



Nuclear Energy (Financing) Bill

HL Bill 89 of 2021–22

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The Nuclear Energy (Financing) Bill is a government bill which completed all its stages in the House of Commons on 10 January 2022. It had its first reading in the House of Lords on 11 January 2022. At the time of writing, a date for its second reading in the House of Lords has not been set.

The Nuclear Energy (Financing) Bill would create the legal structure for a new model for financing new nuclear power stations, known as the regulated asset base (RAB). The RAB has been used in the UK to finance water, gas and electricity infrastructure, but has not before been used to finance nuclear power. The RAB model aims to bring down the cost of financing by sharing the investment risk with consumers. Under a RAB, an economic regulator is given the power to levy a charge on consumers, the proceeds of which go towards financing the new infrastructure. For new nuclear plants, electricity suppliers would be required to pay a certain amount and would be expected to pass this charge on to their customers.

The bill would give the secretary of state powers to modify a nuclear company's electricity generation licence to provide for a RAB. The Government would also appoint a revenue collection counterparty to collect payments from electricity suppliers and pass these to the nuclear company. Once construction was ready to begin, the nuclear company would enter into a contract with the revenue collection company. Were a nuclear company to become insolvent, a special administrator would be appointed with the goal of ensuring that the nuclear plant began or continued to produce electricity.

The Government has estimated that using a RAB for new nuclear power will save consumers over £30bn compared to using a contracts for difference model, as has been used to fund the most recently constructed nuclear plants.

The Labour party supports the Government's aims to ensure new nuclear plants are built. It also supports the introduction of the RAB model. It has argued, however, that the model presents risks for consumers. During the bill's passage through the House of Commons, the Labour party introduced amendments which aimed to protect consumers from cost overruns. These were defeated on division. The Labour party also argued that Chinese state companies should not be involved in the UK's civil nuclear infrastructure, and put forward amendments prohibiting foreign-controlled companies from participating in a RAB. These amendments were also defeated on division.

The Scottish National Party and the Liberal Democrats argued against the building of new nuclear power stations. They both said that the money would be better spent on renewables and energy efficiency.

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I. Overview

The [Nuclear Energy \(Financing\) Bill](#) would create the legal structure for a new model for financing new nuclear power stations, known as the regulated asset base (RAB). Alongside the bill, the Government published [explanatory notes](#), an [impact assessment](#) and a [delegated powers memorandum](#).

The bill completed all its House of Commons stages on 10 January 2022. At the time of writing, a date for second reading in the House of Lords has not been set.

This briefing will focus on the RAB model and the passage of the bill so far. For information on civil nuclear power in the UK generally, including arguments about whether new plants are necessary, safety, and the disposal of nuclear waste, please see the House of Lords Library briefing '[Nuclear power in the UK](#)' published on 1 December 2021.

I.1 What is a regulated asset base?

The RAB model, which has been used to finance water, gas and electricity infrastructure, aims to bring down the cost of financing by sharing the investment risk with consumers. Under a RAB, an economic regulator is given the power to levy a charge on consumers, the proceeds of which go towards financing the new infrastructure.¹ For new nuclear plants, electricity suppliers would be required to pay a certain amount and would be expected to pass this charge on to their customers. This would finance the construction of new nuclear power stations. Private investors would also contribute to the financing.

The bill proposes to allow the secretary of state to modify a nuclear company's existing electricity generation licence to insert provisions relating to a RAB.² The amount the nuclear company would be allowed to receive from consumers would be set by the regulator, currently Ofgem. The nuclear company would then enter into a 'revenue collection contract' with a 'revenue collection counterparty'. The revenue collection counterparty would collect the payments from the electricity suppliers and pass the money to the nuclear company. The bill would also establish a special administration regime which would provide for the process to be followed were a nuclear company under a RAB to become insolvent.

According to the Government, the RAB model will reduce the overall cost

¹ Department for Business, Energy and Industrial Strategy, '[New finance model to cut cost of new nuclear power stations](#)', 26 October 2021.

² [Explanatory Notes](#), pp 4–6.

to consumers of new nuclear power.³ This is because the extra money available during construction means project owners can avoid taking out loans which accumulate interest, the costs of which would eventually need to be recouped on energy prices. Hinkley Point C, the only nuclear plant currently under construction, has been funded using a contracts for difference model in which the plant is privately financed but the Government sets a fixed price for the energy produced. The Government estimates that using a RAB rather than a contracts for difference model will save consumers between £30bn and £80bn.

1.2 Where else has the regulated asset base model been used?

UK

The RAB model has been used to finance large infrastructure projects in the UK, including the Thames Tideway. The Thames Tideway project to improve London's sewers is being financed by a charge on Thames Water's customers' bills.⁴ Although private capital was also raised, this is being repaid during the tunnel's construction, before it is operational, using the funds being collected from consumers.

USA

A similar model to the RAB, known as early cost recovery, has been used to finance new nuclear energy plants in the US.⁵ Nuclear projects in the states of Georgia and South Carolina using this model have been started. Commercial operation of the project in Georgia, which was approved in 2012, has been delayed several times and the plant is not yet operational.⁶ The project in South Carolina has been abandoned following the bankruptcy of one of the project's partners.⁷ As a result, electricity bill payers have paid money towards a power station but will not receive the benefits of its electricity. Several executives associated with the failed company are the subject of criminal proceedings.

