



Department of
**Enterprise, Trade
and Investment**
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DETI Response

Energy

DETI Response to NIRO Closure Grace Periods Proposals in relation to non-wind renewable technologies

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INTRODUCTION

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Introduction

- 1.1 In March 2015, the DETI Minister issued a 4 week consultation on the Northern Ireland Renewables Obligation (NIRO) Closure Grace Periods and the proposed transition to Contracts for Difference (CFD).
- 1.2 The NIRO will close to new generation and additional capacity of non-wind renewable technologies from 1 April 2017. This document is the DETI Response to the consultation proposals related to NIRO closure grace periods for all non-wind renewable technologies and sets out the final decisions. A separate decision will be taken in respect of CFD transition in due course.

Handling of Onshore Wind

- 1.3 On 18 June 2015, the Department of Energy and Climate Change (DECC) announced its intention to close the Renewables Obligation in GB to onshore wind from 1 April 2016. Since then, DETI has been working closely with DECC in relation to the implications for Northern Ireland of this announcement. These discussions are ongoing and, in light of this, DETI will be issuing a further consultation in the near future in relation to the closure of the NIRO to onshore wind.

Responses to the Consultation and Post Consultation Decisions

- 1.4 The consultation closed on 15 April 2015. In total, 33 responses were received from a range of stakeholders including independent generators, developers, trade associations, energy suppliers, and Non Government Organisations (NGOs).

- 1.5 A summary of the responses to each question posed in the consultation in relation to the NIRO grace periods is provided in Chapter 2 together with the corresponding decision. **Annex A** sets out the grace period criteria and a list of respondents can be found at **Annex B**.

Implementation

- 1.6 The NIRO grace periods for non-wind renewable technologies will be set out in a Renewables Obligation Closure Order which is intended to come into operation in Autumn 2015, subject to NI Assembly approval.

CONSULTATION RESPONSES AND POST CONSULTATION DECISIONS

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2.1 In the March 2015 consultation, DETI asked the following questions in relation to Grace Periods¹ ;

Question 8 sought views on the proposal to offer a 12-month grace period for NIRO accreditation delays due to radar and grid connection.

Question 9 sought views on the proposed grace period criteria and proposed forms of evidence for radar and grid connection.

Question 10 sought views on the proposal to offer a 12-month grace period to ACT projects which participate in a notification process targeted at developers making investment decisions between now and 1 October 2015.

Question 11 sought views on whether the proposed forms of evidence are appropriate to the purpose of the proposed grace period.

Question 12 sought views on the policy rationale not to offer an equivalent to the 18-month grace period for dedicated biomass and dedicated biomass with CHP projects offered in GB.

Proposals

2.2 The consultation set out our proposed grace periods and defined the eligibility criteria and forms of evidence required in order to satisfy NIRO accreditation.

¹ Questions 1-6 related to CfD transition and will be handled separately in due course.

2.3 In our consultation we proposed the following grace periods:

- 12-month grace period to address radar and grid connection delays, where the project was scheduled to commission on or prior to 31 March 2017 (this includes projects connecting to an identified NIE cluster but excludes G83 connections);
- 12-month Enabling Financial Decisions grace period for ACT projects which have obtained preliminary accreditation under the NIRO on or before 31 March 2015. Projects qualifying for this grace period must commission and accredit under the NIRO no later than 31 March 2018; and
- ACT projects which do not have preliminary accreditation but are able to demonstrate that substantial financial decisions and investments have been taken prior to 1 October 2015, and where the project is scheduled to commission on or prior to 31 March 2017 are eligible for a 12 month grace period. To be eligible, these projects will have to undergo a notification process by the later of 1 October 2015 or two months after the Closure Order has been made.

Main messages from responses

2.4 The main messages received in relation to the grace period proposals are set out below:

- The majority of respondents disagreed with the proposed 12-month grace period for NIRO accreditation due to radar and grid connection delays, with most suggesting 24 months.
- Some respondents suggested that 12 months was satisfactory for direct connections but that cluster connections needed 24 months.
- Suggestions also included an open-ended grace period or linking the grace period to a volume cap.
- Some respondents suggested that evidence of grid connection acceptance by 31 March 2017 should be sufficient to be eligible for grace period.
- Some respondents suggested that NIE should provide each developer with a letter confirming the developer has met all the necessary requirements when accepting a grid offer.

