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William Black
Deputy Director for Onshore Electricity,
Strategic Co-ordination and Energy Consents
Energy Consents Unit
5 Atlantic Quay, 150 Broomielaw
Glasgow, G2 8LU

17 June 2022

Dear Mr Black,

Response to: Proposed changes to fees charged for applications under the Electricity Act 1989 Consultation – 30 March 2022

Scottish Renewables is the voice of Scotland's renewable energy industry. Our vision is for Scotland leading the world in renewable energy. We work to grow Scotland's renewable energy sector and sustain its position at the forefront of the global clean energy industry. We represent over 300 organisations that deliver investment, jobs, social benefit and reduce the carbon emissions which cause climate change.

Our members work across all renewable energy technologies, in Scotland, the UK, Europe and around the world, ranging from energy suppliers, operators and manufacturers to small developers, installers, and community groups, as well as companies throughout the supply chain. In representing them, we aim to lead and inform the debate on how the growth of renewable energy can help sustainably heat and power Scotland's homes and businesses.

Scottish Renewables (SR) welcomes the opportunity to provide our view on The Scottish Government's consultation on proposed changes to fees charged for applications under the Electricity Act 1989.

SR members support the principle of proportionate cost recovery to create a well-resourced energy consenting regime that can efficiently respond to the challenges of decarbonisation and net-zero. SR recognise that Scotland's energy consenting regime will be presented with an increasing volume of applications, some of which will be of increased complexity and scope. It is therefore appropriate for The Scottish Government to review existing fee structures, in line with the commitment made to monitor fee structures in 2019. Our members highlight it is essential that the service and, crucially, the efficiency of outputs from the consenting regimes improve in line with any increase in fees.

In responding to this consultation, we would like to draw your attention to the following key points:

- SR members are always concerned about above-inflation fee increases; however, the renewables industry acknowledges that The Scottish Government's Energy Consents Unit (ECU) have a significant role in delivering energy security and achieving our net-zero ambitions.
- Our industry would like to see any increase in fees as an enabling tool. Fee increases should make a measurable difference to timescales for granting consent by introducing statutory time scales for decisions to help speed up the consenting of vital infrastructure and avoid bottlenecks in the planning system.

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- Any new fees introduced must be proportionate, sustainable, justified, and reflective of the costs and time spent processing applications. The fee increases proposed in this consultation would have significant financial implications for our member's developments and it is essential any increases avoid impeding the deployment of renewable energy developments in pursuit of Scotland's legally binding target of reaching net-zero by 2045 and the binding interim targets for 2030 and 2040, and related energy policies.
- The terms of the process and the amount of work required to achieve consent is not reflected in the proposed application fees as set out in Table A. Our members highlight that it would be beneficial to have a more consistent and efficient process and would be willing to support these changes to fees if the service reflected what is being paid for.
- The proposed 20% increase for Section 36 and Variation applications up to 500MW appears to be proportionate and is supported by the deficit in running costs identified in the Fee Monitoring Report. However, the magnitude of proposed increases for projects exceeding 500MW appear to be arbitrary and are not supported by a robust evidence base.
- The same concern applies to Variation applications for EIA developments that would not increase the capacity of the generating station. Our members, therefore, request that further information is provided to explain the magnitude of changes proposed before any changes to fee structures are implemented.
- In the response to the 2018 – 2019 fee increase consultation, The Scottish Government concluded that costs for determining applications are not likely to increase significantly once a threshold of 300MW is crossed and therefore did not introduce higher fees or banding for larger projects. This is not reflected in the current proposals and further information is required to explain this divergence.
- Clarity should be provided regarding what improvements can be expected from the energy consenting regime as a result of increased fees. Fees were increased in 2019 and, in our experience, this has not resulted in significant improvements in the consenting process. Clear Key Performance Indicators (KPIs) should be set confirming how the energy consenting regime will be improved with additional monies being reinvested in resources and continued training for the ECU team to help meet the required consenting timescales.
- Simplifying the process for considering applications for renewables would have more impact on reducing resource needs and accelerating the industry. Inversely, increasing fees may result in more time being spent on applications to justify any increase in costs, which will lead to further unnecessary complications and delays. Therefore, this policy may create further barriers to renewables and decelerate deployment.
- Our members note that approximately 50% of ECU outgoings were fees paid to Local Planning Authorities (LPAs). A strategic review should be undertaken to confirm how these fees are being spent and to evaluate if they are appropriate. The fees paid to LPAs should be used to contribute towards improving LPA's roles in the energy consenting regime and should be tied to the performance of each LPA. The funding provided to LPAs should act as an incentive for timely and efficient responses.
- To maximise the overall progress towards net-zero, it is essential that The Scottish Government facilitates a streamlined and efficient integrated consenting process. It will therefore be important to allow combined wind/hydrogen-generating stations to be consented under the Section 36 process to help achieve both The Scottish Government's onshore wind and hydrogen targets. SR members consider that the Section 36 route would be the most effective way to do this, especially where the hydrogen infrastructure is ancillary to the wind development (for example 50MW+ wind with 10MW electrolyser/hydrogen storage/ vehicle refuelling facility). Should primary legislation be required then this should be progressed as a matter of urgency, with interim arrangements put in place.

