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Energy Bill: Committee Stage Report

This is a report of the Committee Stage on the *Energy Bill*, Bill 53 of 2007-08 (now Bill 79).

Key features of the Bill include the creation of the legal framework to require power companies to cover waste and decommissioning costs in the event of new nuclear build; banding of the Renewables Obligation to differentiate levels of support to renewable technologies; and encouragement of investment in gas supply and carbon capture and storage.

The passage of the Bill through the Committee Stage was largely consensual and the Minister was often able to provide reassurance to opposition party concerns. Many of the controversial areas have been on what is not in the Bill rather than what is in it. At Committee Stage the "Miscellaneous" section of the Bill was used to try to generate debate about provisions not in the Bill such as smart-metering, pre-payment meters, electronic electricity devices, social tariffs and the role of Ofgem.

On the provisions that were included in the Bill, the sections on the Renewables Obligation (RO) and nuclear issues generated the most debate.

Donna Gore and Louise Smith

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Summary of main points

The Energy Bill was published on 10 January 2008. Among other things the Bill: creates a regulatory framework to enable private sector investment in carbon capture and storage projects; ensures that funding provisions will be made by developers of new nuclear power stations to meet the full costs of decommissioning and waste management; amends the Renewables Obligation (RO) to encourage support for new and emerging renewables technologies by introducing banding; and aims to simplify the offshore gas supply infrastructure regulatory framework.

The passage of the Bill through the Committee Stage was largely consensual and the Minister was often able to provide reassurance to opposition party concerns. All Government amendments were agreed to without division; most of them being of a technical and clarifying nature, such as where the Bill applies to territorial waters. Similarly, only a limited number of opposition amendments and new clauses were pushed to division.

The Conservatives and the Liberal Democrats both commented that many of the controversial areas have been on what is not in the Bill rather than what is in it. Indeed, at Committee Stage the “Miscellaneous” section of the Bill was used to try to generate debate about provisions not in the Bill such as smart-metering, pre-payment meters, electronic electricity devices, social tariffs and the role of Ofgem. Both opposition parties expressed frustration that there was no opportunity to discuss energy efficiency.

On the provisions that were included in the Bill, the sections on the Renewables Obligation (RO) and nuclear issues generated the most debate. Only one clause was pressed to division; this concerned changes to the Government’s timing and detail of reporting duties relating to energy matters.

During the Committee Stage the Minister announced several forthcoming Government consultations, including on: carbon capture readiness; a renewable energy strategy; and environmental and social guidance for Ofgem.

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I Introduction

The proposals in the Bill are summarised by the Department for Business Enterprise and Regulatory Reform (BERR) as follows:

- Offshore gas supply infrastructure: strengthening the regulatory framework to enable private sector investment in order to help maintain reliable supplies of energy given we expect to rely on imported gas to meet up to 80% of demand by 2020.

- Carbon Capture and Storage (CCS): creating a regulatory framework to enable private sector investment in CCS projects. CCS has the potential to reduce the carbon emissions from fossil fuel power stations by up to 90%.

- Renewables: Strengthening the Renewables Obligation to drive greater and more rapid deployment of renewables in the UK. This will increase the diversity of the UK's electricity mix, thereby improving the reliability of our energy supplies and help lower the carbon emissions from the electricity sector.

- Decommissioning of offshore renewables and oil and gas installations: strengthen statutory decommissioning provisions to minimise the risk of liabilities falling to the Government.

- Improvements to offshore oil and gas licensing: to improve the licensing regime in response to changes in the commercial environment and enable BERR to carry out its regulatory functions more effectively.

- Nuclear waste and decommissioning financing: ensuring the operators of new nuclear power stations accumulate funds to meet the full costs of decommissioning and their full share of waste management costs.

- Offshore electricity transmission. Amending powers such that Ofgem is able to run the offshore transmission licensing regime more effectively.

- Housekeeping: Various provisions covering nuclear security and transfer of various functions to/from BERR.[1]

The Library Research Paper, RP 08/05, written for Second Reading is available online and includes explanation of the concepts mentioned briefly in this paper.[2]

Details of the timetable for the Bill and electronic copies of relevant documents are available from the Public Bills page of the Parliamentary website.[3]

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1 BERR Energy Bill webpage [on 23 April 2008]
2 Library RP 08/05, *Energy Bill*
3 Public Bills page [on 23 April 2008]

II Second Reading

The Second Reading[4] was presented by the **Secretary of State for Business, Enterprise and Regulatory Reform, John Hutton.**

He stated that the UK needs investment in 30-35 GW of new electricity generating capacity in the next 12 years or so. The *Planning Bill*, which aims to establish a framework for infrastructure decisions, along with the *Energy Bill* would introduce the necessary framework to deliver secure, low-carbon energy sources that will cut carbon emissions. There was no single answer to the multi-faceted problems and no single technology capable of solving them.

He reiterated the Government's commitment to the Renewables Obligation (RO) as opposed to a feed-in tariff. Since its introduction in 2002, renewable electricity generated in the UK had more than doubled from about 2% to more than 4%. The proposed banding of the RO, to allow different levels of support for different technologies, would lead to an expected tripling of RO eligible renewable sources by 2015.

On decommissioning and radioactive waste disposal from new nuclear power stations he said there would have to be a funded programme in place before operation of a station commences. It would be a criminal offence to operate the station without the programme in place, and also to fail to comply with the programme:

> As a provision outside the clauses in the Bill, the Government will ensure investor confidence by establishing a fixed price for disposing of new nuclear waste. That will be based on expected costs, with a significant risk premium built in to safeguard the public purse. Further details of how the system will work will be available later this month, but it is wrong to suggest, as some have, that a system based on fixed costs will mean a taxpayer subsidy for new nuclear power.[5] It will mean no such thing: as I have said, we will build a significant contingency into pricing proposals to guard against public subsidies, in a wide range of possible circumstances. The Bill will also ensure that, in a number of situations, including insolvency, the Government will have the power to seek additional funding from parent and other associated companies. In that way, we will be able to ensure that operators meet their financial obligations.[6]

The Conservative spokesperson, Alan Duncan,[7] set the Bill in the context of the *Planning Bill* which aims to establish a framework for infrastructure decisions, the problem of nuclear waste disposal and the EU emissions trading scheme, which he urged the Government to underpin with a carbon tax.

He noted that the UK's own target of 10% of *electricity* generation to be met from renewable sources by 2010 was going to be more like 8%, and that the EU's binding target of 20% of the *overall European energy* mix, which comprises all forms of energy,

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4 HC Deb 22 January 2008 c1361-1469
5 Consultation on Funded Decommissioning Programme Guidance for New Nuclear Power Stations
6 HC Deb 22 January 2008 c1373
7 HC Deb 22 January 2008 cc1377-88

to be generated from renewables by 2020 would be even more difficult to meet despite 'burden sharing' which will allow countries to make different contributions to the overall target. If the UK cannot meet its obligation, it may have to buy the "right to be dirty."

He committed the Conservative Party to supporting the Government in its quest to solve the energy problems:

> The challenges that we face are immense, and we have to set aside party political biffing. We must work together whenever we can to work towards an era of safe, clean, reliable energy.[8]

Alan Duncan criticised the Government's handling of the development of Carbon Capture and Storage (CCS) technology, especially confining the competition to post-combustion capture which excludes projects already planned for pre-combustion capture. Pre-combustion technology would be integrated into new power plants, many of which will be required in the UK and abroad.

> Moreover, it is not clear whether the Bill establishes provision for liabilities. The permanence and safety of the CO_2 stored in geological reservoirs need to be independently monitored and verified by a competent third party to check for leakage. We have anxieties that such safeguards are not in the Bill. Like many of the Government's proposals, the Bill leaves a lot to secondary legislation.
>
> CCS is all well and good, but it is not a limitless solution—it is only as good as the capacity of the hole in the ground to take the CO_2. We must turn to the renewables industry to find a safe, clean and reliable energy source.[9]

On renewables, he welcomed the feasibility study on Severn tidal power, the inclusion in the Bill of banding the Renewables Obligation (RO) and monitoring of biomass operators to ensure their sustainability. He regretted that the proposals would not enable the UK to meet its EU renewables target, and reiterated his support for feed-in tariffs rather than the RO:

> The economics of feed-in tariffs is proven; the ethics of feed-in tariffs is certain. We must begin to make that move towards decentralised energy and microgeneration, not only to help to address our energy challenges but to stoke people's imaginations and to increase their awareness of energy consumption and generation. The current policy is not ambitious enough. The renewables obligation excludes microgeneration technologies and, crucially, excludes heat; it also excludes any reward of energy efficiency in the home. Feed-in tariffs provide a potent response to those challenges, so we will fight for their inclusion in the final version of the Bill.[10]

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8 HC Deb 22 January 2008 c1378
9 HC Deb 22 January 2008 c1381
10 HC Deb 22 January 2008 c1382

Alan Duncan supported the Government's approval for new nuclear build with the provision:

> that there should be absolutely no subsidies for the nuclear industry and that there must be a clear statement from the Government on radioactive waste.[11]

Radioactive waste from new build proved very controversial:

> It is our understanding that the Bill demands that each energy company wishing to invest in nuclear power will have to submit a funded decommissioning programme to the Secretary of State for approval, laying out how hazardous material will be treated, sorted, transported and disposed of, crucially,
>
> "during the operation of a nuclear installation".
>
> That clause oddly appears to neglect to provide a strategy for waste after the plant is operational. The White Paper makes it clear that the Government intend to consult on what guidance such funded decommissioning programmes should contain. Again, the terms of the Bill are completely dependent on future consultations and actions. Moreover, given that the Government have still made little or no progress on establishing a lasting waste regime, it seems extraordinary to demand a thorough financial assessment from industry when a giant radioactive question mark continues to loom over the back-end costs. (…)
>
> but if nuclear power companies are to guarantee that they will knowingly cover all the costs up front, they will not know what the costs of long-term disposal will be.[12]

Peter Luff added:

> The Government's White Paper is reasonably clear, actually. It talks about the energy companies being prepared to pay a substantial risk premium, over and above any realistic estimate of the cost of disposal. That is good, but there is one worrying sentence in the White Paper:
>
> "These costs will include a proportion of the fixed costs of building a geological disposal facility." (…)
>
> the crucial question of what proportion of the costs industry will have to bear is not clear. I hope that the Government will make that clear when—I hope shortly—they produce their further proposals.[13]

John Hutton assured him that during Committee the Government would publish more detail about the costing mechanisms which would address his concerns.

