REA
RENEWABLE ENERGY ASSOCIATION

THE BRITISH
WIND ENERGY
ASSOCIATION

Statutory consultation on the Renewables Obligation Order 2007

Response by REA and BWEA

The Renewable Energy Association has almost 500 members, active across the full range of renewable energy technologies and applications. The British Wind Energy Association has over 320 members, active in the areas of wind, wave and tidal stream power generation.

The two associations represent the vast majority of companies affected by the RO reform proposals. BWEA and REA have carried out an extensive process of member engagement to create this submission. We believe it reflects the balance of opinion in our memberships, and that Government should pay close attention to our recommendations as a result.

Executive summary

We are in favour of the proposals set out in this consultation document. We believe the proposals for small-scale generation will bring benefit in reducing the amount of administration involved in accommodating micro-renewables within the RO. We believe that the proposal for the removal of sell and buy-back requirements should go further, and incorporate licence exempt supply through private wires.

Although the timing is not perfect, given the uncertainties surrounding the banding proposals, on balance we support the proposals made for co-firing.

We support the proposal relating to fuel to be treated as biomass, and also support making the RO neutral to waste.

Proposals for small-scale generation- Questions 43-54

We do not believe that the RO is the best mechanism for incentivising very small scale renewable generation. These proposed measures are welcome as they remove one barrier to the progress of microgeneration, however we do not expect them to create a significant stimulus for the expansion of microgeneration. The implementation of the proposals should not be an alternative to the introduction of more suitable policy mechanisms.

The expansion of microgeneration will result in an increase in the administrative burden of the RO. It is important that this burden be minimised as far as possible. We suggest the following approach.

- Agents can act on behalf of generators below 50kWe.
- Agents should aggregate output by technology and submit monthly (or yearly) applications, which total all generators' output for which they are acting – i.e. agents can act on behalf of generators of all technologies. This will allow a site with more than one type of generation to use the same agent for all sets of output. (the proposals in the consultation document do not seem to allow for this).

We would anticipate agents making one application per month (or year). We cannot foresee a situation where an agent would wish to submit multiple applications for subsets of microgenerators for which it is acting. However, if this were to happen it would be an unwelcome increase in administration. In order to maintain flexibility for this emerging market, we believe the details of how agents act on behalf of smaller generators would be *far better covered by guidance* (to which the legislation refers) rather than by being written into the legislation itself. This allows greater flexibility in delivering the policy intent.

We note that the 2003 White Paper proposal to allow <50kW generators to earn ROCs on a yearly output basis took several years to implement, not due to complexity, but to difficulties with the legal drafting. It is very important to avoid such delays. Moreover, if the legal drafting does not accurately reflect the policy intent, not only are there delays in implementing the measure, but it creates more opportunities (in the subsequent revisions to get the drafting right) for the obligation to be tinkered with to achieve other political objectives. Such delays and difficulties should obviously be avoided.

The Micropower Council's response gives more detail on the administrative arrangements for agents, which we support.

Note, in our response to the preliminary consultation document we have not suggested there should be a separate band for micro generation.

Q55 Removal of sell and buy-back provisions

We support the removal of unnecessary administrative burdens wherever possible and agree with the proposal to remove the need for a sale and buy-back agreements for all generators.

In addition we are in favour of greater uptake of on-site renewable generation and would therefore suggest that the proposed reforms to the RO apply equally to generators whose output is consumed on-site by parties other than generators, i.e. that the requirement under the current regime for so-called "sell and on-sale" agreements be removed. These agreements also represent an unnecessary administrative burden on generators and their on-site customers and we believe that the removal of the requirement for such agreements could be implemented without resulting in a significant impact on ROC prices. As with sale and buy-back agreements, any impact would get smaller as the levels of the RO increases. We consider that the primary legislation enacted under the Climate Change and Sustainable Energy Act 2006 enables the need for such agreements to be dispensed with.

We would propose that Articles 10 and 16 of the RO Order be amended to ensure this aim is achieved. We agree with the deletion of Article 10. However, the current draft of Article 16 does not go as far as it should.

Article 16(4) currently requires the operator to declare "that he has not made … the electricity available to any person in circumstances such that the operator knows or has reason to believe that the consumption of the electricity has resulted… in it not having been supplied… by an electricity supplier to customers in Great Britain." Clearly, where an operator is supplying one of its own on-site customers, it will not be able to fulfil the requirements of this criterion. We would suggest that the concept of an *on-site customer* be introduced to the RO (Class C of Schedule 4 of the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 could be instructive here) and excluded from the application of 16(4)(a).

Article 16(8B) has been added as an additional criterion. However this criterion is expressed as only applying to a generating station that is "not connected to a transmission and distribution network". It is not entirely clear what this limitation is supposed to achieve. Is it intended that "transmission and distribution network" in this context refers only to licensed networks? If this is the case we note that the definitions of transmission system and distribution system in the Electricity Act (from which the definitions in the RO are derived) appear to refer to *any* system as opposed to licensed systems.

