

# **NIAER Comment on Responses to 'Maximising Customer Value: Options for Northern Ireland Energy Holdings' February 2006 Consultation**

**September 2006**

## **1. Introduction**

The Northern Ireland Authority for Energy Regulation ("NIAER") published a consultation in February 2006 to outline it plans to approve a £10m investment of the BETTA rebate<sup>1</sup> by Moyle Interconnector Limited ("Moyle") in the Irish Renewable and Sustainable Energy Fund ("IRSEF"). The paper also sought opinions on how the remainder of the rebate should be used and provided a number of proposals for comment.

NIAER would like to thank the five respondents to the above consultation and use this note to respond to some of the issues raised.

The responses, which are all now available on our website<sup>2</sup>, were submitted by:

- Moyle Interconnector Limited
- Northern Ireland Electricity plc ("NIE")
- Irish Congress of Trade Unions
- Firmus energy
- Consumer Council

## **2. The structure of the IRSEF**

Given some of the responses expressing concern over how the IRSEF would be run and how risks would be handled, we thought it would be useful to provide some clarity to all interested parties as to the arrangements of the IRSEF.

The £10m in question has been transferred from Moyle to Northern Ireland Energy Holdings ("NIEH") as a loan with market based terms and conditions. The IRSEF has not yet been finalised. However, NIEH, in association with Northern Renewables Limited, has put together a

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<sup>1</sup> Please see 'Maximising Customer Value: Options for Northern Ireland Energy Holdings' February 2006 for more detail on the BETTA rebate.

<sup>2</sup> <http://ofreg.nics.gov.uk/>

team of professional advisors after a tender process and are in the process of tendering for a fund management company with the requisite experience in the field. Only once the fund manager is in place will the process of raising funds and appraising projects begin.

It is the role of the fund manager to assess each project and carry out appropriate due diligence before deciding on investments.

The NIEH funds which are invested in the IRSEF will make up less than 10% of the fund and will be joined by other investors. The fund does not represent a grant to the renewable sector and all investors will be seeking market based rates of return.

### **3. Legal/Regulatory Concerns**

One respondent raised a number of specific questions with regard to potential legal and regulatory issues which they felt were not addressed in the consultation paper.

We are satisfied that our approval of funds does not raise any legal or regulatory concerns raised by the respondents and we can confirm they we believe that the funds:

- Do not breach the non-discrimination obligation under Article 12(6) of the Energy (Northern Ireland) Order 2003. [The investment was approved on the basis that any projects would be chosen on a transparent and non-discriminatory basis.]
- Do not put Moyle in breach of NIAER's second direction.
- Do not constitute an unlawful tax on electricity customers.
- Do not raise competition or state aid issues. [As discussed the monies are a loan from Moyle under market conditions. We also re-iterate that the investments will be made on a commercial basis with a view to attaining an attractive rate of return for all parties.]

### **4. Way Forward**

The consultation paper sought thoughts on the optimal way to utilise the remaining amount of the BETTA Rebate and outlined a number of options as to how this could be achieved. The criteria set out by NIAER in the consultation were that any proposal should (i) divide the rebate between each year's cohort of customers between now and 2033 and (ii) maximise customer value.

The responses to the paper felt that some of the options outlined could have merit subject to further developments and detailed due diligence. It was argued by a number that before any future decision is made, further consultations should be carried out detailing the reasoning behind any decision.

None of the respondents proposed new ideas as to how the rebate could be invested.

NIAER has decided not to make a final decision at this point on how to direct the remaining amounts of the BETTA rebate. We believe that in light of the current uncertainty over future market conditions it is prudent to delay the decision until the SEM market arrangements crystallise.

Delaying the use of this fund will also allow us to retain the ability to react should appropriate uses for the rebate emerge. In the meantime the rebate will continue to attract a deposit rate of interest.

NIAER will continue to actively review the appropriate use of the funds going forward and will engage in a further round of consultation before finalising any further imbursement.