³ Department for Business, Energy and Industrial Strategy, '[Future funding for nuclear plants](#)', 26 October 2021.

⁴ Gill Plimmer, '[Investors reap rewards of London super sewer long before it is built](#)', *Financial Times* (£), 8 November 2018.

⁵ Dave Williams, '[Georgia lawmakers OK early recovery of nuclear costs](#)', *Atlanta Business Chronical*, 26 February 2009.

⁶ Jeff Amy, '[New delay for Georgia nuclear reactors as costs mount](#)', *US News*, 25 October 2021.

⁷ AP News, '[4th person charged in South Carolina nuclear project failure](#)', 18 August 2021.

2. Background

2.1 Aborted nuclear power stations in the UK

In the last five years, two overseas companies have abandoned plans to build nuclear power stations in the UK because financing could not be agreed.

In 2018, NuGen, a division of the Japanese company Toshiba, withdrew from plans to build a new nuclear power station at Moorside in Cumbria because it could not find a company willing to buy the plant once it had been constructed.⁸

In 2020, Hitachi cancelled a proposed new plant at Wylfa in Wales. It said the reason for this was that it had been unable to reach an agreement with the Government about funding.⁹ The Government said it had offered Hitachi a “significant and generous package of potential support”.

2.2 2019 Government consultation

In 2018, the then Secretary of State for Business, Energy, and Industrial Strategy, Greg Clark, said in a statement on the Wylfa plant that the Government would be investigating the RAB model for future nuclear projects. He said that the RAB could provide financing that would meet the Government’s objectives:

It remains the Government’s objective in the longer term that new nuclear projects, like other energy infrastructure, should be financed by the private sector. Alongside our discussions with developers, we will be reviewing the viability of a regulated asset base model as a sustainable funding model, based on private finance for future projects beyond Wylfa, that could deliver the Government’s objectives of value for money, fiscal responsibility and decarbonisation.¹⁰

In July 2019, the May Government published a consultation on introducing the RAB for new nuclear power stations. In the consultation document, the Government said that using a RAB to fund new nuclear projects could lower the costs of raising private capital.¹¹ This would mean that energy could be provided more cheaply to consumers. The consultation solicited responses about the suitability of the RAB model and the Government’s proposed

⁸ BBC News, [‘Toshiba’s UK withdrawal puts Cumbria nuclear plant in doubt’](#), 8 November 2018.

⁹ Hitachi, [‘Hitachi to end business operations on the UK nuclear power stations construction project’](#), 16 September 2020.

¹⁰ [HC Hansard, 4 June 2018, col 77.](#)

¹¹ Department for Business, Energy and Industrial Strategy, [Regulated Asset Base \(RAB\) Model for Nuclear: Consultation on a RAB Model for New Nuclear Projects](#), July 2019, p 6.

design of it. It did not seek views on whether or not the Government should be pursuing new nuclear projects.

Responses to the consultation from organisations in the nuclear industry were broadly supportive of the Government's proposals, though many said that the Government needed to provide more detail about how the proposed scheme would operate.¹²

Some consumer groups and non-governmental organisations (NGOs) argued that nuclear projects had often overrun, and that if this were to happen with a project funded by a RAB, the increased costs would be passed on to consumers.¹³

Energy suppliers' responses were mixed as to whether the RAB model was appropriate for new nuclear projects, with some saying that value for money would depend on how construction risks were managed and how returns were paid to investors.¹⁴

3. Provisions in the bill

The Nuclear Energy (Financing) Bill has four parts. Part 1 covers the procedure by which a secretary of state would be able to designate a nuclear generation company as eligible to receive funding through a RAB. Part 2 sets out how contracts between the nuclear company and the body responsible for collecting payments from electricity suppliers (the 'revenue collection counterparty') would work. Part 3 provides for a 'special administration regime' which would apply should a nuclear company become insolvent. Part 4 concerns the definition of which bodies are 'associated' with a nuclear project for the purposes of funded decommissioning programmes.

Parts 1, 2 and 3 of the bill would apply to England, Wales and Scotland. They would not apply to Northern Ireland as it has a separate electricity supply system. Part 4 would apply to Northern Ireland but not to Scotland.¹⁵

¹² Department for Business, Energy and Industrial Strategy, [Regulated Asset Base \(RAB\) Model for Nuclear: Consultation on a RAB Model for New Nuclear Projects](#), July 2019, p 6.

¹³ Department for Business, Energy and Industrial Strategy, [RAB Model for Nuclear: Government Response to the Consultation on a RAB Model for New Nuclear Projects](#), 14 December 2020, p 8.

¹⁴ *ibid*, p 9.

¹⁵ *ibid*, p 9.

¹⁵ [Explanatory Notes](#), p 33.

3.1 Part I: nuclear energy generation projects: regulated asset base model

Clause 1 defines key terms used in the bill, including:¹⁶

- A ‘nuclear company’ is a company that has an electricity generation licence with respect to a prospective nuclear energy generation project.
- A ‘designated nuclear company’ is one which has been designated by the secretary of state, while the designation has effect.
- A ‘relevant licensee nuclear company’ is a nuclear company which has had its licence modified by the secretary of state under the proposed legislation whilst a designation is in effect, and that is also party to a revenue collection contract.

References in part I to ‘the authority’ mean the Gas and Electricity Markets Authority (commonly known as Ofgem).¹⁷

Clauses 2–5 concern the designation of a nuclear company, rendering it eligible to benefit from a RAB.

