CfD Consultation Event

13 November 2013

Summary of key issues raised by stakeholders

Following the publication of the EMR consultation on implementation proposals on 10 October 2013, DECC held a full day workshop on 13 November 2013 to allow interested stakeholders to explore the contents of the consultation document relating to the Contract for Difference (CfD), and to discuss detailed policy proposals with DECC officials.

The workshop included presentations on specific aspects of the Contract for Difference (including the CfD Contract, the Allocation Framework, the Supplier Obligation and the CfD Counterparty Body) followed by feedback sessions where stakeholders had the opportunity to ask questions and give their early views on the consultation.

The following note records the views expressed by participants during the workshop. A list of the organisations represented at the workshop is attached in the Annex.

Presentation 1: Legislative Basis for CfD – Contract Terms and Allocation

<u>CfD Standard Terms</u>

- Will there be different sets of standard terms for different technologies / strike prices / jurisdictions?
- Will the terms be grandfathered?
- Some uncertainty for projects with long lead in times regarding which standard terms will apply. Emphasis that it will need to be clear at the start of allocation which standard terms apply, particularly if the process is different for constrained and unconstrained allocation.
- By having key headings in the contract, it implies that other terms in the contract are less important (such as force majeure). Couldn't there be a hierarchy of all the clauses rather than simply singling out a few of them?
- Will the same terms and conditions apply to investment contracts?

<u>Review of Standard Terms</u>

- What would trigger a review of the standard terms? How frequent are reviews likely to be? What will the process for reviews be?
- Some concern over grace periods – stakeholders don't want to get caught out by changes to the standard terms as they are working through the detail.
- Can industry apply / lobby to have the standard terms changed?
- Learning from experience makes sense but to encourage early signing of contracts is there any way the Government can offer improvements to contracts later on?

<u>Contract Modification Process</u>

- There was a call for more clarity on the definitions of ‘minor’ and ‘necessary’, and on what kind of evidence is accepted to stop gaming of the system which will drive up costs for consumers.
- Will further details of the kinds of things that do and don’t get modification agreement form part of the feedback loop for amending standard terms?
- There needs to be more guidance for parties thinking of submitting a modification request, specifying which situations we’re envisaging it being applicable to.
- There needs to be more information on what clauses are locked down and which could be up for modification.
- There needs to be more information on what kind of evidence will be required / accepted as evidence for the need for modification.
- Is this modification process going to run post allocation / post signature too? If so it could aid market liquidity.
- Will this modification process take place behind closed doors? Will the outcome be publicised to give others a better awareness of the kinds of things that do and don’t get modification agreement?
- Is there any room to get the Counterparty Body on board in the modification process? For example, if signature can’t go ahead due to financing arrangements.
- The use of ‘net’ in our definition of ‘minor’ opens up the possibility of trade-offs – is this our intention?
- Are we interested in specific risks and rewards as such or more in the balance between them?
- Strike prices will need to reflect the risk-reward balance in order to be financeable.

<u>Contract Modification Timing</u>

- The modification process will take place before CfD allocation but what if a generator misses out on getting a CfD because of delays to the modification process (which is currently aimed to be around 20 working days)?
- It is very important that this system doesn’t disadvantage early applicants. It will therefore need to start before CfD allocation to prevent backlog.

<u>Allocation Framework</u>

- Who owns allocation frameworks? Is it Government?
- There’s a need to consider the amount of time there should be in between review periods, to allow time for lessons to be learned.
- The general headlines of the split between the Allocation Framework and Regulations look good but stakeholders were keen to see more detail.
- Would it be possible to have a change amnesty before each allocation round?
- Changes to the allocation framework will need to be reflected in the regulations if appropriate. The two will need to be aligned. For example, on details relating to eligibility.