- Greater certainty should be offered e.g. through some form of Final Investment Decision criteria (similar to that for ACT) or preliminary accreditation or pre-notification for all technologies.
- Some respondents suggested that grace periods should be extended to December 2018 for ACT projects.
- Respondents put forward the suggestion that the 18-month grace period for dedicated biomass and dedicated biomass with CHP should still apply to NI due to delays in formulating biomass policy by DECC and delays faced by NI developers as a result of cluster policy formulation.

Post-Consultation Decisions

- 2.5 DETI is grateful for the responses and has considered all of the evidence and suggestions submitted by respondents, including where there are differences faced by NI developers compared to their GB counterparts. However, following extensive negotiations with DECC regarding financial pressures on the Levy Control Framework (LCF), **DETI will be implementing the grace periods as per the proposals set out in the consultation document published in March 2015 for all non wind renewable technologies .**
- 2.6 All grace periods will run for 12 months starting from the day after the NIRO closure date. A project which meets the grace period criteria will be able to gain NIRO accreditation within the grace period, provided that it applies for accreditation, submits grace period eligibility criteria and commissions before the end of that grace period. Projects will be able to claim ROCs from the point at which accreditation is received, subject to all the usual rules of the NIRO scheme. Eligibility for a grace period does not presuppose eligibility for NIRO accreditation, which will be subject to all the usual application and eligibility requirements.

Grid and Radar delays

- 2.7 Responses to the proposed grace period criteria were mixed, with a number of alternative suggestions put forward as indicated in para 2.4. The underlying principle of a grace period is to allow projects which had intended to commission and accredit under the NIRO prior to March 2017, but were unable to do so due to delays outside of their control – such as radar and grid delays. The grace period is not intended to ‘keep the NIRO open’ for a further year. **There will be a 12 month grace period to address radar and grid connection delays, where the project was scheduled to commission on or before 31 March 2017. Specific grace period criteria and forms of evidence for grid connection and radar will apply.**

Declarations from the developer and NIE/SONI will be required to meet the grace period criteria.

- 2.8 A number of responses cited the absence of any firm connection date by NIE as a barrier to meeting this particular grace period criteria. Following discussion with NIE and Ofgem to address these concerns, developers will be provided, where appropriate, with a letter from NIE which will allow them to apply for the grace period. Where a connection is to be made to the transmission network, this will be in the form of a joint NIE/SONI letter.
- 2.9 In order to be eligible for the 12-month grace period for grid and radar delays, developers will be expected to provide Ofgem with the evidence set out in **Annex A**.
- 2.10 This information does not have to be submitted to Ofgem prior to 1 April 2017. Instead, it would be expected to be submitted after this date as part of the generating station's application for NIRO accreditation. Further detail on how grace period applications will be dealt with will be provided in Ofgem guidance.

G83 grid connections

- 2.11 The consultation proposed that stations connecting using NIE's G83 'fit and inform' process will not be eligible for a grid delay grace period. This is because these specific microgeneration projects are not subject to the same grid connection process as larger projects. NIE's response to the consultation pointed out that G83 Stage 2 connections may be liable to the same connection process as larger stations and, therefore, delays. **Whilst G83 Stage 1 grid connection applications will not be able to apply for a grace period, G83 Stage 2 connections will be eligible for the grid connection grace period.**

ACT projects

- 2.12 The majority of respondents agreed with the proposal to offer a 12-month grace period to ACT projects which participate in a notification process targeted at developers making investment decisions between now and 1 October 2015. However, some suggested that the grace period should be extended to December 2018 to reflect the longer transition to CFD period offered in GB. Indeed, other respondents suggested that this form of grace period should be available to other technologies.
- 2.13 On the latter point, the nature of ACT projects means that development and construction timescales are lengthy and there is a greater than average risk of delay in relation to the purpose of this grace period. We

note suggestions to extend the grace period to December 2018, however, for the same reasons set out in relation to grace period due to radar and grid connection delays, an extension beyond 12-months is not possible due to constraints on the Levy Control Framework. **A 12-month grace period will apply to ACT projects making investment decisions up to 5 January 2016 or two months after the date that the Closure Order comes into operation, whichever is later. The change from 1 October 2015 (in the consultation document) to 5 January 2016 is at the request of Ofgem to ensure it has the necessary arrangements in place to accommodate notifications.**