Clause 2 would give power to the secretary of state to designate a nuclear company to benefit from a RAB. It also sets out the criteria that the company would have to meet in order to be designated, which are that:

- the secretary of state is of the opinion that the development of the nuclear project is sufficiently advanced to justify the designation of the nuclear company in relation to the project; and
- the secretary of state is of the opinion that designating the nuclear company in relation to the project is likely to result in value for money.¹⁸

Clause 3 sets out the procedure that the secretary of state would need to follow to designate a nuclear company for the purposes of the nuclear RAB model. It would require the secretary of state to undertake a consultation with named organisations before a company could be designated. These organisations are the nuclear company, the authority, the Office for Nuclear Regulation, the Environment Agency if the project is in England, and relevant bodies from Scotland and Wales if relevant. It would also oblige the secretary of state to publish a designation notice, which would give the secretary of state’s reasons for the designation.

¹⁶ [Explanatory Notes](#), p 10.

¹⁷ Nuclear Energy (Financing) Bill 2021–22, clause 14(1).

¹⁸ *ibid*, clause 2(3).

Clause 4 sets out the circumstances in which the designation of a nuclear company would expire. The designation of a nuclear company would be limited to a period of five years from the date of the project designation. Subsection 4(3) would give the secretary of state the power to extend the designation period before the end of the five-year period. Designation would also expire once a RAB starts. During committee stage in the House of Commons, Greg Hands, Minister of State for Business, Energy and Industrial Strategy, stated that the purpose of designation ending once the RAB begins and the nuclear company has entered into a revenue collection contract is to provide confidence to investors that once the RAB licence conditions have been inserted into the generation licence, the Government would not be able to modify the licence except in the limited circumstances as set out later in the bill.

Clause 5 would provide the secretary of state with the power to revoke the designation of a nuclear company. It sets out the applicable circumstances and procedure for doing so, as well as the circumstances and procedure whereby a project designation could lapse. Under the clause, designation could only be revoked if a nuclear company ceased to hold a generation licence in respect of the nuclear project for which it was designated or it no longer met the designation criteria.

Clauses 6–9 concern the modifications the secretary of state can make to a designated nuclear company to implement the RAB.

Clause 6 would allow the secretary of state to make the necessary licence modifications to apply a RAB model to a designated nuclear company. Subsection 6(4) specifies that in making such modifications, the secretary of state must have regard to:

- his/her duties under the Climate Change Act 2008 about carbon targets and budgets;
- the interests of existing and future electricity consumers;
- the costs, expenditure and liabilities of the nuclear company in relation to the project;
- the need for the nuclear company to be able to finance its activities;
- the need to ensure that the nuclear company has appropriate incentives when carrying out its activities; and
- any other matters the secretary of state considers appropriate.

Subsection 6(5) provides examples of how the secretary of state could modify the designated company's licence. This would include provision about the revenue that the nuclear company could receive (its 'allowed revenue'), how the allowed revenue would be calculated, and how much the nuclear company would be entitled to receive, or be required to pay, under a revenue collection contract.

Clause 7 would allow for a nuclear company's allowed revenue to be increased if the project's financing cap were exceeded during construction of the plant. This is one of the exceptions to the restriction in clause 4 concerning modifications of a licence after a RAB has started.

Clause 8 would oblige the secretary of state to consult certain bodies before making changes to a nuclear company's licence. This includes bodies in the devolved nations where applicable. It also would oblige the secretary of state to publish details of licence modifications.

Clause 9 states that if a nuclear company's designation expires, lapses or is revoked, the modifications of its licence would cease to have effect.

Clause 10 details the circumstances under which a relevant licensee nuclear company could make a reference to the Competition and Markets Authority to appeal certain decisions made by the authority (Ofgem) relating to its allowed revenue.

Clause 11 would allow the secretary of state to require information from nuclear companies in order to designate them, except if such information was covered by legal privilege or data confidentiality, and clause 12 would allow the authority to both give and receive information from a list of specified people. Clause 13 would allow the secretary of state to exclude from publication anything s/he deemed to be commercially sensitive, or to exclude something from publication on national security grounds.

3.2 Part 2: revenue collection contracts

Clauses 15–24 concern revenue collection contracts and regulations the secretary of state may make about them. Revenue collection contracts operate between a revenue collection counterparty and a designated nuclear company. Contracts would require the revenue collection counterparty to collect payments from electricity suppliers and pass them to the licensee nuclear company so that it can receive its allowed revenue.

Clause 15 would give the secretary of state power to make regulations about revenue collection contracts, termed 'revenue regulations'. It specifies that regulations relating to certain issues, such as the duties of a revenue collection counterparty and payments to electricity suppliers, would follow the affirmative resolution procedure. In addition, the first time that regulations were made relating to information and advice and functions of the authority, they would follow the affirmative resolution procedure. Any other regulations would follow the negative resolution procedure.

Clause 16 would enable the secretary of state to designate an eligible and consenting company or public authority to be the revenue collection counterparty for revenue collection contracts. The minister stated in

committee in the House of Commons that the Government expects the Low Carbon Contracts Company to take on the role of the counterparty.¹⁹ The Low Carbon Contracts Company is a private company wholly owned by the Government, which functions as a counterparty in existing contracts for difference schemes.²⁰

Clauses 17–24 set out in further detail what the regulations could cover in relation to the contracts and revenue collection counterparties.