Presentation 2: Policy Updates

Levy Control Framework

- Is the RHI included in our figures?
- How is the carbon floor price going to be treated by the LCF?
- Will the Government stop LCF spending when it reaches its renewables targets?
- Will the LCF Board be internal or external?
- How will change control processes work regarding strike prices?
- Can Government figures show how much is available for FIDs, RO and CfDs respectively, up until 2020? Will this be published and, if so, when?
- Will analysis on the management of the LCF be published and, if so, when?

CfD Constrained Allocation

- How will constrained allocation work for a project with a large contract when the majority of spending won't happen until after 2020? How will the LCF risks be managed in these situations?
- Will auctions comprise of a dynamic/iterative process where you can put second and third bids in? Is there a possibility of having multi-round auctions?
- How will feedback be gathered on CfD allocation?

CfD Contract Key Terms

- What is the rationale for having termination after financial closure?
- There is a risk that strike prices get reduced if a generator under delivers, when does this get enacted?
- What are the risks of having a contract clause which says the counterparty body is not obliged to pay if they can't afford it? Is this being discussed?
- How will phasing work under constrained allocation?
- What will the collateral requirements be on generators in terms of the mechanisms, triggers and how long these are likely to be in place?

Supply Chain Plans

- How do Supply Chain Plans apply to FIDs?
- Have we discussed the impact of this on State Aid with the Commission?
- What approvals process is envisaged for this? How long is it likely to take? Will it be tick box or more discretionary?

Presentation 3: Supplier Obligation

- To what extent will the Supplier Obligation be subject to change once the final regulations have been laid in Parliament?

Overview and Rate and Reserve Fund Setting

- In the cost-benefit analysis of the Supplier Obligation levy options (set out in the Supplier Obligation Impact Assessment) Option 4 appears to be cheaper than Option 3? Why is Option 3 the preferred option?
- In the Impact Assessment, the scoring criteria on which each of the levy options was judged is not clear.
- Under the Supplier Obligation, when will suppliers and generators make payments?
- Will the procurement and design of the model to forecast the fixed rate levy and size of the Reserve Fund be publicly available?
- Under the preferred fixed rate levy option (Option 3), how will money left over in the Reserve Fund be repaid to suppliers year-on-year?
- To what extent are risks arising from uncertainties in the Reserve Fund likely to be passed onto consumers?
- Since the Reserve Fund requires suppliers to pay in money at the start of the year, this will negatively impact their ability to source credit. The Government is trying too hard to protect generators from the risk of suppliers defaulting.

<u>Backstops</u>

- If a small supplier becomes insolvent, can the Reserve Fund be used to fund their insolvency costs?
- The cost of CfDs is not sufficiently transparent – how is Government making consumers aware of how much the CfD is costing them, and how can suppliers explain these costs to consumers?
- Will the Government step in to pay generators if a supplier defaults?

<u>Operational Costs</u>

- Why is the levy rate of £15 million per year being regulated, when significantly larger amounts of money covered by the Allocation Framework are not going to be included in the final regulations?

Presentation 4: CfD Counterparty Set-up Update

- Will there be any CfD payments before the start of 2015?
- Has the Counterparty determined the FMS arrangement yet?
- Can the costs of the Counterparty be recovered by suppliers?
- Will the systems be ready if generators are ready to generate before April 2015?
- Will the supplier obligation levy rate be another bill which will be passed on to consumers?

Annex

List of stakeholder organisations represented at CfD Consultation Workshop on 13 November 2013

AES Electric
Allen and Overy
British Renewables
Centrica Energy
Cornwall Energy
Crown Estate
Dong Energy
Drax
Ecotricity
EDF Energy
Eggborough Ltd
E.ON
Ener-G
Energos
Energy UK
First Utility
Fredolsen
Gazprom
GDF Suez
Haven Power Limited
LCFG
Mainstream Renewable Power
National Grid
Neas Energy Ltd.
Norton Rose Fulbright
PwC
REA
Renewable UK
RES
RWE Npower
Scottish Power
Smartestenergy
SSE
Statoil
TCI Renewables
Vatenfall
Waters Wye Associates
West Coast Energy
Which
Zilkha Biomass Energy