

Biogas combustion plants,  
biomethane producers, RHI  
applicants and other interested  
parties

*Promoting choice and value for  
all gas and electricity customers*

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Dear Stakeholder,

### **Consultation on amendments to Ofgem's administration of the Renewable Heat Incentive scheme**

The Renewable Heat Incentive (RHI) scheme was launched on 28 November 2011. The RHI is a financial incentive scheme for renewable heat generation that will help the UK reduce carbon emissions and hit its EU renewable energy targets. Phase 1 of the RHI supports generators in non-domestic sectors (industrial, commercial, public sector and not-for-profit) and producers of biomethane.

Ofgem is responsible for administering the Renewables Heat Initiative (RHI) scheme on behalf of the Department of Energy and Climate Change (DECC). One aspect of this role is providing guidance to scheme applicants on the legal requirements of the scheme as well as our administrative procedures for ensuring these are met.

As a new scheme, there have inevitably been some areas of our administration which have been refined or reviewed in light of early experiences. While our general approach has been to provide additional guidance notes on specific issues separately to the main Guidance document published in November 2011<sup>1</sup>, it is now apparent that there are a number of areas where amendments to the Guidance document would be more appropriate.

This eight week consultation is intended to give interested parties an opportunity to respond to a number of proposed amendments to the Guidance document and our interpretation of the RHI Scheme Regulations 2011<sup>2</sup>. The most notable change we are consulting on regards the treatment of biogas production plants under the scheme. Specifically, we are proposing **that the biogas production plant be considered to constitute part of the 'eligible installation' and 'equipment required to convert raw biogas into biomethane'**. A number of other proposed changes are highlighted afterwards; these are intended to ensure that the Guidance document provides the best possible information to applicants by making clarifications and ensuring it is consistent with our administration of the scheme.

We will welcome responses to this letter by 22<sup>nd</sup> August 2012. Unless clearly marked as confidential, responses will be published on our website. Please email responses to [jessica.ladbury@ofgem.gov.uk](mailto:jessica.ladbury@ofgem.gov.uk).

<sup>1</sup> [http://www.ofgem.gov.uk/e-serve/RHI/howtoapply/Documents1/RHI\\_Guidance\\_Document\\_Vol\\_One.pdf](http://www.ofgem.gov.uk/e-serve/RHI/howtoapply/Documents1/RHI_Guidance_Document_Vol_One.pdf)  
[http://www.ofgem.gov.uk/e-serve/RHI/obligations/Documents1/RHI\\_Guidance\\_document\\_Vol\\_Two.pdf](http://www.ofgem.gov.uk/e-serve/RHI/obligations/Documents1/RHI_Guidance_document_Vol_Two.pdf)

<sup>2</sup> [http://www.legislation.gov.uk/ukxi/2011/2860/pdfs/ukxi\\_20112860\\_en.pdf](http://www.legislation.gov.uk/ukxi/2011/2860/pdfs/ukxi_20112860_en.pdf)

Please note that the changes proposed in this letter are subject to future amendments to the RHI Scheme Regulations 2011 by DECC.

## **Biogas Production Plants**

Our approach to biogas production plants under the scheme impacts on biomethane producers and installations generating heat using biogas, including Combined Heat and Power (CHP) systems where applicable.

Our current position as stated in the Guidance is that biogas production plants are considered not to be included in the 'eligible installation' and 'equipment required to convert raw biogas into biomethane'. This was based on our initial interpretation of the RHI Scheme Regulations 2011.

However, in light of the delayed State aid approval for the scheme from the European Commission which was granted in September 2011 we are of the opinion that our interpretation of the RHI regulations must be changed. **We are therefore proposing that the biogas production plant be considered to constitute part of the 'eligible installation' and 'equipment required to convert raw biogas into biomethane'.**

This revised approach is supported by State aid considerations. The tariff rate for these technologies was calculated on the basis that the costs of the biogas production plant would be compensated by the incentive. Thus by excluding the biogas production plant from the definition of 'eligible installation' and 'equipment used to convert raw biogas into biomethane', eligible installations that are accredited on the basis that they generate heat using biogas or successfully register as a biomethane producer would be able to be overcompensated under the scheme where any of the costs of purchasing or installing the biogas production plant had been paid for by a 'grant from public funds' (regulation 23 of the current Regulations refers).