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11 HC Deb 22 January 2008 c1382
12 HC Deb 22 January 2008 cc1383-4
13 HC Deb 22 January 2008 cc1386-7

Alan Duncan's third concern with the Bill was that it lacks any provisions for energy efficiency, especially fuel poverty and smart meters.

Steve Webb,[14] the Liberal Democrat spokesperson, called for:

> a breadth of input, including renewables, energy conservation, energy efficiency, and carbon capture and storage for gas and coal. Such a breadth of strategies would be much more effective in reducing CO_2 emissions than waiting for new nuclear power to come on stream in 15 years' time.[15]

He welcomed the feasibility study on the Severn barrage but criticised the four month delay in publishing the terms of reference. He believed the study should have been started 10 years ago; indeed the Labour administration's tardy approach to a range of policies since it came to power was a recurrent theme. If there had been greater energy efficiency and more encouragement of renewables he thought that new nuclear might not be needed.

He did not support new nuclear build and was concerned that cost declines in renewable technology might leave the country with uneconomic nuclear facilities – and that new nuclear would distract from renewables and energy efficiency. He criticised the Government for *inviting* the nuclear industry to come forward to build new stations, and asked what plan B was if the industry judges that it is too risky. Resolving the problems associated with nuclear waste was of great concern, especially the siting of a repository:

> The Bill provides that companies must pay their share of "the cost"—but what share of the total cost will be allocated to the first nuclear entrant to the market? Will it be 100 per cent? Or will the Government say, for example, "We think there'll be three entrants, so we'll charge you a third of what we think the cost will be"? But then, if nobody else comes in, will they then say, "Actually, on second thoughts, you've got to pay the whole cost, because there's no one else incurring it"? How is the Government to know what the future cost will be? That is the point that I would make to the Chairman of the Select Committee. Companies entering the market cannot know what their share of the future cost will be, because they cannot know how many entrants there will be.[16]

If a company went bankrupt would the money for decommissioning be ring-fenced? What would happen if a company went bankrupt before the decommissioning pot of money had accrued? He asserted that nuclear power may be low-carbon but the waste issue makes it environmentally unfriendly.

Steve Webb argued the focus of the Bill was wrong because it was the responsibility of the wrong Government department. It should be handled by Defra as part of environmental policy rather than BERR which is interested in the utilities and heavy industry.

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14 HC Deb 22 January 2008 cc1391-9
15 HC Deb 22 January 2008 c1393
16 HC Deb 22 January 2008 c1397

He also highlighted issues that he thought should have been in the Bill but were omitted: domestic energy efficiency; fuel poverty and social tariffs; smart meters; decentralised energy; combined heat and power; and the remit of Ofgem. Like the Sustainable Development Commission, the Liberal Democrats would like:

> "Ofgem's primary duty changed so that its central focus is on creating a sustainable system that costs as little as possible, rather than making a low cost system as sustainable as possible."[17]

III Committee Stage

The Committee proceedings began on 5 February 2008 and ended on 11 March 2008. There were fifteen sittings of which the first three were oral evidence from: The Trades Union Congress; EEF; Scottish and Southern Energy plc; E.on UK plc; EDF Energy plc; Centrica plc; Scottish Power plc; RWE npower plc; National Grid plc; Energy Networks Association; OFGEM; energywatch; British Energy; Nuclear Industry Association; Health and Safety Executive; Nuclear Decommissioning Authority; Greenpeace; Friends of the Earth; Green Alliance; Mr Tom Burke; Renewable Energy Association; British Wind Energy Association; Sustainable Development Commission; Carbon Capture & Storage Association; Oil and Gas UK; SGBI Gas Storage Operators Group; and Malcolm Wicks MP, Minister of State for Energy, and officials, Department of Business, Enterprise and Regulatory Reform.

The Committee also received written evidence from Barnardos and Save the Children; Greenpeace; Friends of the Earth; Energy Networks Association; Energy Retail Association; energywatch; Carbon Capture and Storage Association; Mayor of London; Confederation of British Industry; Tom Burke; Oil and Gas UK; British Wind Energy Association; Renewable Energy Association; and Scottish and Southern Energy plc.

Members of the Committee are listed in the Appendix to this paper. It comprised five Conservative, nine Labour and two Liberal Democrat Members.

A. Introduction and summary

The passage of the Bill through the Committee Stage was largely consensual and the Minister was often able to provide reassurance to opposition party concerns. As the table below shows, all Government amendments were agreed to without division; most of them being of a technical and clarifying nature, such as where the Bill applies to territorial waters. Similarly, only a limited number of opposition amendments and new clauses were pushed to division. The Government Minister was Malcolm Wicks. Charles Hendry spoke for the Conservatives and Steve Webb and Martin Horwood for the Liberal Democrats.

Steve Webb commented that "most of the attention has been focused on what is not in the Bill, rather than what is."[18] On the provisions that were included in the Bill, the

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17 HC Deb 22 January 2008 c1399
18 PBC 21 February 2008 c129

sections on the Renewables Obligation (RO) and nuclear issues generated the most debate. On the RO, the Conservatives, supported by the Liberal Democrats, wanted to introduce an amendment to make sure the Secretary of State had to consider research and development costs involved in enabling the industry to make efficiency gains when making banding decisions. The Liberal Democrats proposed a new clause designed to extend the marine renewables deployment fund with the effect of giving more of a boost to this sort of technology. Both were negatived on division.

In regard to the nuclear provisions, the Liberal Democrats tabled a proposal to make "absolutely clear" that a funded decommissioning programme would not be approved if it included any proposal to limit the liabilities of the operator should cost estimates change. They also tabled a proposal which would make the Nuclear Liabilities Financing Assurance Board a statutory body rather than an advisory non-departmental public body. Again, both proposals, introduced as amendments, were negatived on division.

The only clause in the Bill itself pressed to division was clause 78. The clause makes changes to the Government's timing and detail of reporting duties relating to energy matters. The Liberal Democrats were unhappy with this clause as a whole and the Conservatives tabled two new additional clauses to sit with it which would give some more prescriptive reporting requirements in relation to onshore gas storage and also total energy consumption in domestic housing and businesses. Following a division, clause 78 was ordered to stand part of the Bill and the two new clauses were negatived.

This section of this paper sets out information about issues debated in Committee and gives an overview of what happened for each clause. However, it is not intended to be an account of all the issues raised in Committee.

1. Table showing amended clauses[19]

Clause number	Remit of clause	Amendment number	Relevant section in this paper
34	Storage of carbon dioxide – interpretation	1,5 and 6	III(B)
41	Nuclear sites: decommissioning and clean-up – duty to submit a funded decommissioning programme	25 and 26	III(F)
49	Nuclear sites: decommissioning and clean-up – power to review operation of the programme	27	III(F)
63	Nuclear sites: decommissioning and clean-up – interpretation	2	III(F)
65	Offshore renewables installations – security for decommissioning obligations	3	III(F)
69	Oil and gas installations – protection of abandonment funds from creditors	4	III(G)

[19] These are all Government amendments. They were all agreed to without division. 9 clauses in total amended.

2. Table showing amendments, clauses and new clauses put to division[20]

Called for debate/ division under clause number:	Remit of clause	Amendment number/ new clause number:	Tabled by	Ayes/ noes:	Relevant section in this paper
36	Electricity from renewable sources – the renewables obligation	Amendment No.16	Charles Hendry John Baron	7/9	III(E)
36	Electricity from renewable sources – the renewables obligation	New clause 15	Steve Webb Martin Horwood	7/10	III(E)
42	Nuclear sites: decommissioning and clean-up – approval of a funded decommissioning programme	Amendment No.45	Steve Webb Martin Horwood	2/13	III(F)
51	Nuclear sites: decommissioning and clean-up – regulations and guidance	Amendment No.40	Steve Webb Martin Horwood	2/13	III(F)
78	Miscellaneous – energy reports	Division on whether clause should stand	Martin Horwood	9/6	III(I)
78	Miscellaneous – energy reports	New clause 5	Charles Hendry John Baron	6/10	III(I)
78	Miscellaneous – energy reports	New clause 25	Charles Hendry John Baron	7/10	III(I)
79	Miscellaneous – gas meters	New clause 1	Charles Hendry John Baron	6/10	III(I)
79	Miscellaneous – gas meters	New clause 4	Charles Hendry John Baron	4/10	III(I)

[20] All were negatived

B. Gas importation and storage zones

a. Exploitation of areas outside the territorial sea for gas importation and storage (clause 1)

No amendments were tabled to clause 1.

Clause 1(5) of the Bill allows for offshore areas to be designated by Order in Council as areas for gas importation and storage. Provision for this will be integral to the process of carbon capture and storage (CCS). On this matter Dr Brian Iddon questioned whether enough is known about the storage of carbon dioxide below the sea in the cavities from which oil has been excavated.[21]

In reply, the Minister for Energy, Malcolm Wicks conceded that so far, globally, there is relatively little experience of CO_2 storage.[22] However, drawing on the case of the Sleipner gas field in Norwegian waters, where CO_2 has been injected for approximately ten years, he stated that the field has been carefully monitored and scientifically studied and said that geologically, the CO_2 is behaving "as one would expect".[23] In addressing Dr Iddon's question, he said that the "scientific issues are absolutely vital", which is why he explained the UK has established a joint working group with Norway looking at "all aspects of CO_2."[24]

C. Importation and storage of combustible gas

The explanatory notes to the Bill set out that the UK's current legislative regime offshore was "chiefly designed for licensing oil and gas production. It therefore does not easily lend itself to the types of gas supply projects that the UK will need to come on-stream as indigenous production of natural gas declines."[25] As a result, there is no single piece of legislation that explicitly covers offshore gas supply activities and consents currently have to be sought under several different pieces of legislation. Chapter 2 of the Bill creates a new regulatory framework designed to simplify the consent regime.

a. Licences (clause 3)

Clause 3 relates to the licensing process. An amendment was moved by Steve Webb and later withdrawn, which proposed a duty on the Secretary of State to consult with relevant environmental bodies, particularly in relation to marine plans, when granting licences.[26]

The amendment led to a discussion about how the Bill sits alongside and relates to environmental issues, in particular those raised by the *Planning Bill* and the draft *Marine*

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21 PBC 21 February 2008 c129
22 PBC 21 February 2008 c130
23 PBC 21 February 2008 c130
24 PBC 21 February 2008 c130
25 Energy Bill, Bill 53-EN 2007-08, p4
26 PBC 21 February 2008 c139

Bill. Steve Webb raised the point that energy and the environment are the responsibilities of different departments and wondered what different considerations might be given:

> Without our amendment, the energy Department might be inclined to grant a licence where the environment Department might give greater weight to consideration of the environmental damage and say no.[27]

Dr Ladyman stated that the Habitats Directive already imposes an obligation on the Government to carry out consultations and wondered why therefore this amendment was needed.[28] Steve Webb replied that he wanted to be confident that full Strategic Environmental Assessments will take place when novel forms of extraction or storage are proposed to be licensed. He raised concern that the Bill would regulate licensing of offshore gas storage and supply and that the *Marine Bill*, which may create a Marine Management Organisation (MMO), would consequently not have any remit over the extraction and storage of gas and energy in the marine environment.

