
STATUTORY INSTRUMENTS

2018 No. 611

The Renewable Heat Incentive Scheme Regulations 2018

PART 3

Accreditation, registration and tariff guarantees

Tariff guarantees

35.—(1) At or after 10.00 am on the date on which these Regulations come into force or, if that is not a working day, on the next working day, a person who proposes to—

- (a) construct and operate a plant to which paragraph (3) applies and which has not yet been commissioned; or
- (b) produce biomethane for injection but has not yet started production,

may make an application for a tariff guarantee in respect of that plant or that production (as the case may be), in accordance with this regulation.

(2) An applicant for a tariff guarantee may not—

- (a) amend an application made under paragraph (1);
- (b) make a further application under paragraph (1) in relation to the same plant or the same production, without first withdrawing the original application.

(3) This paragraph applies in respect of a plant which, when commissioned, will—

- (a) generate heat from solid biomass or solid biomass contained in waste with an installation capacity of 1MWth or above;
- (b) generate heat using geothermal sources;
- (c) generate heat from biogas with an installation capacity of 600kWth or above;
- (d) be a ground source heat pump with an installation capacity of 100kWth or above;
- (e) be a new solid biomass CHP system; or
- (f) be a shared ground loop system with an installation capacity of 100kWth or above.

(4) In the case of an applicant who proposes to construct and operate a plant to which paragraph (3) applies, an application must be in writing, in such form as the Authority requires, and include the following information—

- (a) the plant's proposed source of energy and technology;
- (b) the date on which the applicant expects the plant to be commissioned;
- (c) the total heat in kWhth which the applicant expects the plant to generate each year for eligible purposes;
- (d) the expected installation capacity of the plant;
- (e) in the case of a plant which will be, or which will form part of a new solid biomass CHP system, the power efficiency (within the meaning of regulation 68(4)) which the applicant expects the plant to achieve;

- (f) the proposed location of the plant;
 - (g) evidence as to the proposed heat use;
 - (h) the applicant's name and business address;
 - (i) a declaration that the plant will be owned by the applicant, or jointly owned by the applicant and one or more other persons;
 - (j) evidence from the relevant planning authority that—
 - (i) any necessary planning permission has been granted; or
 - (ii) planning permission is not required;
 - (k) any further information which the Authority may require.
- (5) In the case of an applicant who proposes to produce biomethane for injection, the application must be in writing, in such form as the Authority requires, and include the following information—
- (a) the date on which the applicant expects the injection of biomethane to commence;
 - (b) the expected maximum initial capacity;
 - (c) the location of the place where biomethane will be injected in accordance with the network entry agreement applicable to that biomethane;
 - (d) evidence that a connection agreement has been entered into;
 - (e) the applicant's name and business address;
 - (f) the volume in cubic metres of eligible biomethane which the applicant intends to inject each year;
 - (g) evidence from the relevant planning authority that—
 - (i) any necessary planning permission has been granted in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, or the biomethane is injected; or
 - (ii) planning permission is not required;
 - (h) any further information which the Authority may require.
- (6) Subject to paragraphs (16) and (17), where the application has, in the Authority's opinion, been properly made, it must issue a notice (a "provisional tariff guarantee notice") stating—
- (a) that a tariff guarantee will be granted if the Authority is satisfied that financial close has been reached;
 - (b) the evidence which is required for the purposes of sub-paragraph (a);
 - (c) the date, which must be no later than 3 weeks from the date on which the provisional tariff guarantee notice is issued, by which such evidence must be provided;
 - (d) the date on which the properly made application was received by the Authority; and
 - (e) the guaranteed tariff which will apply if the plant becomes accredited under regulation 30 or the producer of biomethane for injection becomes registered under regulation 32.
- (7) Where the Authority is satisfied that the applicant has provided the information specified in the provisional tariff guarantee notice within the time limit stated in the notice, the Authority must grant a tariff guarantee by notice to the applicant stating—
- (a) the guaranteed tariff which will apply if the plant becomes accredited under regulation 30 or the producer of biomethane for injection becomes registered under regulation 32;
 - (b) the date by which, for the purposes of the tariff guarantee, the plant must be commissioned or injection of biomethane must commence;

- (c) a description of the plant or equipment used to produce biomethane to which the tariff guarantee applies;
- (d) the information which the applicant must supply to the Authority during the period of the tariff guarantee, and the frequency with which that information must be supplied; and
- (e) any further conditions which the Authority thinks fit in relation to the tariff guarantee.

(8) The Authority may revoke a tariff guarantee at any time before the applicant is notified in accordance with regulation 30(9) or 32(10) if—

- (a) there has been a material change in circumstances such that, had the application for the tariff guarantee been made after the change, it would have been refused;
- (b) the applicant fails to comply with conditions imposed in accordance with paragraph (7) (b), (d) or (e);
- (c) the Authority considers that the information on which the decision to grant the tariff guarantee was based was incorrect in a material particular; or
- (d) the Authority considers that the plant or the production and injection of biomethane is materially different from the plant or production and injection of biomethane which was proposed under paragraph (4) or (5).

(9) Subject to paragraphs (10) and (11), where—

- (a) a plant in respect of which a tariff guarantee has been granted becomes accredited; or
- (b) a producer of biomethane for injection in respect of which a tariff guarantee has been granted becomes registered,

the tariff applicable at the tariff start date is the initial tariff which would have applied in accordance with regulation 60 had the tariff start date been the date referred to in paragraph (6)(d) (the “guaranteed tariff”).