Clause 19 deals with energy suppliers' obligations in relation to the RAB. Subsection 19(4) states that regulations may require energy suppliers to provide collateral to the revenue collection counterparty. Clause 20 would provide that money collected from energy suppliers by the counterparty could be returned to them. This would be if, after the process to reconcile forecast and actual amounts owed, it was judged the supplier had paid too much.

Clause 21 concerns situations in which the revenue collection counterparty does not have enough money to meet its revenue collection contract obligations. It would give the secretary of state powers to make regulations concerning this situation, including regulations that would provide that the counterparty could pay money into the consolidated fund.

Clauses 22 to 25 would make further provision concerning revenue regulations. This includes regulations concerning enforcement, information and advice and the functions of the authority. Clause 25 sets out the consultation the secretary of state would be required to undertake before making revenue regulations.

Clauses 26 and 27 set out the process for transferring the rights and responsibilities of being the designated revenue collection counterparty from one body to another.

Clause 28 specifies that the secretary of state could not be deemed to be a shadow director or a principal of a revenue collection counterparty.

Clause 29 would give power to the secretary of state to modify the licences of companies transmitting and distributing electricity to require services to be provided to the revenue collection counterparty or to enforce a revenue collection contract.

Clause 30 provides definitions of terms used in this part of the bill.

¹⁹ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Fifth Sitting](#), 23 November 2021, col 139.

²⁰ Low Carbon Contracts Company, ['Who we are'](#), accessed 19 January 2022.

3.3 Part 3: special administration regime

This part would establish a special administration regime for relevant licensee nuclear companies. If a relevant company became insolvent, the secretary of state or Ofgem could ask the courts to appoint a special administrator. The goal of the administrator would be to ensure the plant begins or continues to produce power.

Clause 31 defines an administration order, which allows a relevant nuclear company to be managed by a person or body appointed by the court. This person is termed the nuclear administrator.

Clause 32 would establish as the objectives of the special administration regime that the nuclear facility starts or continues to generate electricity and that it becomes unnecessary for the administration order to remain. The administration order could be rendered unnecessary by the administrator rescuing the company as a going concern or by transferring the company's assets, rights and obligations to one or more different companies.²¹

Clauses 33 and 34 would amend previous legislation to enable the special administration regime to be implemented.

Clause 35 would allow the secretary of state to amend a relevant nuclear company's licence if it was the subject of an administration order. Clause 36 sets out the procedure to be followed when making these licence modifications.

Clauses 37 and 38 concern delegated powers, and both would allow the secretary of state to amend primary legislation. Clause 37 would extend provisions in the Enterprise Act 2002 that allow the secretary of state to make amendments to insolvency legislation to also allow the secretary of state to make amendments to part 3 of the bill, were it to be enacted.²² The Government's intention is to ensure the special administration regime remains consistent with broader insolvency law.²³ The negative resolution procedure would apply.

Clause 38 would allow the secretary of state to make changes to insolvency legislation to the extent it relates to the special administration regime. The Government argued that this power is necessary because practical experience might highlight difficulties in the application of the special administration regime or if a change in insolvency law necessitates a change

²¹ [Explanatory Notes](#), p 24.

²² [Delegated powers memorandum](#), p 42.

²³ *ibid.*

to the special administration regime.²⁴ The affirmative resolution procedure would apply.

Clause 39 concerns the interpretation of part 3.

3.4 Part 4: miscellaneous and final provisions

Clause 40 would make changes to the regime of funded decommissioning programmes. The Energy Act 2008 provides that operators of new nuclear power stations are required to have secure financing arrangements in place to meet the full costs of decommissioning and their full share of waste management and disposal costs. These arrangements are set out in a funded decommissioning programme.²⁵

The changes in clause 40 would ensure that secured creditors and security trustees would not be considered “associated” with the nuclear company for the purposes of determining who the secretary of state could impose obligations on regarding a funded decommissioning programme. The Government’s intention is that this clause would remove barriers to private financing of nuclear projects.²⁶ This clause would not apply in Scotland.

Clauses 41–45 cover financial provision, extent, commencement and short title. The schedule to the bill would make minor changes to existing legislation as a result of the bill.

4. Bill’s passage through the House of Commons

4.1 Second reading

The bill had its second reading in the House of Commons on 3 November 2021.

Introducing the bill, Minister of State for Business, Energy and Industrial Strategy Greg Hands argued that new nuclear power was necessary if the country was to meet its carbon reduction goals, and that the measures in the bill were necessary to enable new nuclear power stations to be built.²⁷

Greg Hands argued that while the Government intended that much of the UK’s energy would come from renewables such as wind and solar power, nuclear was necessary to provide power “when the sun is not shining or the

²⁴ [Delegated powers memorandum](#), p 44.

²⁵ Department for Business, Energy and Industrial Strategy, ‘[Hinkley Point C funded decommissioning programme](#)’, 29 September 2016.

²⁶ [HC Hansard, 3 November 2021, col 979](#).

