

Renewable Energy Feed in Tariff

**Additional Categories
(REFIT – 2009)**

A COMPETITION FOR
ELECTRICITY GENERATION from Anaerobic Digestion, Biomass powered high efficiency CHP , Ocean Energy and Offshore wind energy.

Freedom of Information Act

All records held by the Department of Communications, Energy and Natural Resources are subject to the provisions of the Freedom of Information Act, as amended or revised, (“the Act”) and may be subject to disclosure in the public interest.

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Abbreviations.

Biomass-AD - Biomass Anaerobic Digestion
(HE) Biomass-CHP - high efficiency biomass powered combined heat and power
CER - Commission for Energy Regulation
CHP - Combined Heat and Power
ESB - Electricity Supply Board
kWh - kilowatt hour
MW - Megawatt
PPA - Power Purchase Agreement
RE-FIT - Renewable Energy Feed in Tariff
RES-E - renewable energy sourced electricity
“the Department”
or “DCENR” - the Department of Communications, Energy and Natural Resources
the Minister - the Minister for Communications, Energy and Natural Resources

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1. INTRODUCTION.

- 1.1 The Government has set a target to increase the contribution from renewable energy sourced electricity to 15% of the electricity consumed by 2010 and 40% by 2020 and in order to deliver these targets sets out to encourage the development of ocean energy technologies and to increase the uses of biomass anaerobic digestion and high efficiency biomass chp¹ .
- 1.2 It is estimated² that the 40%% target will require installed generating capacity of the order of 5800 MWs. The purpose of this document, subject to clause 1.4 below, is to add additional categories to the established REFIT support programme to ensure the quantitative target for 2020 can be achieved. The conditions applying to these additional categories are notified herein
- 1.3 REFIT will now also support the construction of renewable energy powered electricity in the categories of Anaerobic Digestion, high efficiency CHP, Ocean Energy (wave and tidal) and Offshore Wind. The form of the support is explained in section “3” of this document. Plants must be new plants neither built nor under construction on 1/6/2008. Projects must be built and operational by 2020. The support for any particular project cannot exceed 15 years and may not extend beyond 2030.
- 1.4 The Competition is subject to any clearances required from the Commission of the European Union and any consents, clearances or licenses which might be required from any other competent body. The Minister reserves the right to alter or amend any aspect of this Competition as a consequence of any directions, conditions or requirements of any such consents, clearances or licenses.
- 1.5 No applications for support under this Competition will be accepted after such date as the Minister may decide and notify on the website (currently, www.dcenr.ie) of the Department of Communications, Energy and Natural Resources (DCENR).
- 1.6 If an application is received in the Competition after 16.00 hours on a working day, or on a Saturday or Sunday or a public holiday, it shall be deemed to have been received at opening on the next working day.

2. DEFINITIONS AND INTERPRETATION.

- 2.1 For the purposes of these terms and conditions, the following expressions shall have the following meanings: -

¹ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

² CER Decision CER/08/2006.

“Anaerobic Digestion” and “AD” mean the product of the breakdown of organic waste by bacteria in an oxygen-free environment.

“Best New Entrant price” and “BNE” mean in respect of any period the “R-factor” determined by the Commission for Energy Regulation (CER) in accordance with its Decision in CER/08/236 of November 2008 entitled “Calculation of the R-factor in determining the Public Service Obligation Levy” including any amendments thereof. *For the avoidance of doubt it is confirmed that BNE historically was an estimate of average production costs of a new efficient entrant operating a new electricity generation plant efficiently. This calculation emerged prior to the SEM in a bilateral market relying on top-up and spill to balance but otherwise in the absence of open market wholesale electricity prices. The “R-factor is based among other things on open market prices. The reference to the R-factor as BNE is done to maintain consistency with the REFIT rules as previously published and clarified following the introduction of the “R factor”.*

“biomass” means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;

“high efficiency combined heat and power plant” and “HE-CHP” means electricity generating plants harnessing energy from biomass for the simultaneous production in one process of thermal energy and electrical energy where -

- i) in the case of cogeneration units of the types of pressure turbines, turbines with heat recovery, internal combustion engines, microturbines (meaning a co-generation unit with an installed capacity below 50 kWe), sterling engines and fuel cells shall have an overall annual energy efficiency capability of at least 75%,
- ii) in the case of cogeneration units of the types of combined cycle turbines with heat recovery and steam condensing extraction turbines, shall have an overall annual energy efficiency capability of at least 80% and ;
- iii) in the case of micro scale co-generation units and small scale cogeneration units (meaning cogeneration units with an installed capacity below 1 Mwe), capable of providing primary energy savings and in the case of larger co-generation units capable of providing savings of at least 10% compared with the references for separate production of heat and electricity calculated in accordance with Annex III of Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (OJ L52 of 21/02/2004) and hereafter, for the purpose of REFIT, is referred to as “Directive 2004/8/EC”.

