

DRD PARTNERSHIP

Press Release

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WIND FIRM TO SUE CHANCELLOR OVER TAX RAID ON RENEWABLES

NEW LEVY “WILL HAMMER” EFFORTS TO CUT CARBON;

SPARES OIL AND GAS PROFITS

Legal action to stop ‘a smash and grab raid’ on renewable energy has been signalled today by one of the country’s leading wind energy producers.

Community Windpower – a £2bn investor in over 1.5GW of UK wind energy – has told Ministers it will sue in a bid to block the new Electricity Generator Levy, which comes into force on January 1st.

The new levy sees the taxman raid earnings made by the UK’s vital renewable energy sector, while treating more favourably the huge profits made by oil and gas as a result of soaring energy costs.

Community Windpower has instructed top London law firm Mishcon de Reya and leading barristers David Blundell KC and Yaaser Vanderman of Landmark Chambers to pursue the case. The firm has written to government lawyers warning them of impending legal action should they press ahead with the levy, details of which were snuck out by the Government just before Christmas.

Legal submissions call the levy “unfairly disproportionate, discriminatory and adverse to the Government's Net Zero Strategy”, citing conflicts with a wide range of existing obligations on Ministers, including laws requiring the Government to cut carbon emissions and to promote alternative energy sources.

Lawyers now expect to prepare proceedings against the Government early in the New Year, with a view to initiating proceedings immediately following the Budget on 15th March, which provides the Chancellor of the Exchequer with an off-ramp for the policy. Even though the levy is intended to apply from 1st January, Ministers will need to enact legislation in the wake of the Budget to give it statutory force. Critics see this window as an opportunity for the Government to see sense on the policy.

Commenting on the urgent legal moves, Rod Wood, Managing Director of Community Windpower, said:

“Voters will find it frankly bizarre that the Government is bringing in a levy that will deliberately penalise renewable energy firms like ours, while at the same time leaving the gargantuan profits of the fossil fuel electricity generator sectors untouched.

“It’s a smash and grab raid on renewables that will pull the rug out from under the UK’s efforts to cut carbon, cut consumer bills and bring on energy security. This is especially the case given that new research and analysis from the UK’s renewable energy and nuclear trade associations demonstrates that over half of Britain’s electricity demand was met by low carbon power generated over the period from October to December, saving consumers an estimated £5.7 billion by avoiding the need for gas imports.”.

“This measure not only leaves Ministers’ green credentials in shreds, it will also suck hundreds of millions of pounds out of investment in green energy, hammering renewable industries and costing high quality jobs.”

Alexander Rhodes, Partner at Mishcon de Reya, said:

“The way this levy has been designed is completely at odds with the Government’s own stated objectives to transition the UK to a net zero economy and develop a secure supply of clean energy.

“This levy cuts across those ambitions, contrary to the Government’s own legislated goals and legal responsibilities. Community Windpower should not have to go to court to force the Government to take its environmental responsibilities seriously”.

Mr Wood added:

“Legal action is a last resort, but the levy proposals quietly slipped out ahead of Christmas are worse than we feared.

“Despite forceful representations made directly to Government over the past two months, Ministers have remained immune to reason.

“The levy proposals are at loggerheads with the Government’s obligation to cut carbon emissions, abide by fair subsidy rules and foster investor confidence.

“We are now left with no option but to seek the court's intervention”.

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Notes to Editors

1. About Community Windpower:

Community Windpower is one of Britain’s leading renewables businesses. As an onshore wind investor, it has over 1.5GW of windfarms built, under construction or in development across the UK. It has been operating since 2001 to develop renewable energy sources to help combat the threat of climate change, and to date it has invested over £500 million, with plans to increase this to £2 billion by 2025.

Community Windpower has initiated and invested £1m in a new Energy Fund to provide financial assistance to families and residents, particularly those with health issues, hardship and in need, in East Lothian over this winter. Advice Direct Scotland is administering the East Lothian Energy Fund with support from East Lothian Council. The scheme will run until 31st March 2023, or until funds have been exhausted. The £1 million fund has been solely funded by Community Windpower and the Government should be encouraging all energy generators to support consumers in most need. More information can be found at [Communityadvice](#).

2. About the Electricity Generator Levy

The levy is a 45% charge on exceptional receipts generated from the production of wholesale electricity. 'Exceptional receipts' are defined as wholesale electricity sold at an average price in excess of £75 per MWh over an accounting period, and the levy is limited to generators whose in-scope generation output of electricity exceeds 50GWh across a period of a year. The levy will apply to exceptional receipts exceeding £10 million in an accounting period.

Generators of electricity have received increased revenues because of the recent rise in the price in natural gas, and so the Government has designed the levy to help pay for much needed measures to support households and businesses with the rising costs of living. The levy is to apply from 1 January 2023 until 31 March 2028.

Community Windpower agrees that a levy is an appropriate structure by which to raise funds to help pay for these measures. The issue is in the design and application of the levy, which does not go nearly far enough to capture everyone in the electricity market who are making super profits.

In particular, coal, oil and gas electricity generators are out of the levy's scope, despite earning supernormal profits – another sign that the Government is incentivising fossil fuel generators whilst penalising and restricting investment and economic growth within the vital renewable sector. Those businesses' operating models also run counter to the UK's net zero ambitions. If the Government seriously wants to raise revenue to help pay for household and businesses' support, it would capture everyone operating in the market fairly. The same is true for the unexplained decision to only hit the larger generators, while allowing smaller ones to avoid the scope of the levy.

3. Rod Wood, Community Windpower's Managing Director, is available for print and broadcast interview.

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