²⁷ *ibid*, cols 974–7.

wind is not blowing”.²⁸ He stated that financing new nuclear power stations using the RAB model would be cheaper than using contracts for difference, the financing model used for Hinkley Point C, because developers would pay less interest on loans. He said government analysis had estimated the saving at more than £30bn, and that customers would on average have £1 extra per month on their energy bill as a result of the measures.²⁹ He also said that new nuclear facilities would reduce the country’s exposure to volatile gas prices.³⁰

The Labour party said that it was broadly supportive of the measures in the bill, but that it intended to scrutinise the bill to ensure that consumers were adequately protected. The then Shadow Minister for Business, Energy and Industrial Strategy, Dr Alan Whitehead, cited the Committee on Climate Change’s conclusion that nuclear power would be necessary, alongside renewables, to “deliver the rapid and fair transition that is required”.³¹

Dr Whitehead said that the RAB model the bill proposed would have the advantage of making a nuclear project “investable” by bringing in investors who would otherwise not invest in the project, reducing the rate of return required and reducing the cost of financing. He said that as a result it would be likely to result in cheaper energy.³² He argued, however, that the model presented risks for consumers because if the nuclear power station was abandoned and did not produce power, the public would have paid money during its construction phase and not have seen any benefits as a result. Dr Whitehead also argued that consumers’ electricity bills could increase unpredictably if the nuclear project’s costs and timescales overran.

Dr Whitehead argued that the bill was primarily intended to secure financing for the proposed Sizewell C power station.³³ He called on the Government to provide “greater clarity” about its intentions for the Sizewell C project, including whether it intended for the proposed Chinese investment in the project to go ahead.³⁴

Both the Liberal Democrats and the Scottish National Party (SNP) argued that the country should not be investing in new nuclear capacity but should instead focus on renewables and energy efficiency.

Alan Brown, the SNP’s spokesperson for energy and climate change, argued that nuclear energy was more expensive than wind energy, and that pumped

²⁸ [HC Hansard, 3 November 2021, col 974.](#)

²⁹ *ibid*, col 980.

³⁰ *ibid*, col 978.

³¹ *ibid*, col 982.

³² *ibid*, col 985.

³³ *ibid*, col 983.

³⁴ *ibid*, col 986.

hydro could provide power to cover gaps caused by intermittency of renewables.³⁵ Mr Brown cited experts who had argued that nuclear power was not well suited to covering gaps in renewable power, and that large power stations were no longer needed to provide baseload power.³⁶ Mr Brown also argued that the type of reactor that was being used in Hinkley C and was planned for Sizewell C had not yet been shown to work in any of the locations where it was being constructed.³⁷

The Liberal Democrat spokesperson for business, energy and industrial strategy, Sarah Olney, argued that instead of pursuing new nuclear capacity the Government should focus on renewables and household energy.³⁸ Ms Olney argued that renewables create jobs that were spread more evenly around the country than jobs associated with nuclear power. She also highlighted the need to decarbonise the energy sector before new nuclear power would be available, if the country was to meet its carbon reduction goals.

The bill passed its second reading on division, by 319 votes to 44.³⁹

4.2 Committee stage

The bill's committee stage took place over six sittings between 16 and 25 November 2021. During the first two sessions the committee took evidence from witnesses. In the remaining stages amendments to the bill were debated and voted on. No amendments were made to the bill in committee stage.

Evidence sessions

In the first evidence session the committee heard evidence from representatives from the nuclear industry and from several trade unions.

The representatives from the nuclear industry were in favour of the measures in the bill.⁴⁰ Anthony Browne (Conservative MP for South Cambridgeshire) asked about the risk that the developers would not be incentivised to keep costs down because consumers would be taking on the financial risk. In response, Julia Pyke of the Sizewell C Company said that the cost of overruns would be shared between consumers and developers,

³⁵ [HC Hansard, 3 November 2021, col 992.](#)

³⁶ *ibid*, cols 993–4.

³⁷ *ibid*, col 989.

³⁸ *ibid*, col 997.

³⁹ *ibid*, cols 1019–20.

⁴⁰ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: First Sitting](#), 16 November 2021, cols 5–6.

therefore developers would be incentivised to keep costs down.⁴¹

The representatives of trade unions who gave evidence also supported the bill, arguing that new nuclear projects would provide jobs.⁴² Sue Ferns of the union Prospect said that its internal analysis had found that “investment in nuclear is more jobs-rich than investment in other low-carbon technologies”.⁴³

In its second evidence session the committee heard evidence from Citizens Advice Bureau, representatives of nuclear development technology companies, nuclear and energy trade associations, and energy experts from academia, the charity Greenpeace and specialist press.

Richard Hall, Chief Energy Economist at Citizens Advice, said that while the RAB could reduce the cost of capital, under the proposed measures customers would be exposed to cost overruns.⁴⁴ He said that the bill would allow the secretary of state to increase the cost to consumers if the project overran. He argued that an impact assessment of a RAB agreement should be conducted by a third party, and parliamentarians should be able to scrutinise its main conclusions.⁴⁵ He said that while such a procedure would be unusual, it would be justified by the cost of the asset and length of the contract.

Representatives of nuclear development technology companies were in favour of the proposed measures. They highlighted that new nuclear energy could be delivered more cheaply under a RAB model than under a contracts for difference model.⁴⁶

Representatives of business, nuclear and energy trade associations also welcomed the financing mechanisms in bill. All three witnesses said they were satisfied with the bill as it was written and did not feel there were any gaps.⁴⁷

The energy experts from academia and the specialist press were all opposed to the measures in the bill. Mycle Schneider of the *World Nuclear Industry Status Report* argued that other technologies are able to provide low carbon

⁴¹ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: First Sitting](#), 16 November 2021, col 7.

⁴² *ibid*, cols 20–1.

⁴³ *ibid*, col 22.

⁴⁴ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Second Sitting](#), 16 November 2021, col 28.

