Devonshires solicitors

DBULLETIN

Managing and Procuring Your Energy Infrastructure Efficiently

"There is a clear need to think very carefully about the ongoing strategy for the management and operation of renewable energy assets and revenues on a portfolio basis."

Energy is no longer just a service charge issue. With the raft of emerging policies and legislative developments encompassing the likes of renewables, carbon reduction and the creation of a Green Bank, energy has been thrust towards the top of the political and economic agenda.

More significantly, the political and legislative framework has already produced significant change, most notably in the way in which energy is being (or is to be) delivered in much of our housing stock, whether new or old. Combined heat and power and bio-mass are no longer the preserve of large industrial and municipal installations but are increasingly popular amongst new housing developments. District heating schemes are experiencing a renaissance whilst the use of solar panels has at last begun to expand beyond the swimming pool arena, courtesy of fiscal stimuli provided by various tariffs. It will not be long before SMART meters become the norm, together with various other technologies aimed at reducing emissions as part of challenge to fulfil the carbon reduction commitment.

Not surprisingly, the private sector is quickly gearing itself up to take advantage of the supply side opportunities that the changing landscape offers. European suppliers of wind turbines and solar panels are diverting their attentions to our shores, whilst Energy Service Companies ("ESCOs") are springing up throughout the country, often backed by one of the large utility providers.

Whether Registered Providers are quite so quick off the mark is a moot point. On the positive side, many are now waking up to the Feed in Tariffs that are available in respect of certain renewable solutions and the fiscal incentives that they offer. Procurement groups are beginning to explore different structures of delivery and have recognised that Registered Providers can play a role beyond that of mere landlord and can make a financial, as well as a sustainable, return from investment in renewable technology. Many Registered Providers are also investing heavily in more sustainable forms of construction and housing products that will dramatically reduce energy bills.

However, one area perhaps where Registered Providers are not so well advanced is in how many of their new energy initiatives are to be managed. In many cases, despite the considerable investment in new technology and infrastructure, little thought has been given to how this investment will be managed and maximised going forward and indeed across large portfolios. A default option is often to hand over control to the local estate management company who, in many cases, may have little experience of managing and operating the new and specialist technology and infrastructure involved. In other cases, specialist energy management companies may be engaged, but on a piecemeal, one off development basis that ignores potential synergy with neighbouring properties and the wider portfolio of stock.

Instead, the operation and management of such initiatives and investments requires a more professional and strategic approach that takes into account a Provider's wider portfolio of stock. This will require consideration of issues such as:

- Procurement
- Outsourcing/insourcing
- Developing in-house/procuring external specialist expertise
- Measuring performance

Managing and Procuring Your Energy Infrastructure Efficiently

- Engaging/establishing ESCOs
- Optimising available funding
- Generating capital receipts where possible
- Changing technology
- Renewals, replacement and lifecycle

Further, by way of example, if the service is to be contracted out, a Provider will need to address at least the following:

- Extent of stock which the contract will cover (Part of existing? All of existing? Future?)
- Types of installations that the contract will cover (One particular type? All?)
- Procurement procedure to be used (Negotiated? Competitive Dialogue? Restricted?)
- Type of contract to be procured (Single contractor framework? Multi contractor framework?)
- Length of contract (Long term to attract private sector capital investment? Short term to create flexibility?)

These are just a few considerations that illustrate the need to think very carefully about the ongoing strategy for the management and operation of renewable energy assets and revenues across a portfolio of stock. There are plenty of emerging organisations in the private sector (such as British Gas Community Energy) who are developing the specialisms and expertise to optimise these areas of operation and management (and, indeed, capital investment). It would seem sensible to either tap into this expertise or begin to develop it in-house before the sector is confronted by a situation where its energy efficiency infrastructure is installed but the arrangements to optimise its performance are still on the drawing board.

For more information on how Devonshires' Energy and Climate Change Group can support you in developing a strategy for managing your energy assets, please contact Paul Buckland or Caroline Mostowfi.

Paul Buckland, Partner
d: 020 7880 4346
paul.buckland@devonshires.co.uk

Caroline Mostowfi, Solicitor
d: 020 7065 1855
caroline.mostowfi@devonshires.co.uk