In reply to the points raised about integration with environmental issues and the proposed amendment, the Minister assured Members that

> it is because we take these issues so seriously that we will also provide for legislation to cover offshore gas unloading and storage and carbon dioxide storage activities. That will ensure that proposals for installations of that type are subject to appropriate controls to protect the environment. Where necessary, environmental approvals granted in respect of a project would also contain conditions to protect the environment. We will extend the requirements of EU environmental laws to the offshore gas unloading and storage, and carbon dioxide storage, regimes.[29]

He then went on to explain some of the environmental protections that will be put in place once the licensing regime is implemented, but will not be part of the Bill. These include: the requirement for an environmental impact statement and assessment; where appropriate, an assessment under the Habitats Directive; and that once a MMO is established, the Secretary of State will work closely with it in considering the potential for gas storage and extraction projects in UK waters.[30]

Steve Webb explained that the "critical point" of his amendment was to deal with the "interregnum" between this Bill coming into force and the eventual passing of the *Marine Bill*.[31] In response, the Minister offered assurances that "we have environmental protection measures in place" and that BERR is already covering these with the Marine and Fisheries Agency in advance of any creation of a MMO by a *Marine Bill*.

Following these assurances from the Minister, Steve Webb withdrew the amendment.

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27 PBC 21 February 2008 c140
28 PBC 21 February 2008 c140
29 PBC 21 February 2008 c147
30 PBC 21 February 2008 c148
31 PBC 21 February 2008 c155

b. Offence to carry on unlicensed activities (clause 7)

Clause 7 makes it an offence for a person to carry out an activity that requires a licence, without having one. On this clause Charles Hendry moved amendment No.7 which would extend the requirement to have a licence and also make it an offence to operate a gas importation or storage facility without a decommissioning programme, which has been approved by the Secretary of State, being in place. He argued that "decommissioning needs to be included from the outset, so that we can put it on a level playing field with other activities in the energy sector".[32]

The Minister could not agree to the amendment for two reasons.[33] The first reason was that the Government intends to extend through this Bill the existing decommissioning provisions in Part 4 of the *Petroleum Act 1998*. Malcolm Wicks said that the amendment would therefore "in effect create a different regime for gas unloading and storage from that which will apply to oil and gas developments."[34] He also explained that the Government is looking to protect the funds put aside for decommissioning, so that in the event of insolvency, the taxpayer's money is protected. Following changes to the *Petroleum Act 1998*, this would apply automatically to offshore gas unloading and storage facilities. The second reason given was that he felt the amendment could create confusion over which penalty regime would apply given the provisions already in part 4 of the *Petroleum Act*, particularly given that that Act and this Bill give different penalties.

Charles Hendry withdrew the amendment.

Charles Hendry then moved amendment No.8 which would provide for a bar on future licence applications, for a time period to be determined by the Secretary of State, for people who have previously been found guilty under this section of operating without a licence. He explained that "we are seeking to ensure that we have effective deterrents in place so that people do not breach this part of the Act."[35]

The Minister then clarified that "a person" in clause 7 could include a company and any corporate body. He then went on to explain that the penalty provisions are based on an existing enforcement regime under the *Petroleum Act 1998*, which he said "has worked successfully to date."[36] The amendment was withdrawn.

c. Inspectors (clause 12)

Clause 12 allows the Secretary of State to appoint inspectors to assist the Secretary of State with the powers given to the Secretary of State in the Bill in relation to the licensing of gas importation and storage. Charles Hendry moved amendment No.11 which would allow additionally for any offence to also be punishable by revocation of a licence, at the discretion of the Secretary of State. The Minister however, said that a revocation provision is not required in the Bill because it could be included in the terms and

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32 PBC 21 February 2008 c166
33 PBC 21 February 2008 c168
34 PBC 21 February 2008 c168
35 PBC 21 February 2008 c169
36 PBC 21 February 2008 c171

conditions of the licence if the regulatory authority deemed it to be necessary. The amendment was withdrawn.

D. Storage of carbon dioxide

Chapter 3 of the Bill relates to the storage of carbon dioxide (CO_2). At the beginning of the consideration of these clauses the Committee began with a broad discussion about carbon capture and storage (CCS).

Malcolm Wicks began by explaining the background:

> CCS with power generation involves capturing carbon dioxide that would otherwise be released from fossil fuel power stations and storing it permanently in geological formations such as depleted oil and gas fields. Although CCS is considered a promising climate change mitigation measure, it has yet to be demonstrated in relation to a commercial-scale power station. CCS has the potential to reduce CO2 emissions from fossil fuel power stations by up to 90 per cent., which is a key reason why it has created such interest, not least in Parliament.[37]

He also went on to explain why specific provisions are needed in the Bill to license the underground storage of CO_2 rather than consolidating them with provisions for the offshore storage of natural gas and the unloading of Liquefied Natural Gas (LNG). He explained that a "comprehensive" and "adaptable" legal base is needed to regulate the offshore storage of CO_2 given the "promising geology for the storage of CO_2 are the depleted oil and gas reservoirs of the North Sea."[38]

On the point of these geological features, Martin Horwood replied that some of these geological areas which would currently be suitable for CO_2 storage, such as the Miller field, would need to be exploited for carbon capture and storage on a relatively quick basis, otherwise they would be "capped and lost as a potential facility." He then raised the issue of the Government's competition regime and said that the decision to limit the competition to post combustion, rather than pre-combustion CCS technology would not "bring it on stream as fast as possible."[39] He argued that projects like at Peterhead which was a pre-combustion project financed by BP would have been online by 2011, which "would have been at least three years ahead of the time scale envisaged under the competition now planned".[40]

In response the Minister explained that the Government wanted to be able to demonstrate CCS with a coal-fired power station, which the project at Peterhead is not. He explained that this was "because of the worldwide significance of coal in contributing to the rising temperatures of our planet and climate change."[41]

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37 PBC 21 February 2008 c185
38 PBC 21 February 2008 c186
39 PBC 21 February 2008 c186
40 PBC 21 February 2008 c187
41 PBC 21 February 2008 c188

Charles Hendry expressed concern that the Government would be issuing licences for only one type of CCS technology, rather than looking at the whole range of CCS technology.[42] In response the Minister explained that this Bill is "technologically neutral" and that it sets up a regulatory framework for the storage of CO_2 that does not depend on whether it is pre or post-combustion.[43] However, although Charles Hendry accepted this point, and also that there would be great opportunity to export post-combustion technology to China's coal-fired power stations, he said that there would also be a "massive" potential for exporting pre-combustion technology. He also said that through pre-combustion, CO_2 can be captured in its totality at much less expense than through post-combustion.[44] In a similar vein to Martin Horwood, he also argued that: "time is not on our side"; that the pilot CCS schemes would not be up and running before 2014; and given the time needed to then evaluate and learn lessons, that commercial exploitation of the technology would be "unlikely before 2020 – five years after we get hit by the energy gap."[45]

Similarly, Steve Webb said that whilst he accepted the Minister's point that the Bill was "technology neutral", that Government policy clearly favoured one technology over the other. He speculated that the consequence of this would be that the pre-combustion projects, such as the one that BP had intended to demonstrate at Peterhead, would go elsewhere, as would the technology, and that Britain would "lose out."[46]

Dr Iddon also spoke about the merits of pre-combustion CCS technology. He argued that, if the UK is building new power plants, they should be carbon-capture ready. He added that pre-combustion technology should be the only answer here because it generates hydrogen. He explained that hydrogen is likely to be one of the transport fuels of the future because it does not produce CO_2 and said that it was important to develop a hydrogen economy. He speculated that we could miss out to Japan if we do not take the opportunity to "kick start" the hydrogen economy through developing pre-combustion CCS technology.[47]

a. Prohibition on unlicensed activities (clause 16)

Clause 16 of the Bill forbids the storage of CO_2 without a licence. Steve Webb asked for assurances that the Bill would provide for a single licensing agreement to account for interaction with the petroleum licensing regime and also hydrocarbon exploration and production activities.[48] In response to this, the Minister said that there would be a consultation shortly on the proposed regulatory arrangements and that it would not be appropriate to detail such arrangements in this Bill.[49] He also said that there would be no possibility of taking away vested rights, but that the Government would be amending section 47A of the *Petroleum Act 1998* to ensure that in deciding to give a consent under

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42 PBC 21 February 2008 c189
43 PBC 21 February 2008 c190
44 PBC 21 February 2008 c190
45 PBC 21 February 2008 c191
46 PBC 21 February 2008 c194
47 PBC 21 February 2008 c197
48 PBC 21 February 2008 c191
49 PBC 21 February 2008 c200

this Act, they can take into account gas storage and CCS activities; as is already the case for wind farm activities.[50]

The Minister was also asked about onshore storage of CO_2 using saline aquifers and whether any of the licensing arrangements in the Bill related to this.[51] He replied by explaining that onshore storage is currently prohibited by the European Union, but that BERR hope that a forthcoming EU Directive will remove the prohibition. He stated that the use of a saline aquifer on land will be assessed when the directive comes forward.[52]

Steve Webb asked whether there are other polluting gasses emitted from fossil fuels that could be captured and stored and if so, would it be better to legislate generally rather than specifically for CO_2.[53] Malcolm Wicks said that he had not ruled out the need to consider measures for other gases, but said that CO_2 was currently public enemy "No.1".[54] The Minister also answered a question about the overall regulation of carbon storage. He explained that whilst the Bill intends regulation through the Secretary of State, it also allows powers to be transferred to an "appropriate" agency. He confirmed that the appropriate authority has not yet been decided.[55]

b. Licences (clause 17)

Clause 17 will give the Secretary of State, or relevant authority to which the licensing function has been transferred (under clause 33), the power to license the CO_2 storage-related activities. No amendments relating to this clause were called.

