



**Minutes of the REA Townhall:  
Electricity Generator Levy Update**

Thursday 12<sup>th</sup> January, 2023

13:00 – 14:30

Online

**Attendee List**

Please see the bottom of the minutes for the full attendee list.

**Agenda**

Agenda Item	Lead
1. Overview of the Electricity Generator Levy (EGL)	MS
2. REA Actions to Date	MS
3. Draft Legislation and Supplementary Technical Note – Notable Changes	MS
4. Member Discussion on Continuing Concerns	MS
5. Next Steps	MS

## Proceedings



Item	Minute	Action
1. Overview of the Electricity Generator Levy (EGL)	<p>The REA began by providing a very high-level overview of the EGL and the changes between the tax announced in the Autumn Statement and the detail in the Draft Legislation and Supplementary Technical Note.</p> <p>A Ministerial Statement was released alongside the Draft Legislation and Supplementary Technical Note. While not providing more information, the Ministerial Statement does provide an insight into the policy rationale of this tax.</p> <p>The REA noted the timetable for influencing the government on this tax and clarified that there is still time to amend the draft legislation. The REA is pushing for high-level policy changes and highlighting inconsistencies in the draft legislation, which can be amended before it is laid in Parliament in March/April.</p>	N/A
2. REA Actions to Date	<p>The REA engaged the Treasury by responding to its consultation, surveying members for the consultation response, releasing a briefing on the draft legislation, sent a briefing to Treasury on the REA's recommended changes to the draft legislation, and is seeking a meeting to discuss these changes. The REA would welcome members sending the issues that they have identified with the draft legislation and supplementary technical note to power@r-e-a.net.</p>	<p>If applicable, members to send identified issues with the draft legislation and supplementary technical note to the REA Policy Team.</p>
3. Draft Legislation and Supplementary Technical Note – Notable Changes	<p>The REA noted how there was still no reference to investment allowances in the Draft Legislation or Supplementary Technical Note that would allow companies to offset future investments against the levy, which is in place for oil and gas. The Treasury's position is that it is more complicated area to arrange the necessary tax law for the renewable sector than the oil and gas industry, but they are still considering what can be done to encourage future investment. The Ministerial Statement does reference considering capital allowances, indicating that they are thinking about options. The REA will continue to argue that the renewable energy industry is being treated unfairly compared to the oil &amp; gas industry.</p> <p>A welcome change is clarification on what in-scope generation meant. The supplementary technical note and legislation defines it as non-oil &amp; gas.</p>	<p>The REA to seek clarity on how energy storage will be defined within the draft legislation.</p>

The Treasury justified the reduction of total general threshold on the basis that they do not want people to play the market in relation to the 100GW threshold, and they believe that the requirement being set at 50GW would make this harder. The £10m threshold still applies, and both these thresholds are pro-rata'd across the year.

The Treasury has also agreed to index benchmark price of £75/MWh from April 2024 in line with the CPI in the preceding calendar year, but other thresholds remain static.

The REA made strong representations for low-carbon allowable costs, and the Treasury has built-in fuel costs into the tax's allowable costs. Generators will be able to provide receipts of fuel costs being above the historic price. This allowance applies across a group and allowances are not pro-rata'd. The REA has raised the issue and is seeking clarity on feedstock, which is being produced into a fuel, not being included in the draft legislation but was meant to be captured according to the supplementary technical note. The REA is also aware that allowance does not allow for negative prices, despite loss of gate fees, and we has suggested that the Treasury remove that statement. Transportation of fuel is also included but the draft legislation does not state how to calculate that cost, and the REA are asking for that calculation to be made explicit in the legislation.

One member asked about whether the fuel cost is calculated at the site or group level. The REA answered that the fuel cost is calculated per site, but the resulting allowance will feed into overall group liability. If you have the same type of fuel and more than one generating station within the group then you must use the same time period to derive the historic fuel cost value. The REA also mentioned that the electricity generated through the station is not the same as the electricity covered by the legislation, as it is electricity provided to the grid, and the REA are seeking clarity from the Treasury on this point.

