

Main findings from 21st January

Discussion with DG CLIMA officials on EU ETS

Background and context for discussion

As you may know, there has been uncertainty within the UK as to whether data centres are covered under EU ETS (European Emissions Trading Scheme). As EU ETS is aimed at large scope 1 emitters and therefore only covers fuels that are burned (oil, coal etc), one could be forgiven for thinking that data centres would not be troubled by this legislation. However, facilities with standby power provisioning of 7MW and above could be caught under EU ETS, depending on the exact characteristics of the generator array. This is because EU ETS obligations are defined by generating **capacity** not by **emissions**.

Although implementation should be identical across the EU we understood that the EU ETS has been interpreted differently across Europe: in some countries standby generation for the purposes of emergency supply only is explicitly excluded. In other countries it is included but the national regulator is not interested in identifying data centres as potential participants. In the UK standby power is explicitly included.

EU ETS is a cap and trade scheme and participants have to buy carbon allowances in order to be able to burn fuels on participating sites. It is relatively cheap to comply with in terms of purchasing carbon allowances because data centre scope 1 emissions are very small and the current carbon price is very low. However, compliance is a real misery for participants because of the way in which the scheme insists on exact auditing of the most miniscule emissions. So while the cost of carbon allowances is only likely to be a few hundred pounds per site, the administration costs may easily approach £10,000 for that site.

So we sought to establish whether the UK interpretation reflected the policy intention (we already believed that it was correct in terms of the letter of the law) and to establish whether the UK might be indulging in a bit of lily gilding/gold plating.

On Tuesday 21st Jan we had a useful meeting with the deputy head of EUETS implementation who was helpful and candid. Here are the main findings from that discussion.

- UK Govt (DECC) have interpreted the legislation correctly. It does cover standby generation for the purposes of emergency supply.
- DECC's interpretation does (unfortunately) reflect the policy intention.
- The real reason for the inclusion of standby power is to shut down loopholes previously exploited by large and cynical emitters with powerful and aggressive lobbies. As a sector for which the scheme was not intended we are therefore the "collateral" from previous conflicts / system abuses.
- The law is very unlikely to change before Phase IV (2020) but there will be a revision phase before then.
- The Commission team will provide some guidance and explanatory documentation to ensure that the legislation is clear.
- The Commission team was genuinely concerned by the discrepancies between cost of allowances and cost of administration for data centres. As a result they will take this case to their Compliance Committee. This Committee is tasked with trying to find practical solutions to this kind of problem. They may seek further evidence and technical help from us here. Obviously we'll cooperate fully.

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- Excepting any suggestions that emerge from the Compliance Committee, scope for wriggle room is really confined to one area: whether sites can implement a system that prevents both sources of power being used simultaneously. This will have to be addressed at the technical level. We will therefore be asking you for input and technical representation. **If you have the technical capability to contribute to this discussion then please get in touch.**
- Companies engaging in STOR will continue to be obliged under the scheme because the purpose of STOR is (simplistically!) to use both sources of power concurrently.
- They have alerted us to a simplified reporting and monitoring route for organisations that missed the opt-out. This may already be being implemented but we will follow this up with the Environment Agency and report back to you.
- There has been a suggestion made that participating in EUETS will take a site out of CRC. The Commission think that this is wishful thinking but they couldn't confirm. DECC's view is that they will not subject *energy* to multiple schemes but this undertaking does not extend to *sites*. EUETS would only remove scope 1 emissions which are miniscule, leaving electricity subject to domestic regulation. It is worth following up because it depends upon how boundaries are set within sites at the national level. **There have been further developments on this issue, please contact us for details.**
- The Commission team is not familiar with the data centre sector so we have supplied them with relevant briefing materials.
- This process is going to take some time. If you are obliged under EU ETS then you should start the registration process.

Contact: Emma.fryer@techuk.org