The Minister explained that in addition to such a licence, a lease or an authorisation in respect of the relevant offshore space must be granted by the Crown Estate because it has ownership rights within 12 nautical miles of the territorial sea and that relevant rights, "possibly up to 200 nautical miles", will also be vested in the Crown under clause 1.[56] He clarified that the Crown Estate will grant leases or authorisations on commercial terms to operators for the storage of CO_2 within those areas and said that they will "prescribe the geographical space in which CO_2 can be stored, as well as specifying the period during which the site can be utilised."[57] He stated that the clause "will ensure that the areas covered by the licence and the Crown lease can be easily co-ordinated."[58]

c. Requirements relating to grant of licences (clause 18)

Clause 18 will enable the Secretary of State to make regulations, by the negative procedure, which prescribes the circumstances in which CO_2 storage licences may be granted. The Minister explained that the regulations may prescribe who may apply for

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50 PBC 21 February 2008 c200
51 PBC 21 February 2008 c192
52 PBC 21 February 2008 c200
53 PBC 21 February 2008 c192
54 PBC 21 February 2008 c199
55 PBC 21 February 2008 c200
56 PBC 26 February 2008 c203
57 PBC 26 February 2008 c203
58 PBC 26 February 2008 c203

licences, what information would need to be supplied by the applicant, the financial security arrangements and "other requirements."[59]

Martin Horwood asked about carbon capture storage facilities falling within the European Union Emissions Trading Scheme (EU ETS). He said that future leakages or losses of CO_2 from geological or other storage facilities here will attract financial penalties as they will technically require a permit. He asked therefore whether the future obligation not to lose CO_2 from storage facilities will be incorporated within the licensing regime.[60]

In reply, the Minister said that the licensing regime for CCS will be flexible enough to cover liabilities for leaks and that "the European Union's ETS liabilities will therefore also be covered for as long as the licence is in place."[61] He also explained that there is a penalty regime for leakage in the Bill in that he expects that it will be a requirement of a licence to remedy and notify the licensing body of a leak. He stated that "Failure to notify of a leak will be a criminal offence under clause 22. The operator will also be liable for damages under the environmental liability directive."[62]

Charles Hendry asked the Minister about the need for a financial security test to ensure that people applying for a licence will be able to meet their obligations.[63] In reply, the Minister explained that the classes of persons who can apply for a licence under this clause will be prescribed by regulations and that those persons will "have to be financially sound and sufficiently expert to undertake the activity of carbon storage."[64] He also said that the Government would be "consulting on the nature of financial security."[65]

Anne Main asked for more details about decommissioning of storage sites. The Minister replied that not only would the company involved have the prime responsibility for the site and for monitoring its operation both while it is live and before it is sealed off, but that departmental inspectors would also have a "major responsibility". He said that when the site is finally sealed or capped that the state would have the "ultimate responsibility for long term monitoring" and that the details would be finalised at the "appropriate time."[66]

Along with the discussion of clause 18, the Chairman also took proposed new clause 18 for discussion. The new clause 18 was tabled by Steve Webb and Martin Horwood. The Member's explanatory statement said that "It would give the Secretary of State an enabling power to introduce a performance standard that sets the maximum amount of CO_2 emissions from individual electricity generating stations. The Standard would apply to any generating stations requiring consent for construction or extension under section 36 of the *Electricity Act 1989*."[67]

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59 PBC 26 February 2008 c207
60 PBC 26 February 2008 c207
61 PBC 26 February 2008 c213
62 PBC 26 February 2008 c213
63 PBC 26 February 2008 c221
64 PBC 26 February 2008 c222
65 PBC 26 February 2008 c222
66 PBC 26 February 2008 c223
67 Public Bill Committee 28 February 2008, NC18, 112

The Minister then explained that, whilst he understood the motivations behind the new clause, there were reasons why such a clause was not included.[68] He stated that:

> It is the Government's view that the EU ETS has an important role to play in reducing greenhouse gas emissions from new and existing power stations. We believe that it is the most cost-effective way to make the transition to a low-carbon economy.[69]

He then clarified this point by saying that the ETS was at the moment and for the foreseeable future "not the whole answer, just part of it."[70] He said therefore that the Government was not in a position to rule out "key elements of the UK's energy mix" which is what he thought that the new clause would effectively achieve.[71] He explained:

> Therefore, instead of ruling out one type of energy supply, the approach favoured by the Government is to maintain a diverse energy mix and to support the EU ETS that sets absolute caps on carbon dioxide emissions, and thus sends a clear carbon price signal to the market. That incentivises the industry to bring forward cost-effective investments to drive carbon dioxide emissions reduction.[72]

Malcolm Wicks then stated that the Government would launch a consultation on carbon capture readiness "later this spring" which would take into account the draft EU directive on CCS that "promotes mandatory carbon capture ready conditions."[73] Martin Horwood withdrew the new clause.

d. Terms and conditions (clause 19)

Clause 19 gives the Secretary of State, or relevant authority, a power to grant licences on such terms and conditions as that licensing authority thinks fit and sets out the terms and conditions that can be attached to a licence. The Minister explained that this power will allow the licensing authority to include case-specific requirements in relation to each CO_2 store.[74]

Charles Hendry moved amendment No.12 which would insert an additional condition for the licence holder to advise the Secretary of State of any accidents, near accidents or leakages relating to the facility. The Minister said that the Government's approach was that concerns about accidents and leakages were so "blindingly obvious" that reference need not be made to them".[75] He said however, that issues relating to accidents and leaks were "crucial" and "will be a major component of the licence."[76] Charles Hendry withdrew the amendment.[77]

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68 PBC 26 February 2008 c214
69 PBC 26 February 2008 c215
70 PBC 26 February 2008 c216
71 PBC 26 February 2008 c216
72 PBC 26 February 2008 c217
73 PBC 26 February 2008 c218
74 PBC 26 February 2008 c225
75 PBC 26 February 2008 c226
76 PBC 26 February 2008 cc227-8
77 PBC 26 February 2008 c228

Charles Hendry asked about the provision in clause 19(3)(d) which would allow the Secretary of State to modify the licence with or without the consent of the licence holder. He asked for assurance that any decision to modify the licence would be made following consultation with the licence holder so that their view could be taken into account.[78] The Minister said that he understood this concern and agreed that when someone signs a licence that they need "some certainty". However, he explained that as this is new territory, with new science, engineering and technology "some flexibility is required", but said that "consultation is important in this area and will be standard."[79]

e. Content of licences: regulations (clause 20)

Clause 20 gives the Secretary of State the power to make regulations about the terms and conditions which must be included in licences. New clause 7 proposed by Steve Webb and Martin Horwood was also discussed, which relates to CCS technology in competitions:

> In any competitive process relating to carbon capture initiated by the Secretary of State, equal status shall be given to all carbon capture technologies.

There then followed a wide ranging discussion about the Government's CCS competition which is limited to post-combustion technology.[80] Steve Webb did not press the new clause.

f. Requirement for public register (clause 28)

Clause 28 requires the Secretary of State to maintain a register containing prescribed information relating to licences. Clause 28(2) states that information can be excluded from the register if it would prejudice a person's commercial interests. Clause 28(3) states that such information will cease to prejudice commercial interests at the end of a four year period. Charles Hendry proposed amendment No. 23 which he explained would "change the period of confidentiality from four to 10 years."[81] The Minister replied that the four year period can be extended at the Secretary of State's discretion, on application by the person whose commercial interests are affected.[82] The amendment was withdrawn.

g. Termination of licence: regulations (clauses 30-33)

Clause 30 gives the Secretary of State power to make regulations setting out the circumstances under which a licence may be terminated. Charles Hendry moved amendment No.15 to reaffirm the role of inspectors in examining a facility that has been closed. The Minister said that he was "confident" that the provisions of the Bill will provide the "necessary environmental, safety, and financial protection properly to

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78 PBC 26 February 2008 c228
79 PBC 26 February 2008 c229
80 See PCB 26 February 2008 cc232-44
81 PBC 26 February 2008 c254
82 PBC 26 February 2008 c255

regulate the inspection of closed carbon stores proper to, or as part of, the termination of licences."[83]

Given the Minister's assurances, Charles Hendry withdrew the amendment. Clause 30 was ordered to stand part of the Bill, along with clauses 31 to 33.[84]

h. Interpretation (clauses 34 and 35)

Clause 34 defines certain terms used throughout Chapter 3. Malcolm Wicks moved three amendments which were intended to help define the territorial boundaries of the waters in question.[85] The Minister explained:

> these technical amendments will help to achieve the dual objective of ensuring consistency with the boundaries defined for the purposes of the Scottish and Welsh devolution settlements, as well as removing any doubt as to the exact boundaries of the internal or territorial waters covered by the relevant provisions of the Bill.[86]

E. Electricity from renewable sources

a. The Renewables Obligation (clause 36)

The Renewables Obligation (RO) was introduced in 2002 to "stimulate growth of electricity generation from renewable sources."[87] In Great Britain the RO operates under the *Electricity Act 1989* with separate orders in England, Wales, Scotland and Northern Ireland. Under the existing system licensed electricity suppliers have a "renewables obligation" to produce evidence that a certain amount of the electricity supplied to customers has been generated using renewable sources. The evidence is in the form of a Renewables Obligation Certificate (ROC).[88] One of the proposals in part 2 of the Bill allows the RO to be banded to provide different levels of support for different renewable technologies based on several considerations.[89]

Clause 36 substitutes new sections 32 to 32M into the *Electricity Act 1989* to "incorporate all amendments made to the Renewables Obligation in primary legislation since 2002, as well as the further additions and amendments proposed by this Bill."[90] It is a consolidating measure that also introduces banding of the RO to reward some renewables more than others. Banding will reflect the cost and stage of development of each technology. Malcolm Wicks said that this "makes the RO more effective at increasing the deployment of renewables."[91]

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83 PBC 26 February 2008 c257
84 PBC 26 February 2008 c259
85 Public Bill Committee 26 February 2008, amendments paper, p70-71
86 PBC 26 February 2008 c260
87 Bill 53-EN 2007-08, p26
88 Bill 53-EN 2007-08, p23
89 Bill 53-EN 2007-08, p24
90 Bill 53-EN 2007-08, p26
91 PBC 26 February 2008 c292

The debate on this clause covered several amendments and proposed new clauses. These are discussed below. More general points were made about the clause towards the end of the debate. For example, Charles Hendry raised a concern relating to exports and new section 32(B)(3) of the 1989 Act. This new subsection provides for a ROC to certify that, amongst other things that the electricity referred to in it has been supplied to customers in Great Britain.[92] Charles Hendry wanted to know what implications there would be for the ROC system if a super-grid did not sell directly to customers in Great Britain, but exported directly to another country.[93]

