

Energy UK Response to the Scottish Government's Consultation – Fees Charged for Applications Under the Electricity Act 1989

25th May 2018

Introduction

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests £12bn annually, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

Our members also provide and produce energy in Scotland, including developing, managing and maintaining hydro, onshore wind, offshore wind, nuclear power plants, and solar farms.

Energy UK and our members welcome the opportunity to provide this submission into the Scottish Government's consultation into the future of fees charged for applications under the Electricity Act (1989). This response has been developed in conjunction with our Planning Sub-Committee. We believe that it is important that the Scottish Government consults on the detail of future planning legislation with a wide range of stakeholders to ensure that it delivers the best outcomes for the environment, the public and UK industry. To this end, we would urge the Scottish Government to re-consult on fees once the further detail requested below has been published.

We would be happy to discuss any of the points made in further detail with the Scottish Government or any other interested party if this is considered to be beneficial.

For more detail about the questions posed within the consultation document please refer to the responses submitted by our members. Should you have any questions regarding this consultation response then please do not hesitate to get in touch via the details below.

I can confirm that this response may be published on the Scottish Government's website.

Yours sincerely,

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Energy UK Views on Proposed Changes to Fees

The energy industry continues to invest billions of pounds to ensure that the lights stay on and that we can decarbonise at the least cost whilst also driving many of the changes that the Scottish Government's world-leading, ambitious climate change and energy policies have set-out. Our members share in the ambition of the Scottish Government to ensure that Scotland remains as attractive as possible to investing in the energy industry. Scotland's unique geography already makes it one of the most attractive places in the world to invest in low-carbon generation and to-date its planning policies have enabled this. It is essential that changes to the planning laws retain that ambition and outcome.

Proposed Increases in Planning Fees

Energy UK and our members share concerns that the proposed scale of increase in fees for consents could become material in considering the viability of projects and may prevent some developers taking projects to completion. We are also concerned that the scale of the fees for the distribution and transmission networks will also impact on generators as network operators are bound to pass the costs onto their customers. Again this will have an impact on the viability of some projects and on consumers as this significant uplift in costs will be passed through to the end-user.

The fee increase proposals as set out in Table 1 pages 13 and 14 of 'Fees charged for application under the Electricity Act 1989' represent potential increases on current fees of between 27% and 1983%. In Annex 1 we have detailed the percentage increase for each charge levied. Such a policy change not only has the potential to disincentivise future development but could also have a significant and adverse impact on consumers' bills. Furthermore, our members have raised concerns that the Scottish Government is additionally reviewing community benefit and shared community ownership. It has been indicated that the intention is to increase the onus on developers despite the current lack of a route-to-market. Whilst our members welcome mutually beneficial opportunities to work more closely with communities the proposed uplift in fees and potential increased social obligations is likely to disincentivise new projects.

The Scottish Government's priority to recover planning costs is understood by the industry and we want to work with the Government to ensure costs are recovered and remain transparent. We understand that following an audit of cost and activity on consents, the Scottish Government believes that it is only recovering around a tenth of what it actually costs to process consents. The Scottish Government has stated that it loses £172,000 on each 50-100MW application and £210,000 on each 100-200MW project. In the interests of transparency and appropriate scrutiny we would appreciate early publication of the full data behind these calculations and further discussion with industry. We are particularly concerned about the timing for introducing these increased fees.

Given that Scottish Government has yet to share its evidence, for the scale of the fees proposed, with industry and wider stakeholder, we would like to propose, and expect a second round of consultation on these proposals, once stakeholders have had the opportunity to examine the cost data from Scottish Government.

Energy UK is supportive of a charging regime which is cost reflective, value for money and does not create a burden for other stakeholders including the Scottish Government.

It is the view of Energy UK members that if there is to be an increase in consent fees, then this should be accompanied by an improved level of service. Such improvements should include the timeliness of responses to applications, particularly a set decision date for each consent application as well as increased efforts to mitigate the use of Public Inquiries.