In light of the above, we propose to amend the "Biogas heat generation" and "Biomethane" sections of Table 3 at p.33 of Volume One of the Guidance document so that the "biogas production plant" (and associated components) is moved from the third column 'Associated infrastructure' to the second column 'Examples of integral equipment usually included in definition of 'eligible installation'.

### Impact of the proposed change

We are aware that the proposed change as set out above will have repercussions for future and existing applicants with the affected technologies under the RHI. The impacts for biomethane producers and biogas combustion plants are considered below.

#### *Impact on Biomethane Producers*

- 1) Grants – if a 'grant from public funds' has been received for any of the costs of purchasing or installing the biogas production plant, the biomethane producer will not be able to be registered under the RHI.
  - a. N.B. Under the current RHI Scheme Regulations biomethane producers are not able to repay grant funding in order to obtain registration under the RHI.

#### *Impact on Biogas Combustion Plants*

- 1) Grants – if a 'grant from public funds' has been received for any of the costs of purchasing or installing the biogas production plant, the installation generating heat using biogas will not be able to be accredited under the RHI.
  - a. N.B. Biogas combustion installations that were completed and first commissioned between 15 July 2009 and 28 November 2011 will be able, as they are now, to repay grant funding in order to obtain accreditation under the RHI.

- 2) Installation must be 'new' – by including the biogas production plant within the definition of an 'eligible installation', it follows that this equipment must be 'new' in order for the installation generating heat using biogas to be eligible for support under the scheme.
  - a. N.B. Where a biogas CHP unit was previously generating electricity only and was first commissioned as a CHP system on or after 15<sup>th</sup> July 2009, this satisfies the requirement that the installation must be 'new'.
- 3) Plants comprised of more than one plant – where one biogas production plant serves more than one heat generating plant be it a CHP plant or biogas production plant and the requirements in Regulation 14(2) and (3)<sup>3</sup> are satisfied, this will be considered to be one RHI installation. The capacity of the installation will therefore be the combined capacity of the plants. Additional information about our approach to this area is outlined in three scenarios below:
  - a. Where there is a biogas combustion plant (or CHP plant) of equal to or more than 200kWth and a biogas combustion plant (or CHP plant) of below 200kWth on the same system these will be separate plants, and the biogas plant which is below 200kWth will be able to apply for support under the scheme. This is because the plant which has a capacity of equal to or more than 200kWth does not meet the requirements of Regulation 14(3), and is therefore not considered to be a "component plant" under regulation 14.
  - b. Where two or more biogas combustion plants (or CHP plants) of below 200kWth are supplied by the same biogas production plant but supply heat to separate heating systems, each plant will be able to apply for support. This is because regulation 14(2)(b) is not satisfied.
  - c. Where biogas is transported offsite to more than one biogas combustion plant (or CHP plant) and the plants form part of different heating systems, these are separate installations and application for accreditation can be made in respect of each. This is because regulation 14(2)(b) is not satisfied.

### **Additional changes to the Guidance document**

*All of these changes refer to Volume One of the Guidance document.*

Reporting – we plan to remove paragraph 1.16 (page 12) where it states that further information may be published if requested by the Secretary of State. This is not required under the RHI Regulations.

Early applications for 1MW or larger installations – we intend to amend this section to state that "Applicants preparing to submit applications for large installations (particularly those over 1MW) would be advised to contact Ofgem prior to commencing their application to confirm their intention to apply and to discuss any opportunity to provide information in advance of commissioning".

"Associated infrastructure" – we intend to amend the title in the last column of Table 3 (page 33) from "'Associated infrastructure' usually not included in definition of eligible installation" to "Equipment which is usually not included in definition of 'eligible installation'". This is because the term 'associated infrastructure' in fact refers to Ofgem's inspection powers under the scheme and using it in a different context can be misleading.

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<sup>3</sup> Regulation 14 -

(2) Where two or more plants –

- (a) use the same source of energy and technology,
- (b) form part of the same heating system, and
- (c) are not accredited RHI installations,

those plants (the "component plants") are to be regarded as a single plant for the purposes of paragraph (1) provided that paragraph (3) applies.

(3) This paragraph applies where each component plant meets the eligibility criteria; and for that purpose a component plant can be taken to meet the eligibility criteria notwithstanding that regulation 13 does not apply.

