

**The Renewable Energy Consumer Code
Appeal Panel Hearing**

In the matter of

i-Power Systems Ltd

held on

26 January, 2015

at

1 Wood Street, London

Panel Members:

Keith Richards (Chair),

Jim Thornycroft,

Alan Wilson.

In attendance:

Andrew McIlwraith (panel secretary).

Renewable Energy Consumer Code (“RECC”) representation:

Lorraine Haskell, RECC,

Sian Morrissey, RECC.

i-Power Systems Ltd representation:

None.

Observer

Michael Cusick

Appeal to be heard

The Appeal Panel convened to hear the appeal of i-Power Systems Ltd (“the Member”) against the determination of the Non-Compliance Panel hearing held on 10 December, 2014.

Under Bye-Law 9 of the Renewable Energy Consumer Code (“the Code”), a Member can appeal the decision of the Non-Compliance Panel on the grounds that the decision or part thereof was irrational, based on a fundamental error of fact or on a clear misinterpretation of the Code or the RECC Bye-Laws, or a serious procedural irregularity, or if the penalty/remedial steps or Conditions imposed are not in reasonable proportion to the findings made by the Non-Compliance Panel.

The Member was not represented at the Appeal hearing. The Chairman of the Appeal Panel invited the Regulator’s representative to explain the process by which the Member had been notified of the hearing. Ms Haskell for the Regulator produced receipts as evidence that the Member had been made aware of the time and location of the hearing, by post and by email.

Approximately 45 minutes after the due start time of the hearing, the Panel Secretary phoned the Member and spoke to [redacted] the company’s head of administration operations and procedures to ask whether the Member was attending the hearing. [redacted] said she would call back within a few minutes, but no return phone call was received.

The chairman asked the Regulator’s representatives whether they wished to make an application concerning the procedure of the hearing. Ms Morrissey said the Regulator wished the hearing to go ahead today and did not wish to seek an adjournment.

The Panel decided to proceed with the hearing in the absence of the Member, without inviting any further submissions from the Regulator.

Evidence before the Panel

The Panel had before it all the evidence provided to the Non-Compliance Panel at its hearing of 10 December 2014, together with the Non-Compliance Panel’s determination, a transcript of the hearing, and the Member’s statement of appeal of 23 December 2014.

Appeal Panel’s decision

In reaching its decision the Panel considered the points of Appeal as contained in the Member’s statement of appeal.

1. The Panel upholds the Non Compliance Panel’s determination that a period of Enhanced Monitoring would not achieve the cultural change required of the Member. The Panel acknowledges that there was a change in leadership of the company in May 2014, but notes that there have been further consumer complaints since then relating to potentially serious Code breaches. This, together with a lack of evidence relating to the Member’s Eworks management information system, means that the Panel is not convinced that the change in the culture of the company is sufficient to remove the risk of consumer harm.
2. Despite the Member’s complaints about the audit process, the Member has failed to provide the evidence to demonstrate that its management information system had changed the company’s culture and how it functions as a business. The Member had itself admitted during the Non Compliance

hearing that producing printed information from the system was straightforward. Despite this, the Panel noted that the member has failed to produce this evidence at any stage, to either the Non Compliance Panel or the audit committee, or as part of this Appeal.

3. Whether or not the company has made efforts over the past six months to improve its compliance with the Code, there is inadequate evidence to demonstrate that the changes have been sufficient to prevent further breaches. The company has already been subject to further monitoring, as an outcome of the Non Compliance Panel hearing in June 2014, but breaches have continued.
4. The Panel notes that the Non Compliance Panel stated in its determination that the Financial Conduct Authority (FCA) Rules were not relevant to its decision. In its verbal evidence to the Non Compliance Panel hearing, the Member accepted that sales visits could last longer than two hours. However, the Member offered no explanation of how it complied with the Code by recording the circumstances.

In the absence of any new facts or arguments disclosed by the Member in support of the appeal, the Appeal Panel therefore could find no grounds for deciding that the penalty was irrational or disproportionate.

The Appeal Panel therefore decided to dismiss the Member's appeal and uphold the decision of the Non-Compliance Panel.

Costs

There were no applications for costs

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