A word or expression used in this definition shall have the same meaning in this definition as it has in Directive 2004/8/EC and any Regulation, Directive, Decision or Guidelines published by a Community Institution amending, elaborating or supplementing Directive 2004/8/EC, unless the context otherwise requires.

“connection offer” means,-

- a)* a grid connection offer issued by the transmission grid operator or the distribution grid operator of sufficient capacity to carry the capacity of the project submitted in the Competition and
- b)* a grid connection offer which the applicant considers is not of sufficient capacity to carry the project and against which he has, before the date of submission of the application, appealed to the CER and that connection offer has not been withdrawn and
- c)* confirmed access to a grid connection or grid connection offer, for an acceptable period determined by the Department after a REFIT application is submitted, which is available to another entity e.g. confirmed access to a grid connected test site planned by Sustainable Energy Ireland (SEI);

“Directive 2001/77/EC” means Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market, as amended;

“Directive 2009/28/EC” means Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

“eligible electricity” means electricity produced by a renewable energy plant accepted into the REFIT programme which is exported to the electricity grid and which is eligible among other things to contribute to a target addressed to Ireland in Directive 2009/28/EC.

“full planning permission” means, in the case of projects or parts of projects to be constructed on land a full grant (and not merely a decision to grant) of planning permission issued by the relevant planning authority (or, if it is the case, An Bord Pleanála) for the construction of the appropriate electricity generating plant at the site which has not expired where such permission is required or evidence that planning permission is not required. (for the avoidance of doubt it can be noted that in the case of offshore sites the corresponding provision is addressed in requirements for foreshore licenses and leases);

“licensed supplier” means an entity licensed to supply electricity in the State ;

“new electricity generation plant” means, electricity generating plant which was neither built nor under construction on 1/6/2008

“Ocean energy” means energy occurring off-shore from waves and tidal currents;

“Power Purchase Agreement” and “PPA” means a contractual agreement between an electricity generator and a licensed supplier obliging the latter to purchase the eligible electricity from a new renewable energy powered electricity generation plant selected in this Competition, at fixed prices

“PPA price” means the price paid under a PPA;

“reference price” means the price for a particular category of electricity set out in clause 5.1 for the purpose of calculating compensation for suppliers;

“renewable energy” means energy from renewable energy sources within the meaning of Directive 2001/77/EC and Directive 2009/28/EC;

“time deadline” means, as the context requires, any deadline set by or in accordance with these terms and conditions.

- 2.2 The Minister may, where he considers it appropriate to do so, request any information he deems necessary for the consideration of an application or to confirm to his satisfaction compliance by an applicant or application with the Competition notes and the Minister may exclude any application if any information requested in a letter warning of the possibility of such exclusion is not received within 21 days after being requested in such a letter.

3 NATURE OF THE SUPPORT.

- 3.1 Each applicant declared successful in the REFIT categories notified herein will receive a “letter of offer”. The “letter of offer” will confirm to any licensed electricity supplier that in return for entering into a PPA to purchase the eligible electricity from the proposed renewable energy powered plant, for up to 15 years, the supplier will, when these terms and conditions provide for it, be entitled to receive a REFIT payment, calculated in accordance with these terms and conditions
- 3.2 Payments will be calculated in accordance with clause 5 of these terms and conditions

4 FRAMEWORK OF THE COMPETITION - Underlying principles, Evidence of Competency to contribute to the target within a time limit.

Underlying principles.

- 4.1 The Competition is necessary to secure a target addressed to Ireland in Directive 2009/28/EC under reasonable assumptions and to encourage the development of ocean energy technologies and to increase the uses of biomass in an energy market. The Minister may, by a notice published on the website of the Department (currently, www.dcenr.ie), set quantitative targets for all or any category.
- 4.2 The Minister invites applications, in the form notified in this Document, for support for new renewable energy based electricity generating plant in accordance with these terms and conditions.
- 4.3 Nothing in these rules shall be interpreted to preclude a developer, subject to the Minister's prior approval, from changing turbines in a REFIT project without affecting the REFIT status of the application as first approved subject to the following conditions
- a) the project remains in the same category and the new turbines meet the conditions and requirements of REFIT,
 - b) the installed rating and maximum export capacity of the project does not exceed the capacity of that project as notified in the first approved application and
 - c) the forecast or predictable annual output from the new turbines does not increase significantly the annual output of the project achieved in preceding year unless this predicted increase is also approved by the Minister.
- 4.4 The law of Ireland shall be applicable to this Competition and the courts of Ireland shall have exclusive jurisdiction to deal with any dispute arising out of this Competition or about the interpretation or application of any of the terms and conditions of this Competition.

