

EVERSHEDS
SUTHERLAND



Impact of RESS 2 Terms and Conditions on Bidding Strategies

Eversheds Sutherland

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Eversheds Sutherland - About us

- International Law Firm - 74 offices in 35 countries around the world
- An Experienced Local Team of Lawyers - we have developed, financed, bought or sold about 35% of all operational energy projects on the island of Ireland
- Supplemented by a Strong Team of International Experts
- What Sets Us Apart -
 - Our ability to provide one team of lawyers for cross-jurisdictional projects
 - Our depth of experience in the newer technologies being deployed in the energy sector - solar, offshore wind, battery storage, hydrogen, interconnection

RESS Overview

- Renewable Electricity Support Scheme designed to support investment in renewable energy and incentivise project delivery to contribute to Ireland's ambition of up to 80% renewable electricity by 2030
- RESS is funded through the PSO levy
- Replacement scheme to REFIT
- State aid approval received in 2020 for RESS out to 2025
- RESS auctions will be held at intervals throughout the lifetime of the scheme
- RESS 2 is the second onshore subsidy scheme under the RESS (more auctions scheduled up to 2025)
- RESS 2 design similar to RESS 1

RESS 2 Subsidy Support

- Structured as a 2-way floating feed in premium (FIP)
- Support Payments
 - Payable to Supplier when Market Reference Price exceeds Strike Price
- Difference Payments
 - Payable from Supplier when Strike Price exceeds Market Reference Price
- Projects can receive Support from the later of Commercial Operation or 1 July 2023 until 31 December 2039 (subject to FM extension)
- RESS 2 Support calculated based on forecasts and then annual reconciliation by Regulatory Authority
- Strike Price is not indexed
- No Support when the DAM price is negative

RESS 2 Auction

- Auction administered by the TSO
- Maximum volume of 3500 GWh available
- Two Preference Categories
 - Community Preference Category and All Projects Preference Category
- Eligibility Requirements
 - Eligible Technology (onshore wind, solar, hybrids, hydro, waste to energy, biomass, biogas)
 - DEQ of less / equal to 600GWh yr
 - New Project, Planning, Grid, Financeable, Site Control
- Qualification Process to determine eligibility
- Qualified Applicants submit their Offer into the auction
- Auction run using winner selection rules under RESS 2 T&Cs
- Awards issued to Successful Applicants

RESS 2 Auction Dates

Process ⁱ	Event	Date & Time
Info	Publish RESS 2 Auction Timetable	Fri 29 October 2021 17:00
Info	Qualification Information Pack Publication Date	Tue 23 November 2021 10:00
Qualification	Qualification Application Opening Date	Tue 7 December 2021 10:00
Qualification	Qualification Application Closing Date	Thu 13 January 2022 17:00
Qualification	Bid Bond Posting Date	Thu 13 January 2022 17:00
Qualification	Provisional Qualification Decision date	Fri 4 March 2022 17:00
Qualification	Application for Review Closing Date	Tue 8 March 2022 17:00
Qualification	Final Withdrawal Date	Tue 22 March 2022 17:00
Qualification	Application for Review Decision Date	Tue 22 March 2022 17:00
Qualification	Qualification Decisions Submission Date	Tue 29 March 2022 17:00
Qualification	Notice of Dissatisfaction by Participants Date	Tue 29 March 2022 17:00
Qualification	Final Qualification Decisions Date	Thu 14 April 2022 17:00
Auction	Auction Information Pack Publication Date	Mon 25 April 2022 17:00
Auction	Auction Submission Opening Date	Mon 2 May 2022 10:00
Auction	Auction Submission Deadline Date	Mon 9 May 2022 12:00
Auction	Auction Completion Date	Tue 10 May 2022 17:00
Auction	Provisional Auction Results Date	Tue 17 May 2022 17:00
Auction	Notice of Dissatisfaction by Participants Date	Mon 23 May 2022 17:00
Post Auction	Final Auction Results Date	Tue 14 June 2022 17:00
Post Auction	Notice of Award Date	Tue 21 June 2022 17:00

Obligations on Successful Applicants

- Must sign Implementation Agreement and post Performance Security by 'Implementation Agreement and Performance Security Return Date' (*specified in Notice of Award*)
 - Otherwise Award will be revoked and TSO entitled to draw down on Bid Bond and no Letter of Offer
- Implementation Agreement Milestones
 - Signed Grid Connection Agreement
 - Declaration of funding in place
 - Second Stage Payment to TSO
 - Commercial Operation
- Consequences for failure to meet milestones under IA
- Comply with RESS 2 T&Cs
- Set up Community Benefit Fund prior to Commercial Operation
- Letter of Offer obligations

Differences between RESS 1 and RESS 2

- Increase in maximum volume
- Eligible Technologies
- No solar-specific preference category
- Increase in Bid Bond and Performance Security amounts
- Financial Questionnaire
- Change in ownership structure of Community-Led Project

Future RESS Auctions

RESS Future Auction Schedule

Auction Type	Indicative Auction Volume (GWh)	Indicative Auction Dates	Indicative Auction Commercial Operation Dates
Onshore RESS 2	1,000-3,500	Q2 2022	2024
Offshore RESS 1	7,500-10,000	Q4 2022	2027
Onshore RESS 3	2,000-5,500	Q2 2023	2025
Offshore RESS 2	15,000-25,000	2024-2025	2029
Onshore RESS 4	1,000-5,000	2024	2026

Reasons why some RESS 1 Projects will not be built

- Pricing risk underestimated
- Construction inflation
- Sale of project and consolidation
- Sale of project and rebid?
- Others? - observations welcomed

Things to be wary of - Point 1

- Meaning of “financeable”
- *“expressions of interests or indications from investors or funders that they will provide the funding required”*
- Director’s Declaration
- All landholdings held including wayleaves?

Things to be wary of - Point 2

- Combining projects acquired
- Who is the RESS applicant?
- Are all the assets in the correct vehicle?

Things to be wary of - Point 3

- Prohibition on sales?
- Must disclose a list of entities with whom
 - (i) pricing information has been disclosed and/or
 - (ii) “commercial discussions have commenced”
- Put & Call Option Agreements?

Things to be wary of - Point 4

- Buying a RESS 1 project but wanting to participate in RESS 2
- Before signing the Implementation Agreement
- Eligibility for RESS 2?

Things to be wary of - Point 5

- Buying a RESS 1 project but wanting to Participate in RESS 2
- After signing the Implementation Agreement
- Grid or planning “relied upon” by a RESS 1 project
- Declining State Aid and paying sum due under Performance Security?

Questions

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