⁴⁵ *ibid*, col 30.

⁴⁶ *ibid*, col 34.

⁴⁷ *ibid*, cols 49–50.

energy more quickly for less cost.⁴⁸ Stephen Thomas of Greenwich University questioned the need for large plants to provide baseload energy. He cited information from the National Grid arguing that batteries provided the required reserve of power and that new nuclear was not necessarily required to achieve net zero by 2050.⁴⁹

Amendments

The Labour party proposed multiple amendments at committee stage, of which none were passed. The SNP proposed several new clauses, none of which were added to the bill.

Amendments 1 and 2, tabled by the Labour party and supported by the SNP, would have prevented the secretary of state from making a RAB designation for a company “owned or part-owned by agents of a foreign power”.⁵⁰ Speaking to the amendment, Matthew Pennycook, then Shadow Minister for Business, Energy and Industrial Strategy, argued that this amendment was necessary to avoid unfriendly state actors controlling key elements of the UK’s infrastructure. He argued that previous Conservative governments had been unwise to allow companies owned and controlled by the government of China to be involved in nuclear projects in the UK.⁵¹ He said that the amendment would not stand in the way of entities such as EDF becoming involved in nuclear projects because it would be possible to “differentiate companies owned and directly controlled by a foreign power and those in which a state merely has a majority financial stake”.

Responding for the Government, Greg Hands argued that the amendment would rule out necessary investment from entities partly or completely owned by friendly states, such as EDF.⁵² On China, he said that the UK welcomed foreign investment in its infrastructure but that this would not come at the expense of national security.⁵³ He emphasised that legislation gave the Government power to scrutinise investment in critical infrastructure, and that additional powers were provided by the National Security and Investment Act 2021.

The committee divided on amendment 2. It was rejected by eight votes to five.⁵⁴ Amendment 1, being contingent on amendment 2, was withdrawn.

⁴⁸ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Second Sitting](#), 16 November 2021 col 56.

⁴⁹ *ibid* col 57.

⁵⁰ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Third Sitting](#), 18 November 2021, col 74.

⁵¹ *ibid*, col 76.

⁵² *ibid*, cols 82–3.

⁵³ *ibid*, col 84.

⁵⁴ *ibid*, col 89.

Amendment 3, introduced by the Labour party, would have added to the list in clause 2 of criteria a nuclear company must meet to be designated that the secretary of state is of the view that the company can complete the project.⁵⁵ Speaking to the amendment, Dr Whitehead argued that this would reduce the risk of a designated nuclear project collapsing.

The Government argued that purpose of the amendment was already covered by the approvals framework in the bill. The amendment was withdrawn.

Amendment 4, also tabled by the Labour party, concerned the provisions in clause 3 for the secretary of state to consult, among others, anyone who they deem appropriate. The amendment would have required the secretary of state to set out why they had chosen to consult particular people under this provision. The Government argued that the amendment was unnecessary and it was withdrawn.

Labour party amendments 5 and 6 to clause 4 would have reduced the length of time a designation remained valid from five to four years, and would have reduced the period for which the secretary of state could extend the designation notice for a designated nuclear company to four years.⁵⁶ Dr Whitehead argued that this change would reduce the chances of unnecessary delay. The minister argued that the Government believed five years was a reasonable amount of time for the process. The amendment was withdrawn.

Amendment 7 was consequential on amendments 1 and 2, and was therefore withdrawn.⁵⁷

Amendment 8, tabled by the Labour party, would have required the secretary of state to publish reasons for modifying a nuclear company's licence before doing so.⁵⁸ Dr Whitehead argued that the process in the bill was opaque. The minister responded that the bill already provided enough transparency, because the secretary of state must publish details of any licence modifications after they were made. The amendment was withdrawn.

Dr Whitehead spoke to Labour amendment 9, which would have required the secretary of state, when making licence modifications, to have regard to the consumer's interest in recouping money already paid in addition to the existing requirement to consider their interest as regards cost and security

⁵⁵ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Fourth Sitting](#), 18 November 2021, col 95.

⁵⁶ *ibid*, col 112.

⁵⁷ *ibid*, col 114.

⁵⁸ *ibid*, col 115.

of energy.⁵⁹ The minister argued that the amendment was inappropriate because under the bill consumers would not be investors in the nuclear project.⁶⁰ They would not receive a return; they would benefit by having access to the electricity provided by the plant. The amendment was withdrawn.

Dr Whitehead introduced amendments 11 and 12, which would have provided that if there were increases in cost or time of the nuclear project, these would be met some other way than by additional charges to customers.⁶¹ He argued that consumers should be liable for costs only to the level of the initial costs ceiling estimate. Instead, the secretary of state could invest taxpayers' money in the project or issue nuclear bonds. He said this would prevent "the exponential milking of the customer to fund the RAB".⁶²

The minister argued that the amendments were not needed because the possibility of costs exceeding the cap was "remote".⁶³ He also argued that if the cost cap were to be reached, however, it would be in the best interests of consumers to put more money into the project, otherwise it could fail and customers would not see any benefit from the money they had already paid. Mr Hands highlighted that requiring more money from the consumer, by adjusting the allowed revenue, would have to be done in consultation, including with Ofgem which represented consumers' interests.⁶⁴

The committee divided on amendment 11.⁶⁵ It was rejected by seven votes to five. Amendment 12 was negatived without division.