The Minister suggested that clarity was not needed now because Great Britain does not have a super-grid. He also said that if and when there is actually a super-grid that the implications would be addressed "in a timely fashion" and that he would consider the matter as part of the renewable energy strategy.[94]

The Minister also read out a statement to clarify the meaning of new section 32(B)(10)(d) in the 1989 Act which relates to "permitted ways" that electricity can be used for a ROC to be issued:

> ROCs can be issued to generators where it can be demonstrated that the electricity from renewable sources has either been supplied by an electricity supplier to customers in Great Britain or Northern Ireland, or the electricity has been used in a permitted way. I agree that the legal drafting in proposed new section 32B(10)(d) might not be easy to follow—that is what my brief says—but it simply makes it clear that a permitted way includes any combination of self-consumption, supply through a private wire network and provision to a transmission or distribution system. Those permitted ways cover various situations where electricity generated from renewable sources has not been sold on through a supplier or where it is difficult to prove that it has.[95]

Amendment 24

Charles Hendry moved amendment No.24 which related to the new section 32 that clause 36 would insert into the *Electricity Act 1989*. New section 32 "defines the RO and provides a power for the Secretary of State to make a renewables obligation order detailing how the RO will operate in practice."[96] The amendment would delete the proposed new section 32A(2)(d) to the 1989 Act. Charles Hendry explained that the reason for moving the amendment related to concerns about caps on particular energy sources. He said that Drax Power had brought to his attention "concerns that caps on the volume of non-energy crops will result in less biomass being burnt, which will mean that more CO_2 is being released into the atmosphere."[97]

Steve Webb supported the amendment for a different reason. He was concerned that new section 32 would give the Government "the power not simply to ban ROCs

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92 Bill 53-EN 2007-08, p27
93 PBC 28 February 2008 c343
94 PBC 28 February 2008 c344
95 PBC 28 February 2008 c345
96 Bill 53-EN 2007-08, p26
97 PBC 26 February 2008 c262

[Renewables Obligation Certificates] and let the market get on with it, but to superimpose on banded ROCs a further requirement."[98] He felt that it would allow the Government to require energy companies to buy ROCs from a particular source. He said that this made him "nervous" and "did not provide the certainty that generators would want."[99]

The Minister explained that the power given by new section 32A(2)(d) of the 1989 Act was intended to "enable the Secretary of State to require electricity suppliers in meeting their obligation to source a minimum proportion of their electricity from specified sources".[100] He explained that it gives the Secretary of State power to focus the RO on specific technologies or renewable sources. He added that this was "necessary" and "should be retained."[101] He gave assurances however, that it was not the Government's intention to use it in order to focus the obligation so that suppliers would have to present a certain number of ROCs from a single renewable technology. He also said that "to a large degree" he anticipated that the banding would allow the Government to provide the correct level of support to different technologies. However, he said that as the move to band different technologies would add "complexity", that the Government "cannot rule out wanting to consult on using the power to boost a particular renewable type of generation".[102]

Charles Hendry withdrew the amendment.

Amendments 16, 17 and 21

Charles Hendry then moved amendment No. 16, which was discussed with amendments Nos. 21 and 17.

Amendment No.16 would add into new section 32(D)(4) of the 1989 Act an extra requirement for the Secretary of State to have regard to, when making decisions about banding provision in the RO, "research and development costs involved in enabling the industry to make efficiency gains."[103] Charles Hendry explained that the amendment is designed to "help the [renewables] industry develop as quickly as possible."[104]

The Minister said that this amendment was "unnecessary" because the Secretary of State would "already need to take account, under new section 32(D)(4)(a), of the costs associated with generating electricity from renewable sources."[105] He also said that for technologies which are not yet competitive, the Government have set up the Energy Technologies Institute and an environmental transformation fund. Charles Hendry said that he was "disappointed" by the Minister's response.[106] He said that there was a distinction between "capital costs" and the "research and technology costs involved in

98 PBC 26 February 2008 c263
99 PBC 26 February 2008 c263
100 PBC 26 February 2008 c264
101 PBC 26 February 2008 c264
102 PBC 26 February 2008 c264
103 PBC 26 February 2008 c266
104 PBC 26 February 2008 c266
105 PBC 26 February 2008 c269
106 PBC 26 February 2008 c272

trying to bring about efficiency gains", that the Minister had not "been prepared to agree with". For this reason, he pushed the amendment to a division. Martin Horwood stated that the Liberal Democrats would "happily support him."[107] The amendment was defeated by 9 votes to 7.[108]

Amendment No. 17, also moved by Charles Hendry, would add a requirement in the Bill for the Secretary of State to make a reassessment of the banding levels at least every four years. The Minister said that the timing of the reviews would be set out by secondary legislation and that the Government had already made the commitment for the first of these to coincide with the start of the EU ETS phase 3 in 2013.[109] Charles Hendry did not push the amendment further.[110]

Martin Horwood tabled amendment No.21, which would add a paragraph to new section 32(D)(4) to ensure that the Secretary of State would take into account the "possible impacts on the environment associated with generating electricity from each of the renewable sources or with transmitting or distributing the energy so generated."[111] To illustrate his point he explained that the Severn estuary could contribute more to the UK generating supply, but that in doing this, there would be "inevitable" environmental impacts on the flow of the Severn "affecting biodiversity and wildlife habitat".[112]

In response the Minister said that he had "sympathy" with the intention behind this amendment, but felt that it was "not necessary" and set out what he thought were "better ways" to proceed with the intention.[113] Martin Horwood did not push the amendment further.[114]

Amendment 18 and new clauses 15 and 17

Charles Hendry explained that amendment No.18 provided for a definition of biomass, to allow for a RO order to set out acceptable circumstances for the growing of biomass.[115] The Minister explained that the RO order will require generators to report on the nature, quantity and source of the biomass, what the land has previously been used for and whether production meets any other existing or planned sustainability standards. He also said that proposals under new section 32(J)(3) of the 1989 Act will "allow us to build an evidence base to help us to decide whether action is necessary in the future" and that if action is needed that there were "other powers generally under the Bill that allow us to take appropriate measures through secondary legislation."[116] Charles Hendry withdrew the amendment.[117]

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[107] PBC 26 February 2008 c273
[108] PBC 26 February 2008 c273
[109] PBC 26 February 2008 c272
[110] PBC 26 February 2008 c272
[111] PBC 26 February 2008 c267
[112] PBC 26 February 2008 c268
[113] PBC 26 February 2008 cc270-1
[114] PBC 26 February 2008 c273
[115] PBC 26 February 2008 c274
[116] PBC 26 February 2008 c280
[117] PBC 26 February 2008 c289

Steve Webb explained that new clause 15 related specifically to marine renewables and involved "extending what the marine renewables deployment fund does." He explained that the wording had been taken directly from the objectives of the Scottish scheme, which "unlike the Westminster Government's scheme, has succeeded."[118] £42 million had been allocated to "multi-device early stage commercial generation facilities using technologies that had completed their R&D and were ready to move into a commercial environment", but just two applications had been made for this fund and both had been turned down.[119] In contrast, he thought that the Scottish scheme had already funded "about half a dozen projects, which have already taught us things about those alternative technologies." He said that the new clause was needed because the criteria of the current scheme are "too restrictive".[120] He also highlighted the Sustainable Development Commission's desire to see more investigation into long-term potential of tidal lagoons.[121]

In reply, the Minister explained that no technology developer has yet met the entry fund criteria due to a lack of data operating in real-life marine conditions. He said that he expects at least two developers to be in a position to apply "later this year."[122] He also thought that the new clause would move the focus of the Marine Renewables Deployment Fund away from commercial demonstration towards pre-competitive research, which "could duplicate other research funding."[123] He detailed UK support for marine technology[124] and said that we were "doing enough".[125] He also confirmed that lagoons are supported under the RO; that there are plans for lagoons off Rhyl and Swansea bay; and that the Government's banding proposals will provide ROCs for tidal lagoons. He clarified that tidal lagoons are covered by the Severn barrage feasibility study, where they are looking "not only at the barrage, but at all tidal ranges."[126] New clause 15 was later put to a division where it was negatived (ayes 7, noes 10).[127]

Dr Alan Whitehead said that the purpose of new clause 17 was "simply to draw into the renewables obligation mechanism supplies of biogas when they are placed in the distribution network."[128] He later withdrew the new clause when he saw that it might not work.[129]

New clauses 6, 8, and 14

Three new clauses were discussed: all essentially propose a feed-in tariff enabling power for large-scale renewable generation and microgeneration.[130] A feed-in tariff is where suppliers offer a higher unit price for electricity from renewable generators than for

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118 PBC 26 February 2008 c274
119 PBC 26 February 2008 c275
120 PBC 26 February 2008 c276
121 PBC 26 February 2008 c275
122 PBC 26 February 2008 c281
123 PBC 26 February 2008 c281
124 PBC 26 February 2008 c281
125 PBC 26 February 2008 c283
126 PBC 26 February 2008 c285
127 PBC 11 March 2008 c623
128 PBC 26 February 2008 c283
129 PBC 26 February 2008 c284
130 PBC 26 February 2008 c292

electricity generated from other sources. It is an alternative to the RO and is attributed with increasing uptakes of renewables in some other European countries.

