Note 01d: EUETS, CRC and CCA and, er, data centres

April 2015

1 CRC and EUETS

Those of you with sites that are captured by EUETS will recall the discussions we had in early 2014 about the potential exclusion from CRC of gas and electricity supplied to those sites. This related only to Phase II of CRC and was the result of the simplification measures brought in: the policy intention was clearly to limit the regulatory burden to one scheme per site, but this was not reflected in the implementation which focused on “installation” rather than “site”. An ETS installation may just refer to the gensets, not necessarily the whole site. At the time, advice from the EA was at best ambiguous and at worst contradictory - depending on whether you asked the CRC or ETS helpdesks! The devil was truly in the detail.

The EA issued an important clarification on 8th October 2014, in the community email. The key phrase is reproduced below and the full text is pasted in overleaf:

“To provide clarity and simplification we have adopted an interpretation so that for the purposes of CRC Phase 2 qualification and reporting you do not need to include gas or electricity supplies to the sites where there are EU ETS installations. This approach excludes these energy supplies to all of the activities on the site where there is an EU ETS installation, even if some of the activities are not explicitly listed within the permit for the EU ETS installation”.

Implications for enterprise operators

This is of significant importance to operators who are currently ineligible for the Climate Change Agreement for Data Centres but who have sites captured under ETS. This is because it provides a route out of CRC by exempting energy to those sites from the CRC scheme. The CCA route is not currently available to enterprise data centre operators so this development is of most interest to them. It is unlikely that this change will exempt enterprise operators from CRC altogether because their other activities will ensure they remain above the participation threshold, but it will make a big difference to their CRC costs because of course it will pick off the biggest sites.

Implications for CCA participants

If your sites are eligible for the CCA then technically you have a choice of routes (this choice relates only to CCA not EUETS which is not optional). Participation in the CCA excludes energy covered by the CCA from CRC from the point of Assent (when you sign your Underlying Agreement). Unlike EUETS participation the CCA also entitles that energy up to a 90% rebate on CCL. So if you buy normal power or you intend to buy it in future then the CCA continues to be a no-brainer.

If you buy only green power and intend to continue to buy only green power and therefore don’t pay CCL then the benefit you get from the CCA is limited to CRC and your Finance Director may start asking you why you have sites participating in the CCA and having to go through the faff of applying and meeting targets when you can get automatic CRC exemption because they are in EU ETS. Here are some considerations.

1 Legal certainty

- CRC is not a stable policy tool: the law relating to CRC has been changed every year since its inception with repeated adjustments and revisions. That means that the legal certainty of any development is effectively
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limited to a year. The CCA by comparison should provide much longer term legal certainty for participants. EU ETS sites still get CRC exemption whether or not they are in the CCA so it is not an either/or and being in the CCA provides “belt and braces” in the event of a further change in legislation. The CCA is not the kind of policy tool you can hop in and out of at a moment’s notice.

- Government policy is increasingly focused on understanding where energy is going, who is using it and how. If the result of this change is that a large amount of electricity that was accounted for (through CRC or CCA) is now unaccountable, there may be policy push-back. This would be understandable given the pressures on generating capacity.

- Some more cynical observers have commented that this development provides a very strong carrot for ETS participation for data centres and will “flush out” sites that are obliged but to date have been non-compliant. We couldn’t possibly comment on that!

2 Reputation

- The CCA was awarded because we made the case that it would be an effective tool for improving energy stewardship in the data centre sector. By participating, companies are making an explicit commitment to improve their efficiency. This is good for the environment, for the sector’s reputation and for individual corporate CSR obligations and has already been reflected in a number of corporate communications.

- The measures required under the CCA are explicitly linked to best practice tools like the EU Code of Conduct for Data Centres and the Green Grid and can be part of a route to ISO14001 and/or ISO50001.

- Energy going through the CCA is scrupulously accounted for and, as a result, the way that energy is used within the sector will be much more transparent both at sector level and at a more granular level within facilities. From the perspective of an industry association bearing the scars of four years of CCA negotiations, the better informed we are about energy use at sector level the better we can represent you to government.

3 Taking individual sites out of the CCA - Unbubbling

- Most data centre companies will have ‘bubbled’ EUETS and non EUETS sites together. There will be inevitable complexities in trying to unbubble individual sites from the target unit (TU).

4 Costs associated with the CCA

- The CCA involves some costs that you need to take into account:
  - You are paying a registration fee for those sites for the CCA
    - A one-off fee of £450 for the application process and
    - An annual fee of £715 or £885 depending on the size of your site.
  - You have also had to go through the application process and that will incur internal resource and in some cases some consultancy.
  - In the unlikely event that you fail your target you will have to buy out some carbon.
- Of course the administration costs associated with EUETS are much higher but you don’t have a choice about these. You are either obliged or you are not - whereas the CCA is optional.

Implications for Policy Dialogue

There are of course implications for our policy dialogue relating to EUETS: we have made representations to the EA, BIS, DECC and the Commission regarding the dysfunctional nature of EUETS when applied to data centres – primarily because of the disproportional administration costs, often running into tens of thousands of pounds, compared to the cost of buying allowances which, because sites are responsible for minimal scope 1 emissions, may just be a few
hundred Euros. This is a reflection of the very idiosyncratic way that data centres use power – almost exclusively electricity but with full back up capability. This uniqueness now works in the sector’s favour – at least for those operators who cannot take advantage of the CCA. As a result there are now good reasons why, in the interests of the sector, we may choose to relax our stance on EUETS. We will be seeking views on this.

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**Phase 2 CRC Participant Update** 8 October 2014

**Exclusion of gas and electricity supplies to sites with EU ETS installations**

The information below only relates to participants who have permitted EU ETS installations.

Some of you may be aware of an interpretation question relating to the definition of an EU Emissions Trading System (EU ETS) installation for CRC purposes. This definition determines the inclusion or exclusion of energy supplies to EU ETS installations in Phase 2 of the CRC scheme.

To provide clarity and simplification we have adopted an interpretation so that for the purposes of CRC Phase 2 qualification and reporting you do not need to include gas or electricity supplies to the sites where there are EU ETS installations. This approach excludes energy supplies to all of the activities on the site where there is an EU ETS installation, even if some of the activities are not explicitly listed within the permit for the EU ETS installation.

If you have registered for Phase 2 of the CRC but now think, as a result of this interpretation, that your organisation fell below the energy consumption threshold to qualify for the phase, please contact the CRC helpdesk: crchelp@environment-agency.gov.uk

**Further information**

EUETS is beyond the obligations of the CCA technical helpdesk (techUK@slrconsulting.com) though if your query is restricted to implications for you CCA application they may be able to advise – for instance on issues around unbubbling. Please contact emma.fryer@techuk.org or, if you have one, your energy consultancy. We will be monitoring developments in this area so please keep us posted if you have anything to report back.