Reaction

on the Draft Commission Decision on NER300

as sent to the Member States

Brussels, 17th December 2009 – The European renewable energy industry takes this opportunity to react to the Commission's draft Decision on the New Entrants Reserve 300 million allowances (NER300)[1], as well as the position taken by Germany in a discussion paper[2]. Elements of both proposals should be combined for an effective solution.

Summary:

I. **A coherent European-wide demonstration programme**
II. **Simple and transparent project selection, with no limits on the number of projects per country**
III. **Member States co-finance for 'relevant cost' should be possible but not mandatory**
IV. **Upfront finance with a claw-back clause**
V. **Call topics should be well-defined and discussed with the stakeholders**
VI. **Timing is crucial: Priority for innovative RES in the first call**
VII. **Clear requirements on environmental integrity and knowledge sharing for CO_2 storage**

[1] European Commission: *Draft Commission Decision laying down criteria and measures for the financing of commercial demonstration projects that aim at the environmental safe capture and geological storage of CO_2 as well as demonstration projects of innovative renewable energy technologies under the scheme for greenhouse gas emission allowance trading within the Community established by Directive 2003/87/EC of the European Parliament and of the Council.* December 2009.

[2] Discussion Paper by Germany: *NER300 – A way forward for a compromise*. November 2009.

I. A coherent European-wide demonstration programme

The European renewable energy industry would like to express support for the idea of the European Commission taking ultimate responsibility for deciding which projects to award NER300 funding to.

The ultimate goal of Art. 10a(8) of the revised Emissions Trading Scheme (ETS)[3] is to establish a coherent European-wide demonstration programme co-financing a technically and geographically balanced portfolio of technologies that are not yet commercially viable. A Member State-controlled selection process would reduce NER300 to the provision already contained in Art. 10(3) of Directive 2009/29/EC for putting auctioning revenue (perhaps from as many as 5000 million allowances) towards measures to support innovative renewable energy technologies and CCS. The NER300 project selection process has to guarantee that the overall European interest is prioritised.

II. Simple and transparent project selection, with no limits on the number of projects per country

The draft Commission Decision puts forward a byzantine selection procedure in which innovative nature, geographic balance, Member State operating aid, Member State investment aid, Member State favour and European Investment Bank (EIB) agreement must all be evaluated and/or coordinated by developers.

EREC recognises the constraint in Art 10a (8) of the revised ETS to support projects "via the Member States" and the nature of the funding (EUAs are property of the MS) as the principal source of this complexity, but thinks that more can be done to create a fair selection process that makes reasonable demands of project developers while being transparent and comprehensible.

The Commission´s draft Decision interprets the requirement of Art. 10a(8) of Directive 2009/29/EC of "geographically balanced locations"[4] to mean no more than two NER300 projects may be funded within one Member State.[5]
EREC believes that this definition is arbitrary and should be relaxed in order to reduce a lot of the work that developers will otherwise have to do both in researching which kinds of project each Member State is interested in supporting, and in familiarising themselves with alternative territories if their favourite choice(s) of jurisdiction are unavailable.

[3] Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 *amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community*. June 2009.
[4] Ibid. Art. 10a(8), subparagraph 2.
[5] Art. 8(4) of draft Commission Decision on NER300.

The geographic balance constraint, in its current form, militates against the "technological diversity" consideration because it will likely prevent some of the RES projects from ever finding a home.

Innovative renewable energy projects will in many cases be international projects put together with technology from various countries by a team drawn from across Europe specifically for the purpose. "Geographic balance" should focus less fixedly on the territory of installation but rather on ensuring that as many EU countries as possible benefit from the capital expenditure on the project.

III. Member States co-finance for 'relevant cost' should be possible but not mandatory

Art 2(3) of the draft Commission Decision imposes an obligation on Member States to provide matching investment aid for every euro of monetised NER300 EUAs they grant to a project. The European renewable energy industry believes that this requirement would certainly decrease rather than increase the ability of NER300 to fund projects. Hence, this constraint should be removed. If necessary, NER300 should be able to provide 100% of the allowable public contribution to 'relevant costs' (which Recital 20 of Directive 2009/29/EC limits at 50%).

IV. Upfront finance with a claw-back clause

Art 11(5) of the Commission´s draft Decision outlines a mechanism for NER300 funds to be spent 'up-front' on projects by Member States providing that they reimburse the EIB (responsible for monetising NER300 EUAs) if the project fails to deliver. The European renewable energy industry very much welcomes this approach.