- 2.14 Respondents generally agreed with the proposed forms of evidence required for eligibility for the ACT grace period. A developer must comply with either the criteria set out in (1) or (2) below:

(1). Preliminary accreditation

Preliminary accreditation under the NIRO has been obtained from Ofgem by 31 March 2015. To have reached this stage, it is reasonable to assume that project development is sufficiently well advanced and would be expected to commission and accredit under the NIRO before its closure. Projects qualifying for this 12-month grace period must commission and accredit under the NIRO no later than 31 March 2018.

(2). Alternative evidence

For those projects which do not have preliminary accreditation by 31 March 2015, in order to be eligible for the grace period they must present the following evidence to Ofgem by 5 January 2016 or two months after the date that the Closure Order comes into operation, whichever is later :

- a. *A grid connection offer, accompanied by a letter from the network operator (NIE/SONI) which confirms that, at the date of receipt of the grid connection application, it was the intention to complete the relevant grid works no later than 31 March 2017;*
- b. *Evidence of land rights in the form of a declaration from the individual applying confirming ownership of the land, an agreement to lease the land, or an option to purchase or lease the land; and*
- c. *A Director's Certificate confirming that the developer will have sufficient resources to commit to the project and that the project is expected to commission on or prior to 31 March 2017, subject to receiving confirmation of eligibility for this grace period.*

- 2.15 There will be a two month application window starting on 2 November 2015 and ending on 5 January 2016 or two months after the date that the Closure Order comes into operation, whichever is later. Ofgem will publish guidance for consultation once the Closure Order has been laid in draft and publish the final version when the application window opens to provide stakeholders with an understanding of the process.

Biomass

- 2.16 Mixed responses were received in relation to the proposal not to offer an equivalent to the 18-month grace period for dedicated biomass and dedicated biomass with CHP projects offered in GB. A number of respondents accepted that NI could not have the same grace period as GB as the link to the biomass cap in GB does not apply in NI. However, other respondents suggested the 18-month should still apply, while others linked the rationale for this grace period i.e. a delay in formulating biomass policy by DECC, to delays faced by NI developers as a result of cluster policy formulation.
- 2.17 While acknowledging that NI developers face their own delays, this is recognised by the 12-month grace period for delays due to radar and grid connection. As the 400MW cap does not apply in NI, there is no requirement to introduce an 18-month grace period; therefore **DETI will not offer an equivalent to the 18-month grace period for dedicated biomass or dedicated biomass with CHP.**

Fixed Price Certificates

- 2.18 Question 7 of the consultation related to Fixed Price Certificates (FPC). The consultation explained that the closure of the RO mechanism in 2017 to all new stations will create a closed pool of capacity which will decrease over time as the overall end date of 31 March 2037 for the three ROs is approached. It was explained that this would be addressed in GB by calculating the RO annually by headroom until March 2027, and then moving to a FPC Scheme with the price certificates fixed at the 2027 buyout price, plus 10%. Comments were sought on DETI's proposal to retain consistency with the other two ROs.
- 2.19 The majority of responses on this issue agreed with the FPC Scheme introduction in 2027, accepting that the NIRO has to remain the same as GB on this issue. There were, however, some who disagreed with the proposals, including a suggestion that FPCs be introduced from 2017, rather than 2027. Another respondent, whilst agreeing with the proposal, suggested it should be revisited if there is a risk to ROC values before 2027.

- 2.20 It is important that there is a consistency across all three ROs on this issue and **this response confirms that the Fixed Price Certificate Scheme will be introduced for the NIRO in 2027.**
- 2.21 Consultation on the detailed design of the FPC Scheme and associated legislation will follow in due course.