Evidence of Competency to contribute to the target within a time limit

4.5 A "letter of offer" will not be made in any case unless:

- (i) In the case of proposed onshore projects or parts of a project to be constructed onshore planning permission has been obtained for the construction and this is demonstrated to the Minister in the application or it is demonstrated that planning permission is not required in any individual case, and
- (ii) a connection offer has been made by the appropriate network operator to connect the project submitted or access to a connection is otherwise available to connect the project using, for example, a test facility provided for that purpose for a period of time and this is demonstrated to the satisfaction of the Minister in the application, and
- (iii) in the case of. Anaerobic Digestion and HE CHP projects,

- (a) evidence has been submitted of the availability of the qualifying fuel source for a reasonable period (or the raw material necessary to make it) and
 - (b) in the case of HE CHP plants the applicant has demonstrated that the project is capable of meeting the definition of HE CHP as defined herein.
- (iv) in the case of offshore projects evidence has been submitted that each proposed project in the ocean energy and offshore wind categories is the subject of a previously submitted foreshore lease application which was also the subject of a previous category of foreshore licence which was progressed or the applicant must demonstrate to the satisfaction of the Minister that the applicant has clear and full access to a site which is the subject of a foreshore lease *e.g.* has already secured a foreshore lease or, in the ocean energy category, has access to a test site developed by another entity *e.g.* access to any test site which may be developed by SEI.

5 REFIT PAYMENTS TO SUPPLIERS – Reference prices, Adjustments to reference prices, Calculation of reimbursements.

Reference prices.

- 5.1 The following shall be the reference prices for each category of electricity notified herein for the purpose of calculating compensation for suppliers-
- i. Anaerobic Digestion – 12 eurocents per kWh.
 - ii. HE CHP - 12 eurocents per kWh when the plant is operating in HE CHP mode. The reference price when the plant is not operating in HE CHP mode is the (adjusted) reference price for biomass categories notified in the REFIT rules already published adjusted in accordance with the rules therein up to 2025..
 - iii. Ocean Energy – 22 eurocents per kWh.
 - iv. Offshore wind – 14 eurocents per kWh.

Calculation of reimbursements.

- 5.2 In every case, the supplier shall be paid, for every kWh purchased under the PPA, 15% of the adjusted reference price, up to 2025, for large wind projects notified in the previously published REFIT rules.
- 5.3 If, in respect of any year, the BNE price is less than the reference price in clause 5.1 (i) the supplier shall be paid the difference between the two for every kWh purchased under the PPA.

5.4 If the PPA price is equal to, or greater than, the reference price for the category to which the electricity belongs as notified in 5.1 above the supplier shall be paid, for every kWh purchased under the PPA, the difference between the reference price for the category to which the electricity belongs and the reference price in clause 5.1 (i). or

If the PPA price is equal to, or greater than, the reference price for the category to which the electricity belongs as notified in 5.1 above the supplier shall be paid, for every kWh purchased under the PPA, the difference between the reference price for the category to which the electricity belongs and the BNE price

5.5 If the PPA price is less than the reference price for the category to which the electricity belongs as notified in 5.1 above then the supplier shall be paid, for every kWh purchased under the PPA, the difference between the PPA price and the reference price in clause 5.1 (i), (or the R Factor see table above) provided that the PPA price is greater than the reference price in clause 5.1 (i) .

5.6 The compensation will be payable for up to fifteen years commencing 1/6/2008

6 PROCEDURAL MATTERS

Applications, Delivery of Documents, Allocation of the limited support, Selection process, Withdrawal of Applications and Closure of REFIT reserve list/s.

Formal Applications

6.1 Interested parties will be required to submit an application consisting of-

- this Document properly endorsed - see clause 12 below,
- a fully completed application form – see Section II and
- all of the applicable attachments requested in this document.

Applications must be delivered under a sealed cover marked “REFIT application” in printed hard copy form (not electronically).

Delivery of Documents

6.2 Applications must be delivered to “Refit Application, Renewable Energy Division, Department of Communications, Energy and Natural Resources, 29/31 Adelaide Road, Dublin 2, Ireland.” Applications shall be accepted by post or directly by hand. Applications delivered by hand shall be accepted between 10.00hrs and 16.00 hrs local time on normal working days. Applications received by post or by hand on a Saturday or Sunday or a public holiday or after 16.00. hrs local time on a normal working day shall be deemed to have been received on the next working day. The Department's record of the date and time of receipt of each application shall be conclusive. An acknowledgement by the Department of receipt of an application shall be valid in any dispute only if it is in writing and stated thereon to have been issued by or on behalf of the “Renewable Energy Division, Department of Communications, Energy and Natural Resources”.