Article 16(8B) should be redrafted so that operators of generating stations connected to *any form of demand* (whether that be a licensed transmission or distribution system or an on-site distribution system) may declare that their output, in whole or in part, has been consumed by it or by one or more of its on-site customers.

These measures would be expected to decrease the amount of electricity in respect of which RO costs are have been recovered (i.e. licensed supply), which has the potential to cut into the supply base on which the RO is based. This has the potential to devalue ROCs: however, if the non-billed supply is added to the supply base, then these measures can be implemented without resulting in any devaluation of ROCs.

The process would still involve licensed suppliers providing sales numbers as per the existing mechanism. Suppliers' obligations would be based on this volume. Ofgem will then identify the volume of on-site generator and customer consumption and add this to total UK sales for use in calculating the total RO sales volume.

Q57 Do you agree that unlimited co-firing of energy crops should be allowed, as an interim measure before the introduction of banding?

If DTI is satisfied that the implementation of this change would not undermine ROC prices, then we are comfortable with this change. We note, however, that this change is expected to have little, if any, immediate stimulus for planting perennial energy crops. These forms of energy crop are expected to benefit from this change in the longer term (with or without the implementation of banding) as co-firers will be able to continue earning ROCs from this material after 2016.

The timing of this change is far from ideal, however, as it introduces a period of two years of additional uncertainty before the possible introduction of banding.

Given that there has always been distinction between energy crops and other biomass in the past, firstly in the form of an *energy crop requirement*, and as currently proposed the provision of ordinary rather than co-fired ROCs for energy crops, it is anticipated that there will continue to be a distinction after the introduction of banding. This is alluded to in paragraph 4.17. If it is not the case, then what is there to encourage the planting of energy crops in the future?

It has been argued that the encouragement of energy crop production should be channelled through agricultural rather than renewable policy. This has been the case to date, with the provision of establishment grants – but these are not long-term unlike the Renewables Obligation, and such grants are prone to their own uncertainties, as witnessed recently with the problem with the coverage of miscanthus planting grants under the English Rural Development Programme.

The co-firing rules have been changed many times since the obligation was introduced. Not only is there great uncertainty about the current changes, but even uncertainty surrounding the Government's policy intent.

There is considerable interest in the use of co-products from the production of biofuels as energy crop for co-firing. This material clearly meets the

definition in the current order (and also under the proposed amended definition). However, DTI has never been explicit in its encouragement of this form of energy crop, nor been clear that it has no wish to distinguish between annual and perennial energy crops. The following paragraph of the consultation document also suggests in that if taking energy crop co—firing out of the cap results in a significant negative impact on other forms of renewable generation, then Government would "consult further on the case for actions to reduce this impact". These factors create uncertainty for those working in the field of establishing annual energy crop supply chains.

We would welcome a clear statement of intent that the government has no intention of legislating through the RO to differentiate between different forms of annual crop, or to change the definition so that currently eligible material becomes ineligible.

Q58 Do you agree that, if energy crop co-firing were removed from the caps, it would no longer be appropriate to retain the minimum energy crop requirements?

Yes. Replacing the "stick" of a minimum energy crop requirement, with the "carrot" of being able to earn normal (uncapped) ROCs for co-firing of energy crops is desirable. It enables the RO to be made simpler, and if banding is not introduced, enables the co-firing of energy crops to have a longer-term future (i.e. to continue beyond 2016), an option not available for other forms of biomass. Furthermore if banding is introduced we believe energy crops should be banded at a higher level (see answer to Q36 in preliminary consultation response). On balance we believe these are sufficient stimuli for energy crops.

Q59 Do you support the suggestion that the definition of an energy crop should be amended to specify SRC, miscanthus, or any other crop grown for the purposes of being used as a biomass fuel?

We agree with this redefinition.

Q60 Is there any risk that harvesting of miscanthus or SRC not grown for energy purposes could occur under this definition?

We think this is unlikely, and besides the risk is immaterial.

Q61 Do you agree with the proposal that where more than one non-fossil fuels are used in power stations that these fuels can be

treated as biomass fuels as long as 90% of the average energy content of the sum of the fuels is derived from biomass?

This is a good and pragmatic suggestion, which should reduce the incentive to separate materials into their component biomass and fossil fuel streams.

We also suggest that the RO should be made neutral to waste. If that were the case, a plant burning a combination of biomass and mixed waste, should be able to earn ROCs on the biomass, and a portion of the mixed waste, taking it up to the 90% mark, but then no ROCs on the waste thereafter. If the RO is not made neutral to waste, the biomass plant would be prevented from using any more mixed waste as fuel, or it would lose all ROCs for that month.