Charles Hendry expressed concern about what he said was the complexity of the ROC system for encouraging microgeneration at the level of individual households. He said a householder would want three things: a simple system; a predictable income stream over a given number of years; and an easy ability to see the return that he will get on his investment. He said that: ROCs could not do that, but, "a feed-in tariff will";[131] that a feed-in tariff has the advantage of flexibility;[132] and that ROCs "have merit for large projects while feed-in tariffs have merit for smaller systems."[133]

He explained that new clause 6 would allow the ROC banding system to move forward for larger projects, but would allow provision for feed-in tariffs to be used for microgeneration facilities at less than 250 kW: which he said was "substantially higher than the Government's current definition".[134] He also said that he saw a case for introducing feed-in tariffs for emerging new technologies to which ROCs do not apply and cited marine and tidal technologies as examples. He went on to say that the new clause 8, as proposed by the Liberal Democrats, was "more prescriptive" but "equally worthy" and said that he did not mind which approach the Government supported, but that it should "support one."[135]

On a similar note, speaking about new clause 8, Martin Horwood said that the Liberal Democrats' clause was "the best and most comprehensive" but said that he could "admire the simplicity of the Conservatives' new clause 6."[136] He also said that Labour's new clause 14 is on "similar territory but has a broader remit" and that "even if [the Minister] does not accept any of the three options on offer today, perhaps he will introduce amendments at a later stage".[137] He said that the advantages of a feed-in tariff are "simplicity" and "accessibility to those who aim to generate renewably at a low level – for instance households."[138]

Steve Webb also spoke about new clause 8 which he said gave "enabling powers" to allow the Secretary of State to make regulations for a feed-in tariff, not mandating that it should be done straightaway, but in a measured way and alongside the RO. He said that a feed-in tariff could be introduced for microgeneration to begin with, and then "provide a model for a wider scheme in due course."[139]

Dr Whitehead spoke about new clause 14 and said that it would be "inappropriate" to throw the RO system up in the air when investment decisions have already been made

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131 PBC 28 February 2008 c310
132 PBC 28 February 2008 c315
133 PBC 28 February 2008 c310
134 PBC 28 February 2008 c311
135 PBC 28 February 2008 c312
136 PBC 28 February 2008 c313
137 PBC 28 February 2008 c313
138 PBC 28 February 2008 c315
139 PBC 28 February 2008 c315

on the basis of it.[140] He said that those people looking to invest in renewable energy were not lobbying for a feed-in tariff, but wanted "longer term certainty for the status of the renewables obligation – and the status of the headroom behind it." He explained that it was necessary to have headroom in the system – the difference between the issuing of ROCs and the amount of renewable energy that we have – as this was part of the mechanism that drives the RO forward.[141] He argued that, rather than "changing horses in midstream", we should look at how microgeneration could be underpinned in the future; and that we should look at whether some form of tariff system would be a way to develop microgeneration, either in parallel with or instead of the ROC system.[142] He said that new clause 14 would give the Minister "leeway" in deciding how such systems might develop.[143]

In reply to these points Malcolm Wicks said that the Government was "thinking hard about a renewables energy strategy" and that it would "consult on it and publish a document in the summer." He promised that it would be "very substantial", and confirmed that a new strategy was needed.[144]

New clause 6 was later negatived (ayes 6, noes 10).[145]

Malcolm Wicks stated that "in the context of the EU 2020 renewable energy target, the issue of how we increase the deployment of renewable energy has become ever more urgent" and that "we will need significant deployment of different renewables."[146] However, he said accepting new clause 14, which would introduce a feed-in tariff for all sizes of electricity generation, would send the wrong message to the renewables industry at "such a crucial point in the development of the renewables obligation." He argued that it could "damage investor confidence" and "result in significant delay to projects coming online."[147]

The Minister explained that delivery of more capacity was not just a matter of financial support; that a "broad range of factors" were at play, "not least in the planning system"; and that the Government is "working hard to address them all." He warned against making comparisons with other countries' feed-in tariffs. He explained that most continental feed-in tariffs operate on the basis that there is a "vertically integrated network operator that can be obliged to offer a tariff" and that this is "not the case in the UK, where suppliers are separate from the network operators."[148] He also said that it was wrong to talk about feed-in tariffs as though they were cost-free. He cited the German feed-in tariff system which by 2012 is estimated to cost between €8 billion and €9.5 billion.[149]

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140 PBC 28 February 2008 c316
141 PBC 28 February 2008 c316
142 PBC 28 February 2008 c318
143 PBC 28 February 2008 c319
144 PBC 28 February 2008 c324
145 PBC 11 March 2008 c599
146 PBC 28 February 2008 c334
147 PBC 28 February 2008 c335
148 PBC 28 February 2008 c335
149 PBC 28 February 2008 c335

In response, Martin Horwood contended that none of the new clauses obliged the Government to replace the RO "wholesale". He said that the Liberal Democrats' and Conservatives' new clauses would introduce feed-in tariffs aimed at decentralised energy and microgeneration "initially on a much more modest scale and cost to the public finances."[150] The Minister responded that it was necessary to look at the price impact on the customer; that a feed-in tariff "underestimates the cost of renewables" and that it had "hidden subsidies" that would be passed to the consumer.[151] He also said that, as the new clauses introduce a feed-in tariff alongside the RO, it was important to examine how the different regimes would interact: this would be "a key element of our analysis in developing strategy for the EU 2020 target."

The Minister also countered the argument that a feed-in tariff offers a more predictable support mechanism, by citing the example of the German Government who have had to reduce the level of the feed-in tariff for solar photovoltaics by around £120 per megawatt hour. He said that this was after the subsidy had already been reduced by around 50 per cent over the past 10 years.[152] In reply to this point Martin Horwood said that the changes in the German system were "grandfathered" so that new entrants were earning the lower rate of the feed-in tariff and that this is a measure of success of the German photovoltaic industry.[153]

The Minister stressed that microgeneration had an important role to play in the renewable energy mix, that the Government was committed to it and had provided considerable support for it.[154] However, he also said that microgeneration was more expensive than a number of other large-scale forms of renewables and additional resources might be more "cost-effectively targeted" at other forms of renewables, such as renewable heat. He noted estimates that 100,000 microgenerators in the UK are reusing renewable heat technologies.[155] He announced that as part of the forthcoming consultation on the renewable energy strategy in the summer, the role of microgeneration and distributed energy going forward would also be considered. This would include looking at "other support options" such as feed-in tariffs and because of this consultation, he thought that it would be "premature" to amend the Bill now.[156]

Martin Horwood and Charles Hendry both welcomed the announcement that feed-in tariffs would be included in the consultation.[157] However, Charles Hendry pointed out that new clause 6 would simply give the Government the option to introduce feed-in tariffs at a later stage and that said it made sense to have an enabling clause in the Bill. He said that given the time-scale of a consultation process, and if the Government wait until the end of that, it could be two years before feed-in tariffs are "on the statute book" – which

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150 PBC 28 February 2008 c335
151 PBC 28 February 2008 c336
152 PBC 28 February 2008 c336
153 PBC 28 February 2008 c336
154 PBC 28 February 2008 c337
155 PBC 28 February 2008 c337
156 PBC 28 February 2008 c338
157 PBC 28 February 2008 c338

he called an "appallingly unsatisfactory delay."[158] Malcolm Wicks replied to this point to say that if "we legislate now, we could get to the wrong place" and stressed that the Government would also be looking at other mechanisms through the renewable energy strategy.[159]

Charles Hendry asked whether the Minister would come back at Report Stage with a clause that would create a "permissive environment" so that feed-in tariffs could be introduced through secondary legislation "at an early stage."[160] The Minister promised to think about this and said that there could be "future legislative options." However, he also said that he could not concede to the new clause at this time.[161] Martin Horwood asked the Minister whether any kind of feed-in tariff system would be legally possible without further primary legislation. The Minister stated that he would "reflect" on the issues.[162]

b. Offshore Electricity Transmission (clause 40 and Schedule 2)

This clause relates to the need for offshore generating stations to connect to the main onshore electricity network (transmission and distribution) in order for the electricity generated to be supplied to end-users". [163]

The Minister explained further how this would operate. He said that as a result of the Government's chosen regulatory approach, offshore renewable generators will receive similar access rights to the grid as generation connected onshore.[164] Because such transmission assets were new there should be competition for offshore transmission licences that "authorise the conveyance of electricity from specific offshore projects, rather than awarding one licence for the conveyance of electricity from all projects in an offshore area."[165] He thought this approach would give new parties opportunity to enter the market, which would bring "innovative solutions" and help to "keep down" costs for developers and electricity consumers.[166] He explained that the purpose of clause 40 was to supplement the existing powers and to enable Ofgem - the authority that will have responsibility for running the tender exercise - to select offshore transmission licence holders and to recover its costs through the process. Clause 40 was agreed to.[167]

F. Nuclear sites: decommissioning and clean-up

a. Duty to submit a funded decommissioning programme (clause 41)

Clause 41 requires the relevant person, usually the operator, of a new nuclear power station to have an authorised plan for and pay for the full costs of decommissioning and the full share of waste management costs. The Minister stated that full decommissioning

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158 PBC 28 February 2008 c338
159 PBC 28 February 2008 c339
160 PBC 28 February 2008 c340
161 PBC 28 February 2008 c340
162 PBC 28 February 2008 c341
163 Bill 53-EN 2007-08 p33
164 PBC 28 February 2008 c349
165 PBC 28 February 2008 c350
166 PBC 28 February 2008 c350
167 PBC 28 February 2008 c359

costs include: the costs of dismantling the nuclear power station at the end of its generating life; removing all station buildings and facilities and returning the site to a state agreed with the regulators and the planning authority; and the release from the control of the nuclear site licence.[168] "Full waste management costs" means the costs directly attributable to disposing of new-build higher activity waste in a geological disposal facility, a contribution towards the fixed costs of constructing such a geological disposal facility, a significant risk premium over and above those costs—to take account of uncertainties around the cost of constructing such a facility and the time when it will be able to accept new-build waste—and the cost of waste pending transfer for disposal.[169]

Government amendments Nos.25 and 26 were proposed. Amendment No.25 would ensure that the operator had to include in the plan and make provision for the preparatory activities associated with decommissioning and clean-up. Amendment No. 26 allows the Secretary of State to make an order to require the operator to make financial provision for those activities while the station is operational. Both of these amendments were passed without division.

Members were at pains to establish that the Bill ensured that the private sector would pay *all* the costs associated with new nuclear build. This included funding for spending by agencies such as the Nuclear Decommissioning Authority (NDA), the Nuclear Installation Inspectorate (NII) and the Committee on Radioactive Waste Management (CoRWM).

New clause 23 was tabled by Steve Webb and Martin Horwood. Martin Horwood explained that it was designed to ensure that grants paid by the Government to the NDA could come under "funded decommissioning programmes" and be charged to the operators.[170]

The Minister explained why he thought the new clause was unnecessary:

> The new clause would allow the Secretary of State to make regulations to include the value of grant payments made by the Secretary of State to the NDA for the purposes of new build waste and decommissioning costs. That would allow Parliament to scrutinise payments related to new build made by the Secretary of State to the NDA for the disposal of intermediate-level waste and spent fuel. Although the proposed effect of the new clause is not completely clear, I believe that the intention … in tabling it is to allow the Government to set out now, in legislation, the costs that will be charged to operators for waste disposal, and how those costs will be calculated and allocated to the Government and the NDA.
>
> … let me clarify that the Government anticipate no statutory role for the NDA in relation to the decommissioning and on-site waste management of new nuclear power stations. Those activities will be carried out by the operator or by contractors working for the operator and will not be covered by the fixed price the Government intend to set for the disposal of intermediate-level waste and spent fuel.