- 6.3 Applications will **NOT** be accepted in electronic form whether by e-mail or in electronic media.

Allocation of the limited support

- 6.4 The Minister may at his discretion at any time and by notice published on the Department's website impose a quantitative limit in any category or an overall limit across all categories.
- 6.5 Compliant applications received will be ranked for subsequent assessment on the basis of the earliest date application/s received or deemed received first on or after the commencement date. All applications received or deemed received on the same day shall be deemed received at the same time on that day.
- 6.6 If at any time the capacity of compliant applications received or deemed received on the same day is greater than the unallocated support remaining then the selection of the successful application(s) will be decided at the Minister's discretion -
- by the earliest forecast delivery date for a connection or access to a connection in the case of any project accessing a connection secured or managed by another entity, or,
 - by technology or category, or,
 - by lot.
- 6.7 Any non-compliant application, including any application received prior to the commencement date, shall be returned to the applicant for stated reasons. The date of receipt of any subsequent application for the same project shall be the date upon which the subsequent application is received or if appropriate shall be the subsequent date deemed received. Where in accordance with clause 2.3 clarification is sought from an applicant and on the basis of that clarification the Minister is satisfied the application was not compliant on the date received or deemed received that application shall be returned to the applicant. Any application which is the subject of a request for clarification from the Minister may be conditionally entered on a list of compliant applications and may be removed if the Minister subsequently determines on the basis of additional information or in the absence of adequate additional information that the application was not or is no longer compliant.
- 6.8 Subject to clause 6.6, if at any time the next proposed application to be selected for support would exceed the remaining unallocated support at that time, the Minister may, in his sole discretion, subject to any limitations arising from clause 1.4, increase the threshold in that category by the amount necessary to grant the application for the full amount applied for (but without being obliged to do so or without creating any legitimate expectation or promise of any kind). In the alternative, the Minister may request such compliant applicant to reduce the capacity bid to that of the remaining unallocated support. In such circumstances, if that applicant refuses or neglects to accede to such a request within 30 days of receipt of the request, the Minister will then be at liberty to

proceed to select the next ranked compliant applicant and this procedure will be repeated as often as may be necessary.

Selection process.

6.9 All compliant applications shall be ranked in date order, as described in clause 6.2, in a table of the type illustrated in table 1 following.

Illustrative table 1

Col. 1	Col. 2	Col. 3	Col. 4	Col 5
Entry no.	Legal entity	Capacity/ Technology	Date received	Ranking (if required)
1	ABC Limited	10 MW Offshore wind	1/1/2050	
2	DEF Limited	3 MW Ocean energy	1/1/2050	
3	JKL Limited	10 W HE/CHP	2/1/2050	

6.10 Any compliant applications submitted or on hand when or after the available support is fully allocated shall be entered in a reserve list listed in date order. All compliant applications remaining or received after the available support capacity is fully allocated at any time shall be ranked in the reserve list by date received or deemed received in a table of the type illustrated in table 2 following. If for whatever reason additional support capacity becomes available the allocation of support will be done in accordance with clause 6.5-6.8 as appropriate.

Illustrative Table 2

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5
Entry no.	Legal entity	Capacity/ Technology	Date received	Ranked, if applicable
4	GHI Limited	2 MWs Hydro	1/2/2050	1
5	NOP Limited	4 MWs Wind	1/2/2050	1
6	QRS Limited	2 MWs Other biomass	1/3/2050	2
7	TUV Limited	30 MWs wind	1/3/2050	2

Withdrawal of Applications

- 6.12 Any applicant may withdraw an application for any project accepted into REFIT which has not commenced production or which is on a reserve list by notifying such a decision in writing to the Minister. Subject to clause 8.11, this is without prejudice to any PPA arrangement or related undertakings agreed with any supplier regarding or within a PPA.

Closure of REFIT reserve list/s

- 6.12 The Minister may close or cease the reserve list by public notice to that effect on the Department's website (currently, www.dcenr.ie).

