Rialtas na hÉireann
Government of Ireland

Terms and Conditions for the First Competition under the Renewable Electricity Support Scheme

Consultation Response Notice

February 2020

The Department of Communications, Climate Action and Environment (DCCAE) has released the final Terms and Conditions (T&Cs) for the RESS 1 Auction. The Department published the proposed T&Cs on 13th December 2019 and invited comments from interested parties. 107 parties submitted comments by the closing date of 17th January 2020.

The Department has carefully considered all comments and suggestions and in response the final T&Cs incorporate appropriate modifications and clarifications.

Given the volume and the variety of comments, DCCAE does not intend to respond to individual submissions. We would, however, like to provide the following overview of key amendments and considerations:

RESS-1 will provide a pathway for community projects through the community preference category and a mandatory Community Benefit Fund for all projects successful in the auction. The Department has removed the Renewable Electricity Participation Scheme (REPS) from RESS 1. While we, along with most parties providing comments, recognise the desirability of citizen investment opportunities in all RESS auctions, there is a risk that REPS may unduly expose citizen investors to financial risks and further consumer protections are required to mitigate this.

We agree that the complexity of REPS and the time needed to ensure that the necessary legal and regulatory provisions are in place would potentially obstruct early delivery of RESS 1.The Department will seek to develop a community investment model for future RESS auctions in consultation with key stakeholders.

As indicated in the T&Cs issued for consultation, the final T&Cs contain amended provisions regarding the Community Benefit Fund. The contribution remains at a level of €2/MWh of Loss-Adjusted Metered Quantity, however fund governance and distribution provisions have been amended.

We gave a high degree of consideration to issues raised that identified potential risks that are largely outside of the control of renewable generators and expose potential bidders to risks that could jeopardise their ability to finance projects. In this regard DCCAE remains of the view that supporting actual generation during negative price periods even for limited periods would undermine the energy market. The T&Cs continue to provide projects with protection against chronic and severe exposure to curtailment when reasonable limits are exceeded in order to internalise a portion of these costs and subject potential bidders' views of these costs to competition.

The T&C's maintain the provision of not indexing the strike price. Whilst there were widespread claims that indexing would lower the cost of financing, there was no hard

evidence to that effect and no material claims that the absence of indexing would create difficulties in obtaining financing on reasonable terms in the current renewable energy investment climate. A primary argument for indexing was that it would lower the apparent cost of the RESS and increase public acceptance. The Department is not swayed by that argument and it simply reports the cost in a different way as opposed to reducing the cost. This could be counter-productive if public opinion were to turn against support when indexation is applied over time. In summary, the Department remains of the position that for RESS 1 inflation risks are better managed by the market.

The Department has not modified the T&Cs to moderate the impact of basic development risks. In particular the T&Cs retain the December 2023 long-stop date and do not provide for extensions of the long-stop date or for force majeure inclusion for grid delays. It is our view that doing so would encourage riskier projects from a development perspective. This would potentially lead to a non-level playing field where projects that have selected sites that are potentially less prone to grid delays will not have the advantages associated with selecting sites that have lower development risk, which could impact negatively on pricing. Additionally, we note that projects which are not in a position to accept grid delay risk should be encouraged to explore other routes to market including but not limited to subsequent RESS auctions.

Bidder independence declaration requirements have been simplified, and it is further clarified that an applicant is obliged to ensure that all responses in this regard continuously remain complete and unchanged from the time of application through to at least the time of submission of the offer price.

The minimum offer quantity has been lowered from 1 MW to 0.5 MW to align with the Enduring Connection Policy (ECP-1) administered by the CRU.

The definition of Community for Preference Category Projects has been altered in line with consultation suggestions i.e. the minimum number of shareholders required has been removed and maximum and minimum share capital has been removed.

The Department wishes to clarify what we perceive to be a misunderstanding on the part of many parties that offered comments which expressed the view that the RESS 1 T&Cs were not compliant with Articles 12 and 13 of the recast EU internal Market for Electricity Regulation (Regulation (EU) 2019/943). We emphasise that the RESS 1 T&Cs are not intended to be Ireland's vehicle for complying with Articles 12 and 13 which have broad application and are not limited to RESS-supported projects. Ireland's compliance with Articles 12 and 13 will be the purview of the Commission for Regulation of Utilities (CRU).

RESS 1 provisions such as the mitigation of curtailment risk discussed above should be viewed as additional to, not replacement of, those compliance mechanisms overseen by the CRU. The Department views the relationship between the T&Cs and Articles 12 and 13 to be that T&Cs must not frustrate or undo compliance mechanisms that the CRU may implement.

Some commenting parties asserted that including constraint payments in market revenue in the T&Cs would have that effect. We have removed constraint revenue as a component of market revenue under the RESS 1 T&Cs as we are of the view that bidders are best suited to internalise the impact of constraints. Hence the issue is moot and we take no position on whether including constraint payments in market revenue would frustrate compliance with Articles 12 and 13. The SEM Committee will carry out a consultation and make decisions regarding implementation of Articles 12 and 13. Further details can be found here.

We also wish to clarify that there is no upper limit on the amount of solar energy which will be procured, the inclusion of a preference category allows for us to procure a minimum quantity of solar energy subject to adequate competition.

DCCAE recognises that considerable thought and effort was put into the submissions, as evidenced by the comments received. We thank respondents for their comments and look forward to a successful RESS 1 auction and the speedy delivery of renewable energy projects supported under the scheme.

Finally, DCCAE note that these terms and conditions remain subject to State Aid approval by the European Commission.