Scottish Renewables would be keen to engage further with this agenda and would be happy to discuss our response in more detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Richardson', with a long horizontal flourish extending to the right.

Mark Richardson
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Scottish Renewables

RESPONSE TO CONSULTATION QUESTIONS

1. Do you agree or disagree with the proposed application fees as set out at Table A?

Our members understand the proposed 20% fee increase for Section 36 and Variation applications up to 500MW. The Fee Monitoring Report identified a 16.7% deficit in cost recovery for the Energy Consents Unit (ECU) and we, therefore, note that an increase of 20% appears to be proportionate. This should cover the deficit and provide some contingency.

We strongly recommend that the increase in revenue from the increased fees is used for the recruitment and retention of properly trained staff, or the training of less experienced staff, to ensure quicker response times.

We note that The Scottish Government are aware that delays to planning consent risk hampering Scotland's progress towards reaching net-zero by 2045 and we fully support paragraph 2.4.1 in the consultation document, which states *"an efficient and effective consenting process is critical to unlocking the potential to deliver renewable energy developments and economic benefits, whilst helping to achieve our net zero targets"*. We expect the increased fees proposed to enable the emergence of such a consenting process and support The Scottish Government to deliver their renewable energy and climate change targets.

The exception to this fee increase is for Variation applications for EIA development that would not increase the capacity of the generating station. Under the existing arrangements, these applications have a standard fee of £18,750 for anything over 10MW, with increases ranging from £31,500 to £367,000+, which represents a significant change in approach. The consultation states that these bandings have been proposed to

"reflect the increased resource needed for variation applications requiring an EIA...to reflect the range of resource required for all applications received in that category".

SR recognise the need for changes in fees for Variation applications. However, the proposed increases appear arbitrary and are not supported by an adequate justification or robust evidence base. It is therefore not possible to accurately comment on the acceptability and proportionality of the proposed increases. **Our members request that further information is provided to explain the magnitude of increases proposed before any changes to fee structures are implemented.**

2. Do you agree or disagree with the new bandings for developments with a capacity greater than 500MW as set out at Table A?

The new bandings proposed for Section 36 applications and Variation applications >500MW range from an increase of 44% to >96% in comparison to existing fees. However, the proposed increases appear arbitrary and are not supported by a robust evidence base. It is therefore not possible for SR members to accurately comment on the acceptability and proportionality of the proposed increases. **We request that further information is provided to explain the magnitude of increases proposed before any changes to fee structures are implemented.**

The proposed application fees as set out in Table A translate as a 90MW onshore wind farm having to pay an estimated £125,000 in planning fees whilst a 101MW onshore wind farm would be required to pay an additional £75,000. The proposed fee changes do not reflect the actual assessment process of wind farms which are almost identical.

In addition, in the 2018–2019 fees increase consultation, The Scottish Government did not implement the bandings that had initially been proposed for applications >300MW, stating that *“costs for determining applications are not likely to increase significantly once a threshold of 300MW is crossed.”*

Fee bandings for projects greater than 500MW would almost double, which is at odds with the increase of 20% indicated by The Fee Monitoring Report. Larger capacity projects do not necessarily result in a bigger Environmental Impact Assessment (EIA) that could require more resources to review. The size of an EIA is dependent on location, the number of turbines and the receptors impacted.

The main justification for the new bandings in the current consultation is that *“These additional bandings are to reflect the growing scale of offshore renewable electricity generating stations.”* SR members do not think this is adequate justification for the doubling of existing fees under the EA1989 for developments with a capacity greater than 500MW and this does not adequately explain the reason for diverging from the position taken in the earlier consultation. **Further information is therefore required to justify this change and associated fee increases.**

SR members highlight that the EA1989 fee increase is over and above any onshore planning application costs if projects go down the separate offshore and onshore consents route (which is most common at present). This raises the question that if a developer opts for the deemed planning permission and lumps offshore and onshore together in one application under the EA1989, would there be additional costs, or would the increased fees include all work required? Furthermore, a Marine Licence under the Marine (Scotland) Act and/or under the Marine and Coastal Access Act may also be needed in addition to Section 36 consent. As a result, all these elements for a planning application would drive the consenting costs of projects up.