The Labour party's amendment 10 would have amended the definition of the completion of construction of the nuclear project to include initial generation of power.⁶⁶ Dr Whitehead argued that the current definition of completion, which requires the plant to complete certain tests, did not mean any power was actually produced. The minister responded that the tests already in the clause included connecting to the grid, but that further tests would be necessary to ensure the plant could continue to operate. He said that if the construction phase were deemed to have been completed before all the tests had been completed, there could be unintended consequences.⁶⁷

⁵⁹ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Fourth Sitting](#), 18 November 2021, col 117.

⁶⁰ *ibid*, col 119.

⁶¹ *ibid*, col 124.

⁶² *ibid*, col 126.

⁶³ *ibid*, col 127.

⁶⁴ *ibid*, col 128.

⁶⁵ *ibid*, col 128.

⁶⁶ *ibid*, col 129.

⁶⁷ *ibid*, col 130.

The amendment was withdrawn.⁶⁸

Amendment 13, moved by Dr Whitehead, would have removed the words “as soon as reasonably practicable” from clause 8.⁶⁹ The intention of the amendment was that details of licence modifications would have to be published straight away. In response, the minister argued that in practice removing these words would place less strict obligations on the Government to publish the documents in a timely manner. The amendment was withdrawn.

In moving amendment 14, Dr Whitehead queried the use of “may” rather than “must” in clause 17, relating to the making of regulations.⁷⁰ The Government responded that changing “may” to “must” would make the clause unnecessarily restrictive. The amendment was withdrawn.

The Labour party’s amendment 15 would have stipulated that people who receive the warm homes discount would not have to pay levies for the RAB. Dr Whitehead argued that as the bill stands, some people would be pushed into fuel poverty as a result of the levy.⁷¹ The minister argued that the amendment was not necessary because sums added to bills would be low and that the Government was supporting people on low incomes to pay fuel bills in other ways. The amendment was rejected on division by seven votes to six.

Amendment 20, tabled by the SNP, would have amended clause 19 to require the secretary of state to consider certain elements of a supplier’s financial position before requiring them to pay collateral to the revenue collection counterparty.⁷² Speaking to the amendment, Alan Brown argued that the clause as currently written gave inadequate protection to suppliers. The minister argued that the collateral system had worked well when it had been used in contracts for difference schemes, and that Ofgem would ensure that amounts paid to a generation company were reasonable.⁷³ The amendment was defeated on division by seven votes to two.

Dr Whitehead introduced amendment 16, which would have allowed cases of persistent non-payment of money owed to the counterparty by an electricity supplier to be referred to Ofgem.⁷⁴ Clause 19 currently stipulates

⁶⁸ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Fourth Sitting](#), 18 November 2021, col 131.

⁶⁹ *ibid*, col 132.

⁷⁰ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Fifth Sitting](#), 18 November 2021, col 144.

⁷¹ *ibid*, cols 146–7.

⁷² *ibid*, col 151.

⁷³ *ibid*, col 155.

⁷⁴ *ibid*, col 156.

that such a scenario would be a civil matter. Dr Whitehead argued that the amendment would replicate the procedure for non-payment of renewables obligation payments. In response, Mr Hands said that clause 22 of the bill provided that a breach of such a contract could be treated as if it were a breach of a licence condition, and this would allow the authority (Ofgem) to obtain an order to secure compliance and impose financial penalties. The amendment was withdrawn.

The Labour party's amendment 17 would have amended clause 21 to provide that money held by the revenue collection counterparty could only be transferred to the consolidated fund if there was no other option.⁷⁵ Dr Whitehead argued that if the revenue collection counterparty was holding excess funds, these should be returned to customers. In response, the minister argued that the amendment would mean the revenue collection counterparty could not pay back a loan it had received from the Government.⁷⁶ The amendment was defeated on division, by seven votes to six.⁷⁷

Dr Whitehead introduced the Labour party's amendment 18, which would have amended clause 32 such that if the insolvent nuclear company could not be rescued the Government would take it into public ownership.⁷⁸ Dr Whitehead argued that it was unlikely that another company would wish to take over an insolvent nuclear company. He said that under the bill as it stood, if the nuclear company could not be rescued or sold, it would operate under special administration forever. The minister responded that transfer of a nuclear company to a public body was already possible under the bill. The amendment was withdrawn.

The SNP introduced five new clauses, all of which aimed to introduce new requirements for the secretary of state to publish details of elements of the RAB, or to seek approval from the House of Commons.

The SNP's new clause 1 would have required the secretary of state to set out the overall capital cost and expected up-front cost of prospective nuclear projects before making licence modifications for the purpose of implementing a RAB.⁷⁹ Mr Brown argued that this would improve transparency. In response, Mr Hands argued that doing so could jeopardise efforts to raise capital for the project. The new clause was withdrawn.

⁷⁵ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Fifth Sitting](#), 18 November 2021, col 162.

⁷⁶ *ibid*, col 164.

⁷⁷ *ibid*, col 165.

⁷⁸ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Sixth Sitting](#), 25 November 2021, col 170.

⁷⁹ *ibid*, col 177.

New clause 2 would have required the secretary of state to publish details of any agreement offering a guaranteed price (strike price) to a nuclear company.⁸⁰ The minister responded that the concept of a strike price did not exist in a RAB, therefore the amendment was not necessary.

New clause 3 would have required the Government to publish details of how decommissioning costs for a new nuclear plant would be met, including in the case of a nuclear company becoming insolvent.⁸¹ Mr Hands responded that the Energy Act 2008 already required operators of nuclear power stations to have finance in place for decommissioning. The new clause was withdrawn.