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168 PBC 28 February 2008 c360
169 PBC 28 February 2008 cc360-1
170 PBC 4 March 2008 c369

Later the Minister clarified that only the cost of disposal of intermediate waste and spent fuel would be covered by a fixed unit price; decommissioning and waste management would not.[171] He said the Committee consideration and nuclear guidance consultation in progress might lead him to include improvements in the Bill. The new clause was not pushed further.

b. Approval of the programme (clause 42)

This clause creates powers for approving a funded decommissioning programme and places duties on the Secretary of State before it can be approved or rejected.

A group of amendments was considered, relating to which bodies should be consulted by the Secretary of State about approval, rejection or modification of a funded decommissioning programme. These included the Nuclear Liabilities Financing Assurance Board (NLFAB), CoRWM, NDA, and relevant local authorities. The Minister asserted that these bodies did not have specific responsibilities in the Bill and hence did not need to be consulted.[172] It was accepted that this was true for most of the bodies. However, Charles Hendry challenged the Minister that this was not so for local authorities who "could simply discover that the Secretary of State had announced modifications or conditions without consulting it or letting it have any input." [173]

The Minister agreed to reflect outside the Committee, and take further advice on the matter. Charles Hendry said he may return to this issue on Report, but begged leave to withdraw the amendment at this stage.[174]

Martin Horwood moved amendment No.45 to make it "absolutely clear" that the Secretary of State would not approve a funded decommissioning programme if it included any proposal to limit the liabilities of the operator or a body corporate associated with the person who submitted the programme should cost estimates change.[175]

The Minister replied that owners and operators of new stations "must cover the full costs of decommissioning and their full share of waste management and disposal costs."[176] He explained further that the draft guidance on funded decommissioning programmes states that operators "will be expected to reassess periodically their estimates of costs and ensure that any increases are factored into an increase in the target amount of moneys that they will accumulate in their fund."[177] Operators' estimates of costs would be subject to scrutiny from a number of sources, including those responsible for the independent fund and from the NLFAB. He also gave assurances that the operator would be responsible for making good any shortfall or risk of shortfall in the funding as identified by

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171 PBC 4 March 2008 c392
172 PBC 4 March 2008 c397
173 PBC 4 March 2008 c400
174 PBC 4 March 2008 c402
175 PBC 4 March 2008 c403
176 PBC 4 March 2008 c405
177 PBC 4 March 2008 c405

the "various elements of scrutiny."[178] He therefore considered the amendment to be unnecessary. It was pressed to a vote but not passed (ayes 2, noes 13).[179]

c. Power to review operation of programme (clause 49)

Clause 49 allows the Secretary of State to require information to enable him to review an approved programme. When an operator fails to comply with an initial or follow-up notice, he can apply to the High Court for an order to enforce his needs.

Martin Horwood moved amendment No.46. It sought to ensure that the Secretary of State got information relating to the operation of a funded decommissioning programme at least once every five years. Martin Horwood explained that this was to ensure that the Government was held to their "stated promise" to review funded decommissioning programmes every five years.[180] The Minister replied that given the power contained already within clause 49 and what has already been said in draft guidance about review programmes, that the amendment would not add anything.[181] Martin Horwood withdrew the amendment.

The Government tabled what the Minister called a "technical" amendment, No. 27.[182] The Minister set out what it does and why the Government felt it was needed:

> The amendment adjusts the threshold that the Secretary of State needs to reach for him to require additional information by issuing a second notice. The Bill uses the word "determines" and we consider that it sets a higher threshold than we think appropriate. Without the amendment, the Government believes that the Secretary of State would be inappropriately constrained in his powers to require information, since he would have to be more or less certain that a modification needed to be made, in which case he would not need to obtain further information under the following provisions.
>
> It therefore makes sense to reduce the "determines" threshold to one in which the Secretary of State has "reason to believe".[183]

d. Verification of financial matters in funded decommissioning programmes (clause 51)

Amendment No. 40 was tabled by Steve Webb and Martin Horwood. It proposed that the Secretary of State should have power to make the Nuclear Liabilities Financing Assurance Board (NLFA) a statutory body through regulation. The Minister stated that the Board was more suited to an advisory NDPB than a statutory body. He reassured Members that it would be set up according to the Nolan principles.[184]

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178 PBC 4 March 2008 c405
179 PBC 4 March 2008 c408
180 PBC 4 March 2008 c422
181 PBC 4 March 2008 c423
182 PBC 4 March 2008 c424
183 PBC 4 March 2008 c425
184 PBC 4 March 2008 c399

The amendment was defeated on division (ayes 2, noes 13).

e. Interpretation (clause 63)

Clause 63 provides definitions for certain terms used in this part of the Bill.

Martin Horwood moved amendment No.39 which adds extra words into the clause to define the word "disposal" in the Bill. He asked:

> Is "disposal", in the terms of the funded decommissioning programmes, being interpreted—perhaps hopefully by the Government—as simply taking the lorry to the gate of the long-term storage repository? Or is it, as our amendment would make the Bill clearly state, talking about emplacement within it? That is critical, because the long-term storage repository is not simply a neutral facility but something that the Minister himself described as perhaps remaining uncapped and potentially accessible for as long as a century.[185]

In reply, the Minister said that:

> In the draft guidance on funded decommissioning programmes, we acknowledged that operators would need certainty over the date when they can pass the liability for their intermediate-level waste and spent fuel over to the Government for disposal—that is the nub of the question. To meet that need, we will agree a schedule with each operator for when title to and liability for waste and spent fuel will pass to the Government. That schedule will be based on a conservative view of the estimated dates of availability of disposal facilities, and it will not begin until the operator's decommissioning programme has been completed.[186]

Martin Horwood withdrew the amendment.[187]

The Government moved amendment No.2 to ensure that for the purposes of interpretation for the nuclear waste and decommissioning provisions of the Bill, where references are made to an enactment, Northern Ireland legislation is included where appropriate and relevant. It was passed without discussion or division. The clause, as amended, was ordered to stand part of the Bill.

f. Security for decommissioning obligations (clause 65)

The Minister explained that clause 65 "ensures that funds set aside for decommissioning cannot be accessed by creditors in the event of a company becoming insolvent and will be available only for the purpose that they were originally set aside for."[188]

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[185] PBC 4 March 2008 c457
[186] PBC 4 March 2008 c458
[187] PBC 4 March 2008 c462
[188] PBC 6 March 2008 c466

The Minister proposed amendment No.3 which "ensures that for the purposes of the provisions about financial security for decommissioning of offshore renewables installations in the Bill, references to an enactment include secondary legislation."[189]

The amendment was agreed to and the clause was ordered to stand part of the Bill.[190]

G. Oil and gas installations

a. Persons who may be required to submit abandonment programmes (clause 67)

The Minister explained that clause 67 strengthens the existing abandonment regime of oil and gas fields, as contained in the *Petroleum Act 1998*. He said that by amending the 1998 Act, the clause will "help to ensure a clearer legal framework of rights and duties for all concerned, which will provide greater clarity and certainty for developers and investors."[191]

In response to a new clause tabled by John Robertson "designed to probe the Minister for information",[192] the Minister said that the Government's policy was based on three tiers of liability:

> The first tier comprises those who have been served with a section 29 notice to establish their statutory obligation to decommission an installation. That will include the current field players and any previous partners who have sold their interest but have not had their notices withdrawn by the Secretary of State because of concerns about the financial strength of the remaining partners.
>
> The second tier includes previous partners who have sold their interests and have had their section 29 notices withdrawn by the Secretary of State at an earlier stage, and are therefore not obliged to submit a decommissioning programme. The third tier comprises licensees who have never had an interest in the installation or been served a section 29 notice.[193]

He said although the policy could not be guaranteed to cover 100 per cent of cases, there had only been two instances in the past 20 years when first-tier companies had been unable to meet their decommissioning responsibilities. He said that the new clause would remove ability to access the third tier and would mean that the taxpayer would have to fund the decommissioning in "that remote scenario."[194] He also explained that BERR had put "considerable effort" into developing a new model security deed to deal with decommissioning liabilities and said that the deed could be used to indemnify third-tier companies in multi-block cases. As the deed had just been launched he would like some time to "see how it beds in."[195]

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189 Public Bill Committee Amendments, 6 March 2008 p145
190 PBC 6 March 2008 c476
191 PBC 6 March 2008 c478
192 PBC 6 March 2008 c478
193 PBC 6 March 2008 c480
194 PBC 6 March 2008 c481
195 PBC 6 March 2008 c481

John Robertson withdrew the new clause, but said that he may bring it back at Report Stage. The clause was ordered to stand part of the Bill unamended.[196]

H. Petroleum licences

a. Third party access to infrastructure (clause 73)

Currently, a third party can apply to the Secretary of State for access to infrastructure on the UK Continental Shelf if they are unable to agree terms with the owner. This clause "extends the scope of definitions in the existing legislation, so that parts of the upstream petroleum infrastructure [infrastructure relating to the production of oil and gas including transport and processing to get it into a saleable state], not currently covered by the third party access regulatory regime, are brought within its scope."[197]

In response to probing amendments from John Robertson, the Minister explained the rationale behind clause 73 and said that there are "some gaps in the scope of the current regime" which meant that, whilst the Secretary of State can require and determine access, the infrastructure owners could lawfully charge "exorbitant amounts" for the use of, or refuse access to, other facilities: a practice known as "ransom strips". He said that these ransom strips undermine the Secretary of State's powers to deliver reasonable access to the third party. He went on to explain that a more "comprehensive and consistent" coverage of upstream petroleum infrastructure would "make the threat of the use of the Secretary of State's powers more effective" and would close the gap. He clarified that the clause would capture only the upstream petroleum infrastructure, not downstream facilities.[198]

I. Miscellaneous

a. Energy reports (clause 78)

The Minister stated that the purpose of clause 78 was "twofold". It "introduces flexibility around the timing of our annual report on the Government's four energy goals" and secondly it "removes unnecessary or overly prescriptive reporting requirements."[199]

Martin Horwood argued that the clause would "relieve the Government of some of their reporting duties under the Sustainable Energy Act [2003], including what they have done to develop renewable and microgeneration energy sources" and also what they have done to achieve the energy efficiency aims set out in that Act.[200] He said that it would remove the requirement to report on activities undertaken during the previous year, and "it is important that, having set up these specific requirements for reporting on particular

196 PBC 6 March 2008 c483
197 Bill 53-EN 2007-08 p79
198 PBC 6 March 2008 cc508-9
199 PBC 6 March 2008 c521
200 PBC 6 March 2008 c515

issues and on particular time scales, we do not change the regime unless there are very good reasons to do so."[201]