Despite the recent publication of Scotland's Energy Strategy and the Onshore Wind Policy Statement, we feel this policy cuts across the ambitious objectives set out in these important policy documents. We are also concerned that this consultation is being carried out in isolation of other planning related work that the Scottish Government is undertaking, including the passage of the Planning (Scotland) Bill, the forthcoming review of the National Planning Framework 4 (NPF) and SPP. The potential outcome of the

proposed increase in fees will not serve the Government well in achieving its ambitious climate change targets, as the fees increase could jeopardise projects being completed.

We are strongly of the opinion that a second round of consultation is required following publication of the Scottish Government's data which will allow for greater transparency about the methodology for the increases and to enable further dialogue between the sector and the Scottish Government. Any new fee structure will need to work in favour of climate change targets, rather than against them and mitigate any impact to consumer bills. We would be keen to discuss this further with you and would like to offer to host a roundtable with some of our members and your team to form part of an open dialogue, creating a planning regime and charging framework which works for the consumer, industry and Government alike.

Phasing of Application Fees

Regarding question three, we and our members support the phasing of application fees in the manner proposed, but question whether charging 25% of the equivalent application fee for Environmental Impact Assessment (EIA) scoping is cost reflective. The EIA Scoping fee should be based on the actual time/resource spent by the Scottish Government on preparing an EIA Scoping Opinion. If, after EIA Scoping, a project is redesigned to be less than 50MW, will the £58,500 come off the balance of the planning fee then due to the LPA? Or will part of the EIA Scoping fee be refunded if a developer subsequently decides not to progress the scheme at all? The fee levels proposed for EIA Scoping are likely to put some developers off seeking an EIA Scoping Opinion (which is not a mandatory process) and could be detrimental to the overall quality of subsequent submissions.

Applications for Variations of Consent

Variations of consents, by their very nature, will be less complex than the process of gaining the original consent and it is not clear what the justification is for applying the same fee to an S36C variation as has been applied to the original S36 consent. The Scottish Government should consider introducing different fee structures for 'non-material variations' (a lower fixed fee than the original S36/37 fixed fee) and 'material variations' (a higher fixed fee than 'non-material' variations, but still lower than the equivalent original S36/37 fixed fee). As they have partly done in the supplementary information, the Scottish Government should provide further information on the tasks/hours spent on S36/37 variations to justify their proposed fees.

The Impact of Fees and Planning Policy on Onshore Wind Repowering

Given the significant build-out of existing onshore wind projects and those in development we believe that the broader planning regime, including the fees charged for applications, should be fit-for-purpose not only for new-build sites but for those looking to repower existing assets which are coming to the end of their operational life-span. As repowering will result in a continuation of the same kind of project on the same site, we suggest that any application is considered as one which proposes an 'existing use' and therefore has a presumption in favour of consent. A repowering application would still require to be assessed on a range of environmental considerations, but the scope of work and the associated fees charged should be significantly reduced due to knowledge gained during assessments for the original site and data gathered during its operation.

We would suggest that consideration is given to how to streamline the process for repowering, to allow a timely and efficient transition between the old and new project, ensuring the opportunity for reusing any existing infrastructure is maximised. This could include:

- A comparison of the new proposal against the existing site's original 'planning envelope'.
- Use of pre and post-construction monitoring to assess the impact of a new project.
- The scope of visual and landscape impact assessment required given the changes in turbine size and/or re-siting within the site.
- Opportunities to use existing grid connections and infrastructure where practical, and redesign for greater capacity where required.
- Reduced impact on aviation and radar and/or continued utilisation of existing mitigation techniques deployed for the original scheme.

- Use of existing noise conditions and obligations, where there is no history of complaints.
- Use of environmental and ecological information compiled for the original project application, construction and from post-construction monitoring as relevant base-line data for the new application.