Heat pumps – we intend to remove paragraph 5.10 within the 'Heat Pumps - General Eligibility' section (page 44). This is now contra to our interpretation of Regulation 8 which states that the eligible heat sources for a heat pump are naturally occurring heat from the ground (up to 500m depth) or surface water. Where other heat is present in the ground we will review applicant proposals regarding the determination of the percentage of heat which does not arise from one of these on a case by case basis during the application process.

Heat loss and external pipework – this is an area which has proved particularly problematic for applicants to understand. Many applicants consider their installation to be 'simple' for metering purposes when in fact it is complex. We intend to make the following changes in the guidance to clarify the correct approach:

- 1) Add the following sentence to paragraph 6.22 (page 66) to state "Heat loss through external heat distribution pipework e.g. to transport heat between buildings, or between a standalone boiler and a building, is also not serving an eligible use and as such RHI payments cannot be made in respect of the heat lost".
- 2) Re-word the final bullet at paragraph 7.39 (page 75) to state "Is the heat generated by the plant used or generated in more than one building? (For avoidance of doubt, if heat is generated in one building and used in one or more different buildings, the answer to this question would be 'Yes'. In this case, the answer would be 'Yes' even if the heat is transported only a short distance, and/or is transported underground)"
- 3) Correct the final box of Figure 4 (page 76) to read "Is the heat generated by the plant used or generated in more than one building? (For avoidance of doubt, if heat is generated in one building and used in one or more different buildings, the answer to this question would be 'Yes'. In this case, the answer would be 'Yes' even if the heat is transported only a short distance, and/or is transported underground)"
- 4) Add a paragraph under Figure 4 (page 76) to state "In order for the metering associated with the heat generating plant for which you are making an RHI application to be "simple", the plant must be located in the same building as all the uses of the heat produced. If this does not apply i.e. heat is transported via external heat distribution pipework for use in another building, the system will be classed as 'complex' for metering purposes. Note that 'building' is defined by Regulation 2 of the Renewable Heat Incentive Scheme Regulations<sup>4</sup>."
- 5) Amend the definition of a "simple installation" in the glossary (page 122) to state "A simple installation is an installation which is not a CHP system, does not deliver heat by steam, does not supply heat to an ineligible purpose, and where all the uses of the heat produced are in the same building as the heat generating plant."

Metering heat where there are multiple buildings – We set out in the Guidance that we would seek advice from key stakeholders on a methodology to calculate heat losses between buildings. Following the progress taken by industry in developing such an approach, we have decided against producing a methodology and we have published references to an example of such an approach on our website (Renewable Heat Incentive – Heat Loss Calculations – update<sup>5</sup>). We therefore intend to amend paragraph 7.57 (page 79) to read "Where an applicant does not wish to meter buildings separately, we may instead be able to accept an approach where an agreed heat loss figure is deducted from the eligible heat use figure to represent heat lost between buildings. We provide further information on possible methodologies via our website."

## **Views invited**

<sup>4</sup> [http://www.legislation.gov.uk/uksi/2011/2860/pdfs/uksi\\_20112860\\_en.pdf](http://www.legislation.gov.uk/uksi/2011/2860/pdfs/uksi_20112860_en.pdf)

<sup>5</sup> [http://www.ofgem.gov.uk/e-serve/RHI/howtoapply/Documents1/Renewable\\_Heat\\_Incentive\\_-\\_Heat\\_loss\\_calculations\\_-\\_update\[1\].pdf](http://www.ofgem.gov.uk/e-serve/RHI/howtoapply/Documents1/Renewable_Heat_Incentive_-_Heat_loss_calculations_-_update[1].pdf)

We would welcome views on any of the issues set out in this letter but particularly with respect to our proposed change in approach to our treatment of biogas production plants under the scheme. If stakeholders are able to identify further repercussions of this change to those considered these would be valuable in our consideration of this issue.

The consultation will be for eight weeks, and we would welcome responses to this letter by 22<sup>nd</sup> August 2012.

Once the consultation has closed we will consider the responses and look to publish our response and decision within two weeks. We will notify applicants and other stakeholders when this occurs.

Unless clearly marked as confidential, responses will be published on our website. Please email responses to [jessica.ladbury@ofgem.gov.uk](mailto:jessica.ladbury@ofgem.gov.uk).

Yours faithfully,



Matthew Harnack

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