7 CONDITIONS OF OFFER

- 7.1 It shall be a condition of any letter of offer (conditional or otherwise) in this Competition that each recipient of an offer shall comply with the terms and conditions of the Competition and any other legal or regulatory requirements applicable to the project in question. In the case of any material breach of any of these terms or conditions, other than those in sub-clause 7A (7B contains other provisions for withdrawal of a letter of offer), or of any such legal or regulatory requirements, any letter of offer may be withdrawn.
- 7.2 The purpose of the obligations in sub-clause 7A following is to ensure that each successful applicant, in addition to the other terms and conditions and requirements, is obliged to make timely and reasonable progress to deliver its project promptly and to deal promptly with all matters under its control. Therefore, all applicants should note that the time limits stated in sub-clause 7A are strict and that, subject to clause 7.3 and 7.5, time will be of the essence and a letter of offer may, subject to clause 7.3 and 7.5, be withdrawn in the event of failure to comply with such a time limit.
- 7.3 If circumstances arise whereby the applicant will be unable to meet a time deadline due to circumstances beyond its control and if an extension to the time limit is required, then the applicant shall give prior written notification to the Minister setting out the reasons and the extended period which the applicant requires to meet the relevant obligation and the Minister may, if satisfied that:-
- (i) the circumstances stated have occurred, and
 - (ii) the reasons for the delay are outside the control of the applicant, and
 - (iii) do not arise due to the fault or neglect of the applicant, its servants or agents, and
 - (iv) that the time extension sought is reasonable, and
 - (v) that the obligation referred to can be reasonably shown to be achievable by the requested extended date,
- accede to the request to extend the time deadline limit (but the Minister shall not be obliged to do so and this discretionary power shall not give rise to any legitimate expectation or promise of any kind).

- 7.4 In respect of any approved extended where an extended deadline is not adhered to, the Minister may withdraw a letter of offer from an applicant who fails to meet it.
- 7.5 The Minister may, even where no applications for extensions of time limits have been received, publish, in the event of a delay in connections affecting, or likely to affect, all REFIT applicants or a category (which may be a category defined by type of project or by reference to some factor related to the likely impact of such a delay) of them, a notice extending, for all REFIT applicants or such a category, a specified deadline, or all deadlines, by a specified period of time or until a specified date. The Minister may extend such an extension as and when he considers it to be necessary.
- 7.6 If it appears to the Minister that there may be grounds for believing that an applicant is not proceeding with reasonable diligence in taking any of the steps necessary to ensure that the applicant's planned commissioning date is met then the Minister may send to the applicant a notice stating those grounds and requesting the applicant's observations within 28 days of receipt of the notice. If, after the applicant's observations have been considered, the Minister is of the opinion that the applicant is not proceeding with such reasonable diligence then the Minister may withdraw the letter of offer.

7.7 Table 3

7A – Conditions of offer	7B –Grounds of withdrawal

<p>Each recipient of a letter of offer shall:</p> <p>(a) within 5 working days of its receipt acknowledge receipt of the offer to the Department in writing;</p> <p>and</p> <p>(b) within 30 days of its receipt (excluding Saturdays Sundays and public holidays) execute a PPA with a licensed supplier and within 5 working days thereafter produce acceptable evidence to the Department that it has executed a PPA;</p>	<p>A letter of offer may be withdrawn at the Minister's discretion where an applicant:</p> <p>(a) fails to acknowledge receipt of a letter of offer to the Department within 10 days of its receipt;</p> <p>or</p> <p>(b) within 35 days of receiving a letter of offer (excluding Saturdays Sundays and public holidays) fails to execute a PPA with a licensed supplier or fails to produce acceptable evidence to the Department that it has executed a PPA;</p>
<p>and</p> <p>(c) within 90 days of its receipt make the necessary applications to the</p>	<p>Or</p> <p>(c) fails to provide to the Department within 95 days of its receipt evidence</p>