Annex 1: Table of Proposed Fee Tariffs Including Percentage Increase

Subject matter of application	Current application fee	Proposed payment due at screening	Proposed payment due at scoping	Proposed total section 36 or 37 application fee	Proposed total section 36C variation fee	Change for Variation
Screening opinion in relation to an anticipated application for consent under section 36, 36C or 37 for a development (including any of the following)	N/A	£1,000	N/A	N/A	N/A	N/A
Overhead line with a total distance not exceeding 15 km which is not EIA development	£180	N/A	N/A	£2,100	N/A	N/A
Overhead line with a total distance not exceeding 15 km which is EIA development	£2,400	N/A	£6,000	£25,500	N/A	N/A
Overhead line with a total distance						
(a) exceeding 15 km but not exceeding 50 km	£18,000	N/A	£43,750	£175,000	N/A	N/A
(b) exceeding 50 km but not exceeding 100 km	£30,000	N/A	£80,500	£322,000	N/A	N/A
(c) exceeding 100 km	£60,000	N/A	£146,250	£585,000	N/A	N/A
Construction or construction and operation of a generating station, which is not EIA development, of capacity—						
(a) not exceeding 10 MW	£6,000	N/A	N/A	£7,600	£7,600	27%
(b) exceeding 10 MW but not exceeding 50 MW	£18,000	N/A	N/A	£37,800	£37,800	110%
(c) exceeding 50 MW but not exceeding 100 MW	£18,000	N/A	N/A	£125,000	£125,000	594%
(d) exceeding 100 MW but not exceeding 200 MW	£24,000	N/A	N/A	£167,500	£167,500	598%
(e) exceeding 200 MW but not exceeding 500 MW	£36,000	N/A	N/A	£250,000	£250,000	594%
(f) exceeding 500 MW	£60,000	N/A	N/A	£417,000	£417,000	595%
Construction or construction and operation of a generating station, which is EIA development, of capacity—						

(a) not exceeding 10 MW	£6,000	N/A	£2,700	£10,800	£10,800	80%
(b) exceeding 10 MW but not exceeding 50 MW	£18,000	N/A	£13,500	£54,000	£54,000	200%
(c) exceeding 50 MW but not exceeding 100 MW	£18,000	N/A	£47,500	£190,000	£190,000	956%
(d) exceeding 100 MW but not exceeding 200 MW	£24,000	N/A	£58,500	£234,000	£234,000	875%
(e) exceeding 200 MW but not exceeding 500 MW	£36,000	N/A	£87,500	£350,000	£350,000	872%
(f) exceeding 500 MW	£60,000	N/A	£135,000	£540,000	£540,000	800%
Extension or extension and operation of a generating station, which is not EIA development, resulting in increase in capacity—						
(a) not exceeding 10 MW	£6,000	N/A	N/A	£7,600	£7,600	27%
(b) exceeding 10 MW but not exceeding 50 MW	£18,000	N/A	N/A	£37,800	£37,800	110%
(c) exceeding 50 MW but not exceeding 100 MW	£18,000	N/A	N/A	£125,000	£125,000	594%
(d) exceeding 100 MW but not exceeding 200 MW	£24,000	N/A	N/A	£167,500	£167,500	598%
(e) exceeding 200 MW but not exceeding 500 MW	£36,000	N/A	N/A	£250,000	£250,000	594%
(f) exceeding 500 MW	£60,000	N/A	N/A	£417,000	£417,000	595%
Extension or extension and operation of a generating station, which is EIA development, resulting in increase in capacity—						
(a) not exceeding 10 MW	£6,000	N/A	£2,025	£8,100	£8,100	35%
(b) exceeding 10 MW but not exceeding 50 MW	£18,000	N/A	£10,125	£40,500	£40,500	125%
(b) exceeding 50 MW but not exceeding 100 MW	£18,000	N/A	£47,500	£190,000	£190,000	956%
(c) exceeding 100 MW but not exceeding 200 MW	£24,000	N/A	£58,500	£234,000	£234,000	875%
(d) exceeding 200 MW but not exceeding 500 MW	£36,000	N/A	£87,500	£350,000	£350,000	872%
(e) exceeding 500 MW	£60,000	N/A	£135,000	£540,000	£540,000	800%
Extension of a nuclear generating station by retrofitting of emission control equipment	£6,000	N/A	£31,250	£125,000	£125,000	1983%
Any other extension of a generating station	£1,200	N/A	£6,250	£25,000	£25,000	1983%
Operation only or change to manner of operation of a generating station	£1,200	N/A	£6,250	£25,000	£25,000	1983%