New clause 5, tabled by Charles Hendry and John Baron, would add to the Bill a requirement for the Secretary of State to report, every calendar year, on the appropriate volume of onshore gas storage and progress made towards reaching that target. They also tabled new clause 25, which would add a requirement to the Bill for the Secretary of State to report every calendar year on: the total energy consumption in domestic housing; total energy consumption by business; and the impact of government measures to assist energy efficiency.[202] Charles Hendry stated that "the lack of energy efficiency measures is a major hole in the Bill". He said that the new clauses would help to address some of those "failings".[203]

Martin Horwood said that he supported the amendments and that they were "important". He also expressed frustration that Members of the Committee had been unable to table "more substantial amendments on energy efficiency because it is outside the scope of the Bill".[204] This was in a similar vein to a later comment made by Charles Hendry who said that Members had been denied the chance to discuss fuel poverty.[205]

The Minister stated that the Bill "does things that need to be done, but it is not a kind of Christmas tree on which we can hang every aspect of our energy or climate change strategies." He said, for example, that "we do not need legislative cover to pursue our energy efficiency commitment into a new phase or to do many other things that we are doing."[206] Later in the debate, he gave a more formal response.[207]

He later explained why certain reporting requirements were no longer needed: the list of energy sources or technologies in the 2003 Act was "over-prescriptive" and that "in the Government's view, the annual energy report should focus on the most important issues that affect the energy sector". He said that these issues were likely to change as markets develop, and as technologies become more effective and new ones emerge. He also said that the Government needs the report to be "sufficiently flexible" to allow it to exclude "less relevant technologies and include more relevant ones, as developments dictate."[208]

The Minister said that new clause 5 would "interfere" with the developing gas market by specifying the appropriate volume of gas to be stored onshore within the UK energy market; that it was not for the Government to specify to what extent one form of gas market flexibility is appropriate to help secure energy supplies; and that this would "send the wrong signal to industry."[209]

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[201] PBC 6 March 2008 c516
[202] Public Bill Committee Amendments, 6 March 2008 p148 and 163
[203] PBC 6 March 2008 c519
[204] PBC 6 March 2008 c521
[205] PBC 6 March 2008 c531
[206] PBC 6 March 2008 c522
[207] PBC 6 March 2008 c523
[208] PBC 6 March 2008 c524
[209] PBC 6 March 2008 c526

Speaking about new clause 25, the Minister stated that "saving energy is a key part of the Government's strategy to tackle climate change and help ensure secure supplies of energy" and that the Government already compiles the information proposed under the guise of other reports – for example information on energy consumption in the UK is contained within the Department's digest of UK energy statistics.[210]

New clauses 5 and 25 were negatived.[211]

b. Gas meters (clause 79) and consequential amendments (clause 80)

Clause 79 transfers the functions of the Gas and Electricity Markets Authority, under gas meter legislation, to the Secretary of State.

Several new clauses were tabled concerning smart meters etc. The BERR website summarises their function:

> Smart meters allow energy suppliers to communicate directly with their customers, removing the need for meter readings and ensuring entirely accurate bills with no estimates. They tell people about their energy use through either linked display units or other ways, such as through the internet or television.[212]

Charles Hendry said that, during the previous debates on the Bill "there has been huge support for smart metering."[213] Steve Webb said that "notwithstanding the evidence that we received about the potential merits of smart meters, they are not a panacea."[214] He also stressed that procedures for installing smart meters needed coordination – that without this there would a danger of a company installing one sort and then the Government specifying a different standard of smart meter.[215]

The Minister said that smart meters had both costs and benefits which need to be reflected on.[216] Benefits to customers include: giving them better information to help manage their energy use; providing accurate bills; and potentially providing easier access to a range of tariffs.[217] Smart meters could benefit energy suppliers: by assisting in the legal requirement to inspect meters and ensure accurate readings; and reducing costs through remote meter reading; and better customer service through more accurate billing.[218] On the costs side, a domestic roll out of smart meters would involve the replacement of 45 million electricity and gas meters in homes in Great Britain. This would be "a major undertaking, with estimated costs in the range of £10 billion to £20 billion."[219]

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210 PBC 6 March 2008 c529
211 PBC 11 March 2008 c598 and c623
212 BERR website: *Smart Metering* [on 23 April 2008]
213 PBC 6 March 2008 c536
214 PBC 11 March 2008 c549
215 PBC 11 March 2008 c550
216 PBC 6 March 2008 c541
217 PBC 11 March 2008 c572
218 PBC 11 March 2008 c573
219 PBC 11 March 2008 c573

He said that a range of "highly complex technical, legal and policy variables will also need to be considered and resolved before final decisions can be taken."[220]

The Minister stated that the Government had consulted on policy options for a smart meter roll-out and was considering the responses. It was nearing completion of a "detailed economic impact assessment of the benefits and costs of a domestic smart meter roll-out", which would be published "later this month".[221,222] He also stated that "it seems inevitable and right that smart meter technology will be part of the development of eco-towns and zero carbon dwellings."[223] Once final decisions had been taken on the roll-out of smart metering, the Government would then need to consider the most appropriate way to report on its progress and effect. Until the final decisions had been taken, he did not feel it would be appropriate to support the new clause.[224]

The Minister confirmed that Ofgem was looking into the issue of tariffs for pre-payment customers and those who do not pay by direct debit and whether the market delivers a good deal for all customers. He said Government would update the findings at the forthcoming fuel poverty summit in April.[225]

Charles Hendry said that he would be prepared to push new clause 1, saying that if the switch to smart metering was to happen there would need to be something in legislation to determine how that will happen and by what time. He said that new clause 1 was non-prescriptive and would leave the decision about how the switch-over would happen to the Government.[226] Steve Webb agreed.[227] The Minister replied that by rushing the process there was a danger that the wrong technology could be approved.[228] However, John Baron replied that if the Government kept waiting for the latest developments in technology before making a decision, they "will never actually make a decision."[229] New clause 1 was later put to a division, and was negatived (ayes 6, noes 10).[230]

c. Electricity safety (clause 85)

Clause 85 passes responsibility for electricity safety standards, including the inspection and enforcement of them, from the Secretary of State to the Health and Safety Executive (HSE). It gives the HSE the power to amend those electricity safety standards should it see fit.[231]

Charles Hendry moved amendment No.47 (later withdrawn) which would work to ensure that companies would be exempted from any responsibility if someone fitted an

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220 PBC 11 March 2008 c574
221 PBC 11 March 2008 cc573-4
222 Not published
223 PBC 11 March 2008 c571
224 PBC 11 March 2008 c576
225 PBC 11 March 2008 c577
226 PBC 11 March 2008 c581
227 PBC 11 March 2008 c581
228 PBC 11 March 2008 c581
229 PBC 11 March 2008 c582
230 PBC 11 March 2008 c597
231 Bill 53-EN 2007-08 p95

Electricity Display Device (EDD) incorrectly.[232] EDDs are clip-on devices that provide customers with information on the amount of electricity being used.[233] The Government's Energy White Paper 2007 said that EDDs will be available free of charge to consumers who request them between 2008–2010, and that all new and replacement electricity meters are now fitted with this display.[234] The Minister said that, as the clause does not apply to such devices, the amendment was unnecessary.

J. Other new clauses

a. Renewable heat obligation (new clause 10)

New clause 10 was tabled by Charles Hendry and John Baron to allow the Secretary of State to make regulations to introduce a renewable heat obligation on suppliers of fossil heating fuels.

The Minister replied that the Government were "in the middle of reviewing their policy work on heat", and said that the new clause would pre-empt that work, which would look at the full range of policy options.[235] Charles Hendry withdrew the new clause.[236]

b. Duty to encourage a reduction in emissions of greenhouse gases (new clause 11); Duties of the regulatory authority (new clause 12); and Access for renewable energy to the electricity and gas grids (new clause 13)

New clause 11 was tabled by Charles Hendry and John Baron – it relates to the duties of Ofgem and as explained by Charles Hendry would add to Ofgem's primary duty about protecting consumers and ensure that it protected them "while reducing the emissions of greenhouse gases in accordance with Government targets for greenhouse gas reductions."[237] He quoted what he called a "clear body of opinion [which] sees that as the right way forward.[238]

New clause 12 was tabled by Dr Alan Whitehead, Dr Desmond Turner and Paddy Tipping. Dr Whitehead called it "a more comprehensive version of new clause 11" and explained that its effect was to make sustainability and environmental obligations a principle objective of Ofgem's remit.[239]

New clause 13 was also tabled by Dr Alan Whitehead, Dr Desmond Turner and Paddy Tipping. Dr Whitehead explained that the clause offered a "positive way to deal with grid connection problems." It prioritises renewable connections and its effect would be to

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[232] PBC 11 March 2008 c585
[233] Energy Retail Association, *Smart Meters and Electricity Display Devices*, August/ September 2007
[234] HM Government, *Meeting the Energy Challenge, a White Paper on Energy*, May 2007, p297
[235] PBC 11 March 2008 c606
[236] PBC 11 March 2008 c608
[237] PBC 11 March 2008 c613
[238] PBC 11 March 2008 c613
[239] PBC 11 March 2008 c613

"cause the grid to be used in a much more efficient way and bring on the considerations of how the grid is strengthened."[240]

The Minister said that the issues here had "occasioned a lot of Parliamentary and wider interest".[241] However, speaking about new clause 12 he said that "placing sustainability above consumer protection and competition would take Ofgem's focus away from the latter." Doing this without sufficient analysis of the potential impact on the broader market would be "imprudent". A dual-primary duty as suggested in new clause 11 would "require Ofgem to make trade-offs between the economic interests of consumers and promoting sustainability" and that such decisions were only right for an elected government, followed by guidance. He announced that the Secretary of State would consult on new environmental and social guidance for Ofgem "shortly".[242] He later confirmed that the consultation would be "in the spring" and expected the new guidance to be issued "by the end of 2008."[243]

In relation to new clause 13 the Minister said that the Government was "giving careful consideration to the merits of prioritising renewable access to the grid" but that it needed to address a number of issues first:

> First, there is some uncertainty about the meaning of priority access in the national context. It is important that we do not introduce uncertainty for existing generators and those planning future investments. We need to be careful not to discourage essential investment in all generating technologies.
>
> The next consideration is whether priority access is consistent with our wider energy policy goals, and whether it is the best route to accelerate growth in renewable generation and integrate what is largely variable generation into the electricity networks, while keeping those networks safe and reliable. Offshore and onshore wind generation is likely to play the largest part in meeting our renewable energy targets in 2020. To accommodate such variable renewable generation, it will be essential to have a significant amount of responsive back-up generation to maintain system reliability. A mixed-generating profile is therefore consistent with, rather than opposed to, our ambitions for