<p>Commission for Energy Regulation for statutory permission/s unless the necessary permissions have previously been obtained from CER or applied for;</p> <p>and</p> <p>(d) comply with any timelines or conditions fixed by a network operator to complete a connection except where an appeal (where there is a right of appeal) is brought against a decision of the network operator and it is not reasonable to expect compliance with the timeline or condition in question until the outcome of the appeal is known and such appeal is made as soon as maybe and is pursued with reasonable diligence;</p> <p>and</p> <p>(e) in the event of such an appeal, comply with any such timeline or condition as revised in accordance with the decision on the appeal, or, in a case in which the decision on the appeal contains no such revision, within a time to be fixed by the Minister</p> <p>and</p> <p>(f) within 30 days of the making of an Order under section 39 of the Electricity Regulation Act,1999, in respect of the PPA's referred to in these terms and conditions submit to DCENR a detailed time schedule consisting of reasonable deadlines for the conclusion of -</p> <ul style="list-style-type: none"> (i) financial close, meaning the appropriate funding arrangements are in place, and (ii) contracts for the completion of civil works, electrical works and purchase and installation of the generating plant. 	<p>that an application for the necessary statutory permission/s to the CER has been submitted or evidence it has already obtained the necessary statutory permission/s;</p> <p>or</p> <p>(d) fails to comply with any timeline or condition fixed by the network operator to complete a connection except where an appeal (where there is a right of appeal) is brought against a decision of the network operator and it is not reasonable to expect compliance with the timeline or condition in question until the outcome of the appeal is known and such appeal is made as soon as maybe and is pursued with reasonable diligence;</p> <p>or</p> <p>(e) in the event of such an appeal, fails to comply with any such timeline or condition as revised in accordance with the decision on the appeal, or, in a case in which the decision on the appeal contains no such revision, within a time to be fixed by the Minister</p> <p>or</p> <p>(f) within 35 days of the making of an Order under section 39 of the Electricity Regulation Act,1999, in respect of the PPA's referred to in these terms and conditions fails to submit to the Department the detailed time schedule referred to in 7A(f);</p>
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<p>and</p> <p>(g) promptly deliver to the Department or the CER or an electricity network operator or the deciding as authority on a foreshore lease application any additional information requested except where an appeal (where there is a right of appeal) is brought against such a request of the network operator and such appeal is made as soon as maybe and is pursued with reasonable diligence;</p> <p>or</p> <p>(h) in the event of such an appeal, promptly comply with any such request as revised in accordance with the decision on the appeal, or, in a case in which the decision on the appeal upholds the request, promptly deliver the information requested;</p>	<p>or</p> <p>(g) fails to provide to the Department or the CER or an electricity network operator or the deciding as authority on a foreshore lease application any additional information requested except where an appeal (where there is a right of appeal) is brought against such a request of the network operator and such appeal is made as soon as maybe and is pursued with reasonable diligence;</p> <p>or</p> <p>(h) in the event of such an appeal, fails to comply promptly with any such request as revised in accordance with the decision on the appeal, or, in a case in which the decision on the appeal upholds the request, promptly deliver the information requested;</p>
<p>and</p> <p>(ij) submit to the Minister a current Tax Clearance Certificate from the Revenue Commissioners or, in the case of a non-resident applicant, submit to the Minister such a Certificate or a statement of suitability from the Irish Revenue Commissioners;</p> <p>and</p> <p>(k) in the case of an applicant who has submitted an option on an appropriate interest in the site of the project satisfy the Minister that appropriate title has been obtained within a period notified by the Minister.</p>	<p>or</p> <p>(ij) fails to submit a current Tax Clearance Certificate or a statement of suitability from the Irish Revenue Commissioners as appropriate;</p> <p>or</p> <p>(k) in the case of an applicant who has submitted an option on an appropriate title in the site of the project within the period notified by the Minister fails to satisfy the Minister that appropriate title has been obtained.</p>

- 7.7 The Minister may agree to changes to turbine within any individual REFIT project subject to the following conditions -
- i) the change is notified to the Department in advance of the change;
 - ii) the change is agreed by the Minister;
 - iii) the changes are reasonable and otherwise compliant;
 - iv) the changes do not increase the installed capacity rating nor the maximum export capacity and
 - v) the change does not result in any significant increase in output as determined by the Minister without the approval of that increase also..

8 POWER PURCHASE AGREEMENT (CONTRACT).

- 8.1 The PPA shall state the purchasing terms, including the price and the minimum amount of electricity to be purchased, from the new electricity plant selected in this Competition and be for a period not exceeding fifteen years.
- 8.2 A PPA may be made subject to all or any of the following conditions- (a) the project securing a letter of offer under this Competition and (b) the making of an Order under section 39 of the Electricity Regulation Act,1999, in respect of the PPA's referred to in these terms and conditions and (c) that a PPA may be cancelled by the agreement of the project developer/generator and the supplier (in the event of such a cancellation, the letter of offer shall cease to confer any entitlement with effect from the date of cancellation of the PPA and, subject to clause 8.4, no renovation or revival of the PPA shall confer any such entitlement).
- 8.3 Any cancellation, or amendment affecting the purchasing terms or the duration, of a PPA, shall be notified by the REFIT applicant or its successor to the Department forthwith.
- 8.4 If a PPA which complies with these conditions is terminated due to circumstance beyond the control of the REFIT applicant including any successor thereto in any individual case the letter of offer may, on the application of the successful applicant and with the prior written consent of the Minister, be transferred to another licensed supplier if that supplier enters into a PPA which is compliant with these conditions for the remainder of the term.
- 8.5 Notwithstanding any provision in a PPA a REFIT applicant including any successor thereto may exit the REFIT programme by giving 12 months notice to the Department and the counterparty to the PPA in that case or at less than 12 months notice by agreement with the counterparty to the PPA. For the avoidance of doubt this condition is exclusive to the PPA but is without prejudice to any conditions applied or otherwise imposed by investors in any project.

9 ACCESS AND PERFORMANCE MONITORING.

It is a condition of this Competition that applicants who receive a letter of offer will be required to provide reasonable access to the generation site to DCENR, its employees, contractors, servants or agents (including Sustainable Energy Ireland, its employees, contractors, servants and agents) and to provide technical and generation information including statistical data to them for the purpose of monitoring and forming technical assessments of efficiency, reliability and productivity including overall performance.