New clause 4 would have inserted extra conditions on the exercise of clause 42, concerning financial provision. Clause 42(2)(c) would require money to be provided by Parliament to cover costs incurred by the Government in relation to making payments to a nuclear administrator or a relevant licensee nuclear company. The new clause would have required these payments to be approved by the House of Commons.⁸² The Government argued that this amendment could have negative implications for a special administration regime. The new clause was withdrawn.

New clause 5 would have provided that before transferring a nuclear company under the special administration provisions, the secretary of state would be required to publish a report concerning, among other things, the liabilities of the nuclear power station and the costs of ensuring it produces energy.⁸³ The minister argued that the amendment was unnecessary because it is the court which decides when the transfer should take effect. The new clause was withdrawn.⁸⁴

4.3 Report stage

The bill's House of Commons report stage took place on 10 January 2022. No amendments were made to the bill, however both the Labour party and the SNP returned to issues that they had raised at committee stage.

The Labour party again introduced amendments relating to foreign ownership of nuclear companies subject to a RAB.⁸⁵ The Government repeated its argument that the amendment could have the effect of excluding companies part-owned by foreign governments, such as EDF, from

⁸⁰ House of Commons Public Bill Committee, [Nuclear Energy \(Financing\) Bill: Sixth Sitting](#), 25 November 2021, col 182.

⁸¹ *ibid*, col 183.

⁸² *ibid*, col 184.

⁸³ *ibid*, col 186.

⁸⁴ *ibid*, col 187.

⁸⁵ [HC Hansard, 10 January 2022, cols 312–14.](#)

participating in nuclear projects.⁸⁶ The amendment was defeated on division, by 316 to 204.⁸⁷

The Labour party also pushed to a division an amendment about how costs in excess of the financing cap would be met. The Labour amendment 3 sought to ensure these extra costs would not be met by additional charges on consumers.⁸⁸ The Government reiterated its argument that these charges were unlikely to occur because of the due diligence conducted beforehand, but if they were necessary, they were likely to be in consumers' best interests.⁸⁹ The amendment was defeated on division, by 315 votes to 207.⁹⁰ A related amendment was not called.

Another Labour party amendment, returning to the issue of the transfer into public ownership of a nuclear company that could not be rescued, was not called.

The SNP reiterated its argument that the bill lacked transparency, and introduced several new clauses and amendments which aimed to increase transparency.

The SNP's new clause 1 would have required payments relating to a special administration regime to be approved by the House of Commons first.⁹¹ The Government argued that this would slow down the special administration process and the new clause was withdrawn.⁹²

The SNP's amendment 6 would have introduced a RAB designation notice setting out public funding of a project. The minister responded that the "legislation already creates a clear and transparent process for Government decision making".⁹³ The amendment was not called.

The House divided on the SNP's amendment 9 that would have required the Government to publish a report on the upfront costs of a project, as well as the terms of sale of electricity to the grid and how decommissioning costs would be met. The Government reiterated its argument that publishing these costs could jeopardise attempts to raise capital.⁹⁴ The amendment was

⁸⁶ [HC Hansard, 10 January 2022, col 338.](#)

⁸⁷ *ibid*, cols 342–5.

⁸⁸ *ibid*, col 313.

⁸⁹ *ibid*, col 339.

⁹⁰ *ibid*, cols 351–4.

⁹¹ *ibid*, col 313.

⁹² *ibid*, col 337.

⁹³ *ibid*, col 338.

⁹⁴ *ibid*, col 339.

rejected by 315 votes to 207.⁹⁵

Other SNP amendments not called included requirements to publish a report on outages, longevity, safety, penalties for outages over a certain number of days at nuclear companies, and to publish a report before making a transfer under the special administration regime.⁹⁶

4.4 Third reading

The bill's third reading in the House of Commons took place on 10 January 2022, directly following its report stage.

Speaking for the Government, Secretary of State for Business, Energy and Industrial Strategy Kwasi Kwarteng reiterated the Government's position that the UK would not be able to achieve its goal of reaching net zero carbon emissions by 2050 without new nuclear power, and the measures in the bill were necessary to secure funding for new nuclear power stations.⁹⁷ He maintained that the RAB would result in lower overall costs to consumers than using other funding models.

Speaking for the Labour party, Dr Whitehead stated that the Opposition supported the Government's desire to ensure new nuclear power stations were built and supported the RAB model.⁹⁸ He argued, however that because the RAB model had never been used for a project at the scale of a nuclear plant before, consumers must be carefully protected. Dr Whitehead said that the Government should reconsider whether it should allow the Chinese state nuclear corporation to have a role in the Sizewell C project.⁹⁹

The SNP argued that new nuclear power was not an efficient use of resources. Alan Brown said that it would be more effective to invest in renewables and retrofitting homes to make them more energy efficient.¹⁰⁰

The House of Commons voted to give the bill a third reading, by 458 votes to 53.¹⁰¹

⁹⁵ [HC Hansard, 10 January 2022, cols 347–9.](#)

⁹⁶ *ibid*, col 313.

⁹⁷ *ibid*, col 355.

⁹⁸ *ibid*, col 356.

⁹⁹ *ibid*, col 357.

¹⁰⁰ *ibid*, col 358.

¹⁰¹ *ibid*, cols 362–5.

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