Exceptions costs for revenue sharing arrangements is an issue that has been raised by landfill gas members, who use a third-party to generate electricity. Instead of paying a fixed price, they share the revenue with either the electricity revenue sales or a wholesale price. In this situation, the generator could be taxed on their income but would still be handing over money to the operator. The impact would be severe and unfair. The REA made a

	<p>strong argument to Treasury that this was analagous to the fuel costs as they had gone up in terms of electricity prices. The result is that, assuming for all the contractual arrangements, if you add up the money you are contractually obliged to hand over, you work out what you would provide at the benchmark price (75MWh), and you can claim the rest. This allowance only applies to the money handed over. The REA still would like further clarity on the step-by-step calculation, and would like to see inclusion of further exceptional costs eg chemical input costs, Financing costs etc. For interested members, the relevant clause is clause 7.</p> <p>One member asked whether this allownace applied to royalties paid on revenue to a landowner. The REA clarified that it only relates to acquiring the fuel used to generate electricity. If your royalty payment was the right to use this fuel, like in a landfill site, then this would be covered. If it was with a different technology where you just had a rental agreement to the site, such as wind or solar use, tied to the price of electricity then it is not in scope of this legislation.</p> <p>One member sought further clarity with an example of whether paying a landowner a 10% royalty, based on revenue, would be within scope. The REA clarified that it depended what the effect of that was. The relevant text is that 'arrangements are qualifying if they are arrangements under which fuel for generating electricity is acquired, and the requirement to make payments under the arrangement relates to that acquisition'. If your contractual arrangements amounted to acquiring landfill gas that the landowner owned in the first place and the result of this contractual arrangement is that you give the landowner money and you get to do stuff with the landfill gas, then you would have to see whether it fell within the levy.</p> <p>The REA also discussed that, within the technical note, other revenues, especially for support mechanism, would not be included in the EGL calculation. For FiT, both the guidance and legislation make reference to generation and export payments but that means that if you are not receiving an export tariff but you are exporting on commerical terms, then that is still subject to the levy. It is implied that these are excluded, but the REA want explicit exclusion of REGOs and ROCs revenue.</p>	
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For energy storage, it is made clear in the Supplementary Technical Note that energy storage will not be part of the levy and should not be counted. However, in the draft legislation, the exclusion is not made explicit, and the REA has concerns that energy storage could be brought in scope of the levy. The REA is seeking explicit exclusion. In co-location sites, the technical note states that the storage wouldn't be included but the electricity feeding into the battery would be. It is clear and included in the draft legislation, but we do not yet have guidance on the metering arrangements for the data that would need to be provided. HMRC have stated they will be issuing additional guidance.

Members and the REA agreed that it is not clear on whether the tax would apply in co-location sites where the electricity generated on-site was put into an energy storage device and then sold onto the grid. One member interpreted it as the levy applying in this scenario, but not applying when electricity was imported from the grid to an energy storage device and then exported back to the grid later. The REA agreed to seek further clarity on this issue. Another member asked whether embedded benefit (triad, RCRC, AAHEDC etc) and capacity market payments were excluded, and the REA clarified that the technical note states that the embedded benefit capacity market is excluded, but happy to pass on to Treasury again.

The REA discussed the administration of the levy. The expectation will be that members will complete the necessary forms for the levy alongside corporation tax rules. Corporation tax will make statements on the EGL under self-assessment and any penalties associated with the EGL are all aligned with Corporation Tax. An anti-avoidance position is included within the bill in relation to any actions that companies might use to avoid paying the levy.

One member asked about private wire arrangements for energy storage. In the case of Behind-The-Meter (BTM) generation that is not exported and not consumed on site, instead being kept in storage, does export from the storage still remain 'export from storage' and therefore exempt from the EGL? The member clarified with the example of a site having a landfill gas generator and a solar generator, charged a battery, and then exported to the grid from the battery, would that export be excluded.. REA confirmed the exemption appears to be trying to