10. CONSULTATIONS WITH THIRD PARTIES.

It is a condition of entry to this Competition that the applicant accepts that the Department may at its discretion correspond with the appropriate Regulatory Authority about related applications to construct or operate the electricity generating plant or permissions, consents or authorisations issued by it and to communicate with the appropriate network operator regarding the status of related connections to the network. Therefore, all applicants shall complete letters addressed to the market regulator and the network operators along the lines notified at Annex 1, Annex 2 and Annex 3 as part of the application in the Competition.

10 COSTS, EXPENSES AND LIABILITY

Costs and Expenses

- 11.1 The Department shall not be responsible or liable for any costs or expenses incurred in making any application in this Competition regardless of the conduct or outcome of the application.

Liability

- 11.2 Although every care has been taken in preparing this Document and equal care will be taken in conducting the process which arises out of this Competition, no representation, warranty or undertaking, express or implied, in respect of any error or misstatement by or on behalf of the Minister or any of his officers, employees, servants, advisers, contractors, or agents is or will be made or given to any applicant or to any other party, and no responsibility or liability will be accepted by the Minister or any of his officers, employees, servants, advisers or agents for the accuracy or completeness of this Document or of any other information, written or oral, which is made available to any applicant or to any other party or to the officers, employees, servants, advisers, contractors or agents of any such party. Any and all liability and/or loss of any nature whatsoever and howsoever arising (including liability and/or loss in any way resulting from the process which arises out of this document) is hereby expressly disclaimed by the Minister and his officers, employees, servants, advisers and agents to the fullest extent permitted by law.

12 ACKNOWLEDGEMENT OF NOTIFICATION AND ACCEPTANCE OF THESE TERMS AND CONDITIONS

I,(being a person duly authorised to complete the application in Section II of these notes) hereby acknowledge receipt and acceptance of the terms and conditions of the Competition

-----(*Signed*)

---/------/200- (*date*)

SECTION II

Annex 1

LETTER OF AUTHORISATION FOR RELEASE OF INFORMATION

Date

Commission for Energy Regulation The Exchange Belgard Square North Tallaght Dublin 24 Ireland	
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Dear

In consideration of acceptance by the Department of Communications, Energy and Natural Resources (DCENR) of our/my application to participate in a competition under the REFIT Programme and in compliance with the conditions of entry, we hereby authorise you to provide to DCENR such information as it may request relating to any application in which we may be involved (including any related transactions or procedures or on the state of progress in relation to such application) for an authorisation or licence/s for a project to construct a renewable energy based electricity generating station and /or to supply the output from a renewable energy based electricity generating station.

For and on behalf of Applicant

LETTER OF AUTHORISATION FOR RELEASE OF INFORMATION

Date

ESB Networks

Clanwilliam House,
Clanwilliam Place,
Dublin 2.

To whom it may concern,

In consideration of acceptance by the Department of Communications, Energy and Natural Resources (DCENR) of our/my application to participate in a competition under the REFIT Programme and in compliance with the conditions of entry, we hereby authorise ESB Networks and any legal successor providing the connection referenced below to provide to DCENR such information as it may request relating to any application in which we may be involved (including any related transactions or procedures or on the state of progress in relation to such application) for a connection between the Distribution Network and a renewable energy based electricity generating station -

- i)(here insert the project name)
- ii) at (here insert site identification details)
- iii) of(here insert project size by installed nameplate rating)
- iv) connection references(here insert connection identification details provided by ESB Networks .)

For and on behalf of Applicant

LETTER OF AUTHORISATION FOR RELEASE OF INFORMATION

Date

Eirgrid

The Oval,
160 Shelbourne Road,
Ballsbridge,
Dublin 4,
Ireland

To whom it may concern,

In consideration of acceptance by the Department of Communications, Energy and Natural Resources (DCENR) of our/my application to participate in a competition under the REFIT Programme and in compliance with the conditions of entry, we hereby authorise Eirgrid and any successor thereto providing the connection referenced below to provide to DCENR such information as it may request relating to any application in which we may be involved (including any related transactions or procedures or on the state of progress in relation to such application) for a connection between the Transmission Network and a renewable energy based electricity generating station -

- i)(here insert the project name)
- ii) at (here insert site identification details)
- iii) of(here insert project size by installed nameplate rating)
- iv) connection reference(here insert connection identification details.)

For and on behalf of Applicant

SECTION III

REFIT APPLICATION FORM

and Attachment

Application for an offer of support under a competitive process publicly notified as REFIT for the purpose of supplying electricity from a new renewable energy based electricity-generating plant.

This application should be completed by a person authorised by the applicant entity to do so.