However, the impact assessment accompanying the draft Commission Decision[6] draws attention to some difficulties in using the Risk Sharing Finance Facility (RSFF) for underwriting NER300 contributions to projects.[7] EREC supports the Commission´s view that the EC contribution to the RSFF can be used to compensate the NER if a project underperforms. However, it remains unclear whether the RSFF, which is available to a variety of technology sectors, has sufficient resources to cover the demands that will be made of it.

EREC therefore considers changes must be made to the RSFF in time for the first NER300 call for proposals, taking advantage of the review of both the FP7 and the RSFF in 2010. The aim must be to offer NER300 funding combined with RSFF support as an integrated, streamlined financing package to all the project developers who require the funding.

[6] European Commission: *Communication from the Commission. Impact assessment accompanying the Commission Decision*. December 2009.
[7] Ibid. Page 34.

V. Call topics should be well-defined and discussed with the stakeholders

EREC welcomes the fact that the current list of topics qualifying as demonstrations of innovative technology are tightly defined. This makes it unlikely that excessive numbers of proposals are elicited (more than about 3 or 4 per topic). However, some technologies will need to be further specified in the call, notably Photovoltaic (where, incidentally, crystalline silicon technologies still hold out a very great potential for further innovation – their exclusion from the list was a mistake).

The proposal of Germany to open all RES categories to any kind of proposal, with the onus on the proposer to explain why it is innovative, risks making many feel disappointed and frustrated when their proposals are rejected. There are important renewable energy technologies topics that EREC considers to be missing from the list, but the most cost-efficient way for the renewable energy industry to secure NER300 funding is to press the case for particular, well-defined topics with the EC.

We agree with the Commission´s position that an amendment to the Decision and its Annexes for the 2013 call will be needed.

VI. Timing is crucial: Priority for innovative renewable energy projects in the first call

In its impact assessment, the Commission seems keen to give the impression that innovative renewable energy projects should be the focus of the second call rather than the first:

> *This could be particularly relevant for renewables, where there may be technologies which are not currently mature but which could benefit from an award in 2013. In any case the [June 2008] European Council conclusions [on a deadline by when up to 12 CCS demo plants should be running] applied only to CCS and not to renewables.* [8]

and

> *For renewables […], it would be preferable to wait longer within the constraints of the 2015 deadline for availability of allowances, so as to enable the maximum number of technologies to come to maturity.* [9]

The impact assessment accompanying the draft Commission Decision attributes this impression, at least partly, to the Member States, hinting that RES will become the instrument by which geographical balance is addressed:

[8] Ibid. Page 18.
[9] Ibid. Page 18.

> *During consultation, several Member States argued that the funds explicitly reserved for a second call should be substantial, given that (a) certain technologies may be in a less good position to take advantage of the first call (particularly RES technologies) and (b) since the second call is the principal mechanism effecting geographical distribution […].*[10]

The European renewable energy industry assures the Member States and the Commission of our intention to submit high-quality, 'shovel-ready' projects for the first call, and that our expectation is to receive funding for them. Both RES and CCS projects will play a part in enabling geographic balance.

Indeed, some of the innovative renewable energy projects in the Annex are already quite advanced and actively searching for finance. In this economic climate, developers welcome any additional source of finance they can find. Delays in the implementation of the NER300 and in the launch of the calls could mean that NER300 money is not available when it is most needed. Hence, grant agreements should be signed between the MS/EIB/EC and the project developers as soon as possible.

VII. Clear requirements on environmental integrity and knowledge sharing for CO_2 storage

The requirements set out in Annex II are welcome. However, EREC remains concerned that storage issues are not appropriately considered in the draft Decision. While renewable energy projects always avoid CO_2, CCS projects need to ensure 100% of the stored CO_2 remains in the ground. Therefore, additional information on storage should be included: how much of the captured CO_2 is actually stored, behaviour of the reservoir, comprehensive leakage monitoring. An addition should be made to point D of Annex II to require that data on the residual CO_2 emissions of CCS project should be made public (not only data on stored emissions).

Finally, EREC trusts that EU Member States and the European Commission will listen to the renewable energy industry´s voice and will take the above considerations into account. We would be happy to work together with Member States and the Commission to further improve the draft Decision on NER300.

EREC, the European Renewable Energy Council, is the umbrella organisation of the major European renewable energy industry, trade and research associations active in the field of photovoltaics, small hydropower, solar thermal, bioenergy, ocean & marine, geothermal, wind energy, solar thermal electricity and biofuels. It represents an industry with an annual turnover of more than 45 billion € and more than 450.000 employees.

[10] Ibid. Page 18.