DETI Post Consultation Decisions

- 2.22 The following is a resume of the post consultation decisions for grace periods dealt with in this response.
- **There will be a 12 month grace period to address radar and grid connection delays, where the project was scheduled to commission on or before 31 March 2017.**
 - **Specific grace period criteria and forms of evidence for grid connection and radar will apply. Declarations from the developer and NIE/SONI will be required to meet the grace period criteria.**
 - **Whilst G83 Stage 1 grid connection applications will not be able to apply for a grace period, G83 Stage 2 connections will be eligible for the grid connection grace period.**
 - **A 12 month grace period will apply for ACT (Advanced Conversion Technologies e.g. gasification, pyrolysis) which have NIRO preliminary accreditation by 31 March 2015 or which participate in a notification process targeted at developers making investment decisions between now and 5 January 2016 (or two months after the date that the Closure Order comes into operation, whichever is later.**
 - **There will be no equivalent to the 18 month grace period for dedicated biomass and dedicated biomass with CHP offered in GB.**
 - **The Fixed Price Certificate Scheme will be introduced for the NIRO in 2027.**

Grace Period Criteria

Type	Duration	Eligibility	Application timeframe	Evidence
Grid Connection	12 months	All renewable technologies excluding onshore wind (and excluding G83 Stage 1 grid connections)	Apply by 31 March 2018 as part of the application for accreditation after delay has materialized.	<ol style="list-style-type: none"> 1. Grid connection agreement consisting of: <ul style="list-style-type: none"> • A grid connection offer; • Acceptance of that offer; • A letter from the network operator (NIE/SONI) which confirms that at the date of receipt of the connection application for the proposed generating station it was the intention to complete the relevant grid works no later than 31st March 2017. 2. A written declaration by the generator that to the best of their knowledge, the generating station would have been commissioned on or before 31 March 2017 if the connection had been made on or before the grid connection date. 3. A letter from NIE/SONI confirming that the relevant grid works were completed after 31st March 2017, and, in NIE/SONI's opinion, the failure to complete the relevant grid works on or before 31st March 2017 was outside of the control of the generating station developer and was not due to any breach by a generating station developer of any agreement with the relevant network operator.
Radar	12 months	All renewable technologies excluding onshore wind	Apply by 31 March 2018 as part of the application for accreditation after delay has materialized.	<ol style="list-style-type: none"> 1. A copy of a radar works agreement specifying a radar works completion date which is no later than 31 March 2017; 2. A letter from a party to the radar works agreement who is unrelated to the generator / developer confirming that the radar works were completed after the agreed date and that the failure to complete the radar works on time was not due to any breach

				<p>of the radar works agreement by the generator / developer; and</p> <p>3. A written declaration by the generator that, to the best of their knowledge and belief, the station would have been commissioned on or before 31st March 2017 if the radar works had been completed on or before the radar works completion date.</p>
ACT projects	12 months	<p>Advanced Conversion Technologies (standard and advanced gasification pyrolysis)</p> <p>In receipt of NIRO preliminary accreditation dated no later than 31 March 2015</p>	Apply by 31 March 2018 as part of the application for accreditation after delay has materialized.	<p>1. Evidence of preliminary accreditation under the Northern Ireland Renewables Obligation dated no later than 31 March 2015.</p>
		<p>Advanced Conversion Technologies (standard and advanced gasification pyrolysis)</p> <p>Projects without NIRO preliminary accreditation before 1 April 2015</p>	Apply from 2 November 2015 to 5 January 2016 or two months after the date that the Closure Order comes into operation, whichever is later.	<p>1. A grid connection offer, accompanied by a letter from the network operator (NIE/SONI) which confirms that at the date of receipt of the grid connection application it was the intention to complete the relevant grid works no later than 31 March 2017.</p> <p>2. Land availability evidenced by a declaration confirming that the operator has either:</p> <ul style="list-style-type: none"> • Land use rights; or • An options agreement for land use rights <p>3. A Director's Certificate confirming that:</p> <ul style="list-style-type: none"> • The developer expects the project to commission on or prior to 31 March 2017 on the basis of current project plans; and • The developer will have sufficient resources to commit to the project, subject to receiving confirmation of eligibility for this grace period.

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