

GOVERNMENT RESPONSE TO THE DTI CONSULTATION ON A: PROPOSAL TO AMEND NON-FOSSIL FUEL OBLIGATION CONTRACTS FOR MUNICIPAL AND INDUSTRIAL WASTE PROJECTS WITH COMBINED HEAT AND POWER

Background to Consultation.

The Government recently consulted on the correction of a price disincentive that had arisen in respect of Non Fossil Fuel Obligation (NFFO) contracts awarded under rounds 4 and 5, to Municipal Industrial Waste (MIW) projects with Combined Heat and Power (CHP). NFFO was the previous support scheme for renewable energy, which existed prior to the introduction of the Renewables Obligation. An unintentional financial disincentive (known as the “NFFO anomaly”) to fulfil the contract had arisen whereby; if a generator did not fulfil the heat element of the contract they could be paid a higher price for electricity generated than they are paid if they did fulfil the heat element of the contract, contrary to the original policy intent which was to encourage the use of heat. The anomaly arose, in part, because of unexpectedly large rises in the power price. If not corrected, the anomaly could have resulted in “excess” payments of the order of **£9-10m pa** until the contracts come to an end in 2016.

Consultation Responses

The proposal to correct the anomaly was subject to a reduced 6 week consultation, in view of the fact that only 4 companies would be directly affected by the proposals. The consultation closed on 22 August. In total 8 responses were submitted. Of those, 2 supported the Government’s proposed approach. All 4 affected companies responded and were offered the opportunity to come in to discuss their views.

The 4 directly affected companies and 2 trade associations that responded all suggested alternative solutions to the government proposal. However, these options had either been considered previously and discounted for legal reasons; or they did not address the disincentive to produce heat that we sought to correct. In addition, the alternative solutions put forward sought to improve upon the financial position for companies who did not meet the heat element of the contract. However, to make such amendments would go directly against the intention of the NFFO MIW CHP contracts, which were designed to encourage heat utilisation.

Legislation

As no viable alternative approaches were suggested the Government laid the Statutory Instrument (SI) as included in the consultation document, with no amendments. SI number 2388: Electricity from Non-Fossil Fuel Sources Arrangements (England and Wales) Order came into force on 1 October 2006.