In comparison, the cost for a project 100MW and over under the Planning Act 2008 in England and Wales is approximately £800,000. However, this fee includes consent under the EA1989, planning permission under the Town and Country Planning Act, Safety Zone application and a Marine Licence under the Marine and Coastal Access Act. We acknowledge that this combined cost in England and Wales may be higher than the cumulative cost of all permissions in Scotland, but arguably, the value-for-money is greater in England and Wales due to the set timescales for determinations and greater access to experienced staff.

There are currently no statutory periods for determining Section 36 applications, nor any statutory periods to regulate the inquiry process; meaning that timescales vary widely and are unpredictable in Scotland. With the proposed fee increases, a similar experience to that in England and Wales would be expected from Section 36 applications for developers in Scotland.

It must be recognised that the current TNUoS charging methodology places low carbon energy projects in Scotland at a disadvantage compared to projects in England due to being located further away from demand. It will be crucial that the increase in fees proposed in this consultation does not further disadvantage Scottish low carbon energy projects by failing to improve service quality and providing reliable timescales, which an increase in fees of this magnitude would warrant.

The fee increase outlined must be accompanied by a full, transparent explanation of their justification combined with guarantees made by The Scottish Government on the timescales for determinations of planning applications.

3. Do the proposed application fees set out in this consultation have any financial, regulatory or resource implications for you and/or your business (if applicable)?

The proposed fee increases have significant financial implications for SR members' projects as they would increase the budget required to progress a project from development through to construction and operation.

For example, Scottish Power Renewables (SPR) has secured seabed rights for three offshore wind projects: MarramWind (3GW), ChampionWind (2GW) and MachairWind (2GW). Under the existing fee regime, the Section 36 application fees for these projects would be £280,000 per project. However, SPR highlight these would increase to £608,000 (ChampionWind and MachairWind) and £668,000 (MarramWind) under the proposed fee increases, representing an increase in fees of approximately 217% to 238%. Increases of this magnitude will be subject to detailed scrutiny when securing and allocating project budgets and resources and when deciding on the volume and capacity of projects to progress.

Ensuring the increase in fees is reflected in the level of service provided is therefore critical to the justification of such fee increases.

4. Do you have any other comments? Please give us your views.

SR members support the principle of proportionate cost recovery to create a well-resourced energy consenting regime that can efficiently respond to the challenges of decarbonisation and net-zero. SR also recognise that Scotland's energy consenting regime will be presented with an increasing volume of applications, some of which will be of increased complexity and scope. It is therefore appropriate for The Scottish Government to review existing fee structures. However, as stated in the preceding questions, **further information is required to justify the magnitude of the proposed fee increases.**

Clarity should also be provided regarding what improvements can be expected from the energy consenting regime as a result of increased fees. Fees were increased in 2019 and, in SR members' experience, this has not resulted in significant improvements in the consenting process or expediated consenting timescales. Transparent Key Performance Indicators (KPIs) should be set confirming how the energy consenting regime will be improved and within what timeframe. It is essential that the service and, crucially, the efficiency of outputs from the consenting regimes improve in line with any increase in fees.

Our members note that approximately 50% of ECU outgoings were fees paid to Local Planning Authorities (LPAs). A strategic review should be undertaken to confirm how these fees are being spent and to evaluate if they are appropriate. The fees paid to LPAs should be used to contribute towards improving LPAs role in the energy consenting regime and should be tied to the performance of each LPA. The funding provided to LPAs should act as an incentive for timely and efficient responses that supports our legally binding target of reaching net-zero by 2045 and the binding interim targets for 2030 and 2040.

SR recognises the need for continuous monitoring and evaluation of fee structures. However, the frequency of changes to fees should be minimised, to provide businesses with certainty and stability, avoiding unintended consequences on investment confidence.

Additional SR member concerns and recommendations:

- **Timescales** – any fee increases should provide an applications process which is timely, avoids unnecessary delays and engages with communities early to deliver more projects and more positive impacts for communities.