(10) Where in any 12 month period commencing with the tariff start date or the anniversary of the tariff start date—

- (a) the heat produced by the accredited RHI installation and used for eligible purposes exceeds 250GWh; or
- (b) the biomethane injected by a producer of biomethane exceeds 250GWh,

the guaranteed tariff will apply to the first 250GWh of such heat or biomethane only.

(11) The guaranteed tariff does not apply where—

- (a) the tariff start date in relation to an accredited RHI installation is earlier than the date given under paragraph (4)(b) or the tariff start date for a producer of biomethane for injection is earlier than the date given in accordance with paragraph (5)(a);
- (b) the tariff guarantee has been revoked; or
- (c) the tariff start date in relation to an accredited RHI installation or producer of biomethane for injection is—
 - (i) 183 or more days after the date given in accordance with paragraph (4)(b) or (5) (a); or
 - (ii) after 31st January 2020,whichever is the earlier.

(12) Where the Authority revokes a tariff guarantee, it must send a notice to the participant specifying—

- (a) the reason for the revocation;
- (b) details of the applicant’s right of review.

- (13) For the purposes of paragraph (8)(d)—
- (a) the Authority may take into account such matters as are, in the Authority’s opinion, relevant, including —
 - (i) the location of the plant or place where biomethane is injected;
 - (ii) the installation capacity of the plant or maximum initial capacity of biomethane; and
 - (iii) the source of energy and technology or design of the plant;
 - (b) a plant is materially different in a case where—
 - (i) the installation capacity is at least 10% greater or smaller than the installation capacity proposed under paragraph (4);
 - (ii) the installation capacity is such that a different tariff would apply.
- (14) The Secretary of State—
- (a) must determine and publish the budget allocation for tariff guarantees (the “budget allocation”) for each of the financial years 2018/2019, 2019/2020 and 2020/2021;
 - (b) must publish—
 - (i) estimates of inflation for each of the relevant financial years;
 - (ii) load factors applicable for each relevant technology;
 - (iii) quarterly biomethane production factors;
 - (c) may review the budget allocation for a current or future relevant financial year;
 - (d) may, as a result of such a review, increase a budget allocation, provided that such increase may only take effect on 1st February, 1st May, 1st August or 1st November in a relevant financial year.
- (15) The Authority must publish the following information on its website—
- (a) current information in aggregate form as to—
 - (i) the number of tariff guarantee applications made;
 - (ii) the number of provisional tariff guarantee notices issued;
 - (iii) the number of tariff guarantee applications granted;
 - (iv) the sources of energy and technology and capacity of the plants in respect of which tariff guarantees have been granted; and
 - (b) the estimated total tariff guarantee commitment for each of the relevant financial years.
- (16) The Authority must consider applications for a tariff guarantee in the order in which they are received by it, and must not—
- (a) issue a provisional tariff guarantee notice where the estimated total tariff guarantee commitment for a relevant financial year would exceed the budget allocation for that year if the tariff guarantee were granted;
 - (b) issue a provisional tariff guarantee notice in respect of any subsequent application for consideration except where granting a tariff guarantee would not cause the budget allocation for a relevant financial year to be exceeded.
- (17) Following an increase in budget allocation pursuant to paragraph (14)(d), or any decrease in the estimated total tariff guarantee commitment resulting from the withdrawal or rejection of a tariff guarantee application, the Authority must proceed to consider outstanding applications in the order in which they were received.
- (18) In this regulation—
- “estimated annual payment”, in relation to an application for a tariff guarantee, means—

- (a) in the financial year in which the applicant expects the plant to be commissioned, or the injection of biomethane to commence (as the case may be)—

$$E \times T \times \frac{D}{Y};$$

- (b) in any subsequent financial year—

$$E \times T \times I$$

where—

- (i) D is the number of days in the financial year starting with the date on which the applicant expects the plant to be commissioned, or the injection of biomethane to commence (as the case may be);
- (ii) E is the estimated heat;
- (iii) I is the estimate of inflation for that financial year, published by the Secretary of State;
- (iv) T is the guaranteed tariff which will apply if the plant becomes accredited under regulation 30 or the producer of biomethane for injection becomes registered under regulation 32; and
- (v) Y is the number of days in the financial year;

“estimated heat”—

- (a) in relation to a plant to which paragraph (3) applies, means—

$$C \times LF \times H$$

where—

- (i) C is the expected installation capacity of the plant;
- (ii) H is the number of hours in the year; and
- (iii) LF is the heat load factor for the plant’s technology, published by the Secretary of State;

- (b) in relation to the production of biomethane for injection, means—

$$V \times F \times P$$

where—

- (i) V is the maximum volume in cubic metres of eligible biomethane which the applicant can inject each year, based on data from the relevant connection agreement;
- (ii) F is 9.1⁽¹⁾; and
- (iii) P is the average of the quarterly biomethane production factors, published by the Secretary of State, for all applicable quarters of the relevant financial year, starting from the date on which the applicant expects the injection of biomethane to commence, expressed as a decimal and rounded to four decimal places;

“estimated total tariff guarantee commitment”, in relation to a relevant financial year, means the sum of the estimated annual payments for every application for a tariff guarantee—

- (a) for which a provisional tariff guarantee notice has been issued; and
- (b) which has not been withdrawn by the applicant or rejected by the Authority;

⁽¹⁾ This is a factor to account for the calorific value per cubic metre of biomethane (10 kWh/m³) and proportion of eligible biomethane per unit of biomethane injected (0.91).

“financial close” means the date on which the applicant has entered into all financing agreements in relation to all the funding required for the construction of the proposed plant, or the production and injection of biomethane;

“financial year” means a 12 month period commencing on 1st April and ending with the following 31st March.