<p>1. I, _____, (*1), being authorised by the entity identified in 2 below for this purpose hereby submit an application under a competitive process publicly notified as REFIT for the purpose of supporting the construction of new renewable energy based electricity generating plant under the terms and conditions of the Competition as set out in the information notes which are returned endorsed with my signature.</p> <p>2. This application is made on behalf of _____ (*2) trading as _____, (*2) having its offices at- _____, _____ (*2).</p> <p>3. This application is submitted in respect of a proposal to construct a new renewable energy based electricity-generating plant as detailed in the Attachment.</p>	<p>(*1) here insert in BLOCK CAPITALS the name of the individual making application on behalf of the entity identified in 2 below.</p> <p>*2) here insert in BLOCK CAPITALS the details requested i.e., name of legal entity, trading name (if applicable) and the address being the address to which all future correspondence from the DCMNR in regard to this application will be addressed.</p>
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4. It is accepted that this application will be processed and decided

subject to the following conditions.

- (a) The applicant agrees to be bound by the terms and conditions of this Competition as published.
- (b) This application shall be considered strictly on the basis of the information supplied in this application and the attachments hereto.
- (c) The information supplied is truthful and accurate.
- (d) No legitimate expectation or any other promise or contractual commitment is hereby created.
- (e) The time, expense and cost of the preparation of the application and its submission are at the sole expense of the applicant and are not recoverable.

Signed; _____.

being _____ (*3)

Date: ____/____/____.

5 CONTACT POINT (*4)

Phone _____

Fax _____

email _____

www _____

*3) here insert in BLOCK CAPITALS the authority to sign on behalf of the entity stated in 2. across e.g. secretary, director, partner, sole trader *etc.*

*4 Here insert in BLOCK CAPITALS contact information for future electronic Correspondence

Attachment

Detailed statement on a renewable energy project submitted under REFIT

<p>TECHNOLOGY>(*1)</p> <p>(a)-----</p> <p>(b)-----</p>	<p>*1 Here insert –</p> <p>(a) the renewable energy technology or category i.e., anaerobic digestion, (HE) biomass CHP, ocean energy (wave or tidal) and offshore wind and</p> <p>(b) overall plant size <i>i.e.</i> installed (nameplate) rating (the nominated capacity).</p>
<p>ADDITIONAL DATA ON anaerobic digestion and (HE) biomass CHP.</p> <p>CLASS (*2)</p> <p>-----</p> <p>-----</p> <p>FUELS (*3)</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>CONVERSION TECHNOLOGY (*4)</p> <p>-----</p> <p>-----</p> <p>-----</p>	<p>*2 here insert fuel source e.g. municipal waste, agricultural waste, harvested product by type or residue by type or landfill gas or other .</p> <p>*3 here insert fuel type consumed (e.g., waste, harvested produce, forestry residue, short rotation coppice, animal wastes, biogas from... or other).</p> <p>*4) e.g. pressure turbines, turbines with heat recovery, internal combustion engines, microturbines (meaning a co-generation unit with an installed capacity below 50 kWe), stirling engines, fuel cells or “other” specified.</p>

<p>ADDITIONAL DATA* ON PLANNED WIND PROJECTS.</p> <p>Specify:</p> <p>(i) size of each generating unit _____(kWe)</p> <p>(ii) number of units _____ and</p> <p>(iii) type (*5) of turbines or conversion units _____</p>	<p>*Note</p> <p>The “additional” data inserted here is for general information only. Applicants are bound by the overall plant size and technology category but are not bound by the information delivered here on turbine size or type.</p> <p>(*5) e.g. synchronous, asynchronous, fixed speed, variable speed.</p>
<p>SITE LOCATION (*6)</p> <p>-----,</p> <p>-----,</p> <p>-----.</p> <p>-----.</p> <p>Coordinates _____(N) and _____(E)- N.B. expressed to five digits.</p>	<p>*6) Here insert sufficient detail to identify the site, including mapping co-ordinates of the project to <u>five</u> digits, sufficient to identify the project site separately from any contiguous sites.</p>

Checklist of documents to be submitted in a REFIT Application

1. A copy of the full planning permission, (including planning reference number and name of the entity granting permission or evidence of exempted status where applicable) for the site and all other consents whether statutory or otherwise or in the case of an offshore project, evidence of the holding of a Foreshore Lease if it has been secured or a Foreshore Licence.
2. Evidence of a connection offer or access to a connection.
3. Evidence of title to the site and access to the site .
4. Letters in the form of Annex 1, Annex 2 and Annex 3 to this document, tailored to the particular application duly signed.
5. Evidence, where applicable in the biomass categories, which satisfies clause 4.5 (iii).
6. Evidence in the case of the HE CHP category how the high efficiency requirement will be met.
7. The REFIT terms and conditions endorsed at clause 12 and the completed REFIT application form.