SR members' assertion of the need for timescales acknowledges that the ECU face delays for many factors, some of which are wholly out of their control, such as delays caused by planning departments/officers at the Local Planning Authority.

For example, SR members have seen Section 36 applications face delays of over two years because the LPA failed to respond. Therefore, when the ECU propose fee increases, we seek clarity on how this will assist the LPAs to handle and process applications to deliver timely responses to the ECU. Currently, their share goes to a council's central pot of funding and is not allocated to the planning department.

Whilst the ECU can take on additional staff, for example, the LPA cannot and generally continue to face budget cuts. Our members question how these proposed fee increases will reduce processing times and increase the efficiency of decisions when delays will continue at local levels.

- **Resourcing** – SR members ask that The Scottish Government explore the establishment of an internal team of landscape architects to take responsibility for parts of the assessment currently undertaken by the Local Planning Authority/NatureScot to speed up final determinations.
- **Offshore Overlap** – Our members highlight an overlap between the Section 36 consents division and the Marine Scotland Team for ScotWind where significant pipeline pressures are increasing. SR highlight that there is a risk of Onshore wind and other renewable technologies losing out in terms of resource and training to Offshore developments.
- **Priority Determination Services** – A significant number of our members engage with local authorities that offer a priority determination service. However, there is a link missing between current fees, proposed fee increases and what this would mean for local authorities. Local authorities are offering this additional service which adds additional fees to a developer and undermines the link between these charges.
- **Service Standards** – As highlighted in our response, service standards are crucial. Our members question whether the proposed fee increases will rectify current issues and see KPI standards linked to local authorities and their response times. Our members would welcome clarity regarding KPIs for ECU applications or Variations to projects.
- **Local Planning Departments** – SR members highlight the underfunding of local planning departments that play a crucial role within the planning and consenting system. Further, our members highlight the significant underfunding in particular of rural councils that do provide significant amounts of work in relation to renewables applications but do not receive any funding from the planning fees. Without transparent linkages to funding for planning, increased fees may disappear to the purpose they should serve.
- **Environmental Impact Assessments (EIA)** – Our members question why there is a split between EIA and non-EIA projects in relation to fees. SR highlight this arbitrary and subjective point is exacerbated due to the ECU being the ultimate decision-maker on whether a project is EIA or not, as well as being the principal beneficiary of the fee income.

Whilst as the fee schedule shows, in the past, there have been relatively few non-EIA projects under the generation headings, this is because in the past most generating projects were wind farms and it was highly unlikely that a 50MW+ wind farm would ever be considered non-EIA.

However, our members highlight that this is now changing, and it is likely that more non-wind and potentially non-EIA projects will come forward. Further, these projects will have to be screened by the ECU. This screening process will take up additional ECU resources, time and capacity to decide if a project is non-EIA and so will bring in a reduced fee rather than then simply accepting that it is EIA and bringing in an increased fee.

- **Fee Structure** – Our members propose paying a reduced fee for a standard assessment which covers specific development design and a higher fee for a Rochdale envelope approach which provides more flexibility, options and is more time consuming.
- **Hybrid Sites** – The proposed changes to fees discourage hybrid sites, such as wind and solar co-located on the same site. Such hybrid sites get more use of the grid capacity (e.g. favourable wind conditions in winter, solar in summer) and have a lower burden on planners than two separate sites. The fee structure as proposed will increase the number of individual, non-hybrid sites being brought to planners, increasing the burden on them.

It is also not cost reflective of the additional work required on a hybrid site. For example, as drafted, a hybrid site with just over 50MW of battery and 50MW of solar would face £216,000 of planning charges. This is the case, even where sites are limited to exporting only 50MW into the grid due to network constraints. We recommend the consideration of the grid export size being a justification for fee level rather than just MW sizes from turbines and panels, etc.

- **Solar as a Dedicated System** – Noted in relation to the section 36 fee increase, the planning fees introduce new categories for wind and solar rather than these being generic plant and machinery as in the past. We acknowledge that whilst the changes to wind are not likely to result in significant changes, breaking solar out as a dedicated system is welcomed as mostly positive.

The limit for solar development fees is now £25,000 which is welcomed but means that there is now a substantial gap in fees between a 49MW to 51MW, as well as 51MW to 100MW solar farm and the fee at 51MW would be the same as 99MW. This appears to be the same for 10MW to 50MW schemes, which our members think provides an element of penalty for developers at the lower end of the scale.

Our recommendation would be a sliding scale or fee on a £/MW scale which would mean a 10MW scheme would subsequently pay less than a scheme that was 49MW.

END