	<p>capture importing electricity from the grid, storing it, and then exporting it to the grid.</p> <p>Another member struggled with the policy intent of exempting storage. The member felt that the intent was to time shift the use of energy to better integrate renewables into the grid, which is valuable for the transition versus uncontrolled generation from the generator where you are getting the price based upon whatever it is. If the first, then this exclusion is useful an encouragement to do storage.</p>	
4. Member Discussion – Ongoing Concerns	<p>The REA highlighted that it is looking to exclude late-stage commissioning, non-profitting assets from the levy. The concern is that when you have a newly commissioned site that is not yet operating at full capacity and at a profit but it is still receiving revenue, it could still be in scope of the levy. This is particularly relevant to new technologies.</p> <p>Other areas that the REA has focussed on are changes to policy needed (investment allowances, late-stage commissioning, and additional exceptional costs) and clarifications in legislation needed, which are:</p> <ul style="list-style-type: none"> <li>• Explicit exclusion of all energy storage technologies</li> <li>• Clarity on assessment of co-location generation</li> <li>• Explicit exclusion of REGO and ROC revenue</li> <li>• Consistency in 'Attributed generation' calculation between sections</li> <li>• Clarity on generation fuel transport costs</li> <li>• Tidying drafting of revenue sharing costs</li> <li>• Clarity on how developers can challenge levy if there is inconsistency between guidance and legislation.</li> </ul> <p>The REA asked whether these identified issues matched with how members have read the draft legislation and whether there are any other points in relation to the technical note or draft legislation.</p> <p>One member asked about the intention to apply the levy until April 2028. Their big concern is that some generators may experience the end of subsidy regimes, such as the end of ROCs schemes. This represents approximately a reduction of revenue in £60/MWh. The member believed that there was no scope in the draft legislation and technical guidance about the end of these subsidy regimes, and the EGL will continue to apply to those</p>	<p>REA to speak to Treasury about behavioural changes arising from the end of subsidy regimes.</p> <p>The REA to seek clarity from Treasury on how the levy interacts with fees.</p>

	<p>generators despite the drop in revenue. This omission feels like its outside of the general aim of levy, and the member would like to see an exclusion or acknowledgment of coming off the support mechanisms.</p> <p>The REA has raised coming off the ROs with the Treasury, but wanted clarity from the member given that ROC revenues are excluded from the levy calculation, and whether the member no longer receiving ROCs would impact what they are being charged on in terms of the levy. The member clarified that it would not change what you would be charged from the levy, but would change the behaviour of the company in making decisions on dispatch pre-ROC and dispatch post-ROC. The dispatch pre-ROC would take into account 60 MW/h, but dispatch post-ROC does not include that but does include the levy, which impacts behavioural decisions. From a security of supply and decarbonisation viewpoint, you might end up in a scenario where gas is incentivised to dispatch ahead where there is no ROC to impact that decision. REA to speak to Treasury about behavioural changes arising from the end of subsidy regimes.</p> <p>Another member was unsure about how the levy interacts with fees. For example, if a generator is paid market price, but pays a balancing fee of 5%, is the levy applied to 100% or 95%? The REA suggested their reading of the technical note implies the levy will apply to 95% in the example given by the member. The REA will request further guidance from the Treasury on this point.</p> <p>The REA outlined their next steps, which is that they are speaking to the Treasury team. The REA noted that it is being led by Treasury and not BEIS, which means that this levy is being done in parallel to other energy measures, such as voluntary CfDs and REMA. The development of the EGL should not prevent development in other areas. There has been reference from the Treasury team about doing future roundtables, and the REA is expecting further engagement opportunities.</p> <p>A representative from the REA's external affairs team mentioned that it would be helpful to have any further evidence of the impact of this levy on companies, as it could be used for press work. The REA has a meeting with Graham Stuart on the 23<sup>rd</sup> Jan, which can be used to make representations to Treasury. Once these options have been exhausted, the team will look to make</p>	
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	<p>amendments if necessary. Case studies and evidence are vital for this part.</p> <p>One member asked about the current status of voluntary CfDs. We have received the original Energy Prices Bill and voluntary CfDs were not mentioned within this Bill, and the member wanted to know whether they are still in development. The REA provided the context that the Government has been trying to work out how to get better price signals in the market, especially in renewables. Voluntary CfDs were originally explored, but Jacob Rees-Mogg decided that voluntary CfDs could not be brought in quick enough to make an impact on energy bills this winter. However, voluntary CfDs could still be a mechanism for providing better price signals. Voluntary CfDs are still being explored and could be brought in this year or next for contracting arrangements, but they are no longer being considered to address the energy crisis.</p> <p>One member asked whether, if a plant has a CfD in place already, the output from the plant would be exempt. If CfD only applies to half the output of biogenic content, would 100% be exempt or partially exempt? The REA clarified that revenues from non-CfD generation would still be captured by the levy, which is made clear in the draft legislation.</p>	
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### Summary list of actions

