation to the contrary.

We believe that a 20 year exemption, unless strong evidence to the contrary exists, is not unreasonable although we believe an exemption of between 25 and 30 years would be more appropriate on the basis of contracts reviewed by Ofgem.

We understand the thought process and need for pragmatism, however, in circumstances where a pre-2005 distributed generator previously paid capitalised O&M charges within a capital connection and has opted into the new use of system charging regime, the unexpired portion of the original capitalised O&M charge should be refunded. To do otherwise would be unfair on the DG and the consumer is not compromised as the refund merely prevents the DG effectively paying twice (presumably either consumers or the DNO benefited from the original capitalised O&M payment).

## **Detailed Response**

### ***Our decision to exempt pre-2005 DGs on a time-limited basis***

1.1 Do you agree with our proposal that by default CDCM generators eligible for an exemption should be charged for UoS and that EDCM generators eligible for an exemption should continue to be exempt from charges, unless either party chooses otherwise.

We agree with the default position, unless the DG formally chooses otherwise.

### ***Our initial thinking for the duration of a time-limited exemption***

2.1 Do you agree that a time-limited exemption should be set on an ex ante basis?

We agree that exemption should be set on an ex ante basis.

2.2 Should an exemption be calculated from the date of a pre-2005 DG's connection, rather than some other date, such as from the date at which EDCM DG charges are introduced? Why?

It is logical that the exemption should be calculated from the date of connection or energisation (see 3.4).

2.3 Do you agree with our assessment of the options for determining the time limit for an exemption? Are there additional points of analysis we should bear in mind?

Ofgem has considered the relevant options and information for determining the appropriate time limit.

2.4 Are there better alternative options to those which we set out in this chapter and what would be their rationale?

No.

2.5 Do you agree with our initial thinking that a 20 year limit is appropriate? If not, what might be a more reasonable period of time that balances the interests of pre-2005 DGs and the DNO's other customers? Please explain the reasoning behind your answer and provide any associated evidence.

Whilst 20 years is a reasonable compromise which balances (i) Ofgem's requirements to ensure that all DG's migrate to the new cost reflective methodology over an appropriate time period; (ii) the interests of consumers; and (iii) the original contractual position or understanding of pre-2005 DGs.

We do however note paragraph 2.14 within the consultation that specifies that the average length of connection agreement is 30 years, and where an end date is specified this is between 19 and 40 years. On this basis we believe that the exemption period should be between 25 and 30 years, as it should be the original contractual position or understanding which is relevant in the context of setting the appropriate time limit.

2.6 We note that rather than pay a capitalised payment for O&M, some DG customers pay an annual charge for O&M. Where such a DG is eligible for an exemption, should they continue to pay their annual O&M charge?

Yes. If a DG takes advantage of the exemption it is effectively opting for the previous regime including any associated annual O&M charges.

### ***Implementation arrangements***

3.1 In general are our proposals for implementing the exemption arrangements considered by this consultation appropriate? Is the level of detail we have provided sufficiently clear to make implementation workable? Please outline any areas where you think more clarity/detail is required and set out your suggestions for what might fill these gaps

The proposals are appropriate and sufficiently detailed. However, in order to facilitate the DG's decision process in terms of which option to select, additionally the DNO should provide, for CDCM DGs current use of system charges, and for EDCM DGs the latest indicative use of system charges (as these have changed significantly between various iterations).

3.2 Is our approach to due process appropriate? Are there additional or alternative steps that should be incorporated? What is a reasonable period of time in which to complete the due process we propose?

In our experience, DNO's customer records are often incomplete and inaccurate. We therefore suggest that the letter from DNOs includes an email address for the DG to confirm receipt, where such confirmation is not received the DNO should make further efforts to contact the DG.

To assist with the communication process, either the ENA, Ofgem or both should publish a list of DNO contacts (name, email and telephone number) which DGs are able to access in order to provide DG's contact details should the expected communication not be received.

A reasonable timeframe for concluding the process (assuming no dispute and prompt receipt of initial correspondence) would be one month. Where a dispute resolution process is required, this may require a further six months, subject to the volume of disputes arising.

3.3 Do you agree with our proposals for dispute resolution where DNOs and DGs cannot reach a settlement by 1 April 2012?

Yes.

3.4 Do you agree that the connection date should be the date from which the exemption is calculated, with the energisation date used if the connection date is not available? Or, would it be more straightforward simply to use the energisation date for all eligible DGs

We believe that the energisation date should be used as the commencement date of the exemption, this is both appropriate (reflecting the date from which the network has been available for use) and more straight-forward.

3.5 Similarly, should a pre-2005 customer with a mix of demand and generation requirements be eligible for an exemption from UoS charges?

The vast majority (if not all) DGs will have some import capacity upon which use of system charges are already applied. A pre-2005 customer with on-site generation should be entitled to a use of system exemption in respect of export charges.

3.6 Do you agree with our proposals that the introduction of UoS charges should happen from the beginning of the next charging year after the date on which an exemption ends?

Yes.