Minute No.	Items/Description	Action by
2	If applicable, members to send identified issues with the draft legislation and supplementary technical note to the REA Policy Team.	Members
3	The REA to seek clarity on how energy storage will be defined within the draft legislation.	REA
4	The REA to speak to Treasury about behavioural changes arising from the end of subsidy regimes.	REA
4	The REA to seek clarity from Treasury on how the levy interacts with fees.	REA
4	If willing, members to provide the REA's public affairs team with further evidence of how the levy will impact their business.	Members



## Attendee List

### Present

Adam Fisher (MGT Teesside Ltd)  
 Alan Richards (Enfinium Limited)  
 Andrew Carter (AFRY Management Consulting Limited)  
 Andrew Lam (Tesla Inc)  
 Andrew Leach (Renewable Power Systems Ltd)  
 Anju Sanahi (MGT Teesside Ltd)  
 Anthony Englund (Energy Developments (UK) Ltd)  
 Carrie Allen (Enfinium Limited)  
 Cathrin Stadler (Centrica)  
 Charles Hardcastle (Carter Jonas)  
 Courtney Blain (Severn Trent Green Power Ltd)  
 Daniel Kinash (New Forest Energy Limited)  
 Dave Broadbent (Centrica)  
 David McKee (Bio Capital Limited)  
 David Rice (CLP Envirogas Ltd)  
 Ed Mountney (Foresight Group)  
 Emma Lowe (EY (Ernst & Young LLP))  
 Ewan Gorford (Iona Capital Ltd)  
 Farryad Ishaq (Severn Trent Green Power Ltd)  
 Fiona Matthews (Hawkins Wright Ltd)  
 Glyn Lenton (Transport for London)  
 Greg Williams (Bioenergy Infrastructure Limited)  
 Gregory Dix (Savills (UK) Ltd)  
 Imran Hussain (Foresight Group)  
 James Barwick (Wyke Farms Ltd)  
 Jamie Lawton (CLP Envirogas Ltd)  
 Jennifer Payne (TFL)  
 Joe Hardy (Foresight Group)  
 John Lewis (Entrust Environmental)  
 Mark Dawbar (Valencia Waste Management Limited)  
 Mark Knights (Juvo Energy Ltd))  
 Mary Czulowski (Bio Capital Limited)  
 Mike Guy (Viridis Energy (Norgen) Ltd),  
 Nick Provost (Balance Power Projects Ltd)  
 Oliver Latter (Veolia Environmental Services Plc)  
 Phil Dennis (Centrica)  
 Richard Gow (Drax Power Ltd)  
 Richard Skelton (Entrust Environmental)  
 Robert Kuo (Foresight Group)  
 Robin Lane (Gravitricity Ltd)  
 Rory Budworth (Eversheds Sutherland)  
 Roxanne Suratgar (Fichtner Consulting Engineers Ltd)  
 Samuel Pina (DRD Partnerships)  
 Sarah O'Donnell (Transport for London)  
 Stuart Markham (Energy Developments (UK) Ltd)



Vijay Shinde (Siemens Energy)  
Viran De Silva (BDO Services Limited)  
Will Llewellyn (Red Kite Management Ltd)  
Amy MacConnachie (REA)  
Frank Gordon (REA)  
Jack Abbott (REA)  
Jordan Dilworth (REA)  
Lindsey Barnett (REA)  
Mark Sommerfeld (REA)  
Megan Warrender (REA)  
Pablo John (REA)  
Paul Thompson (REA)  
Priscilla Aroean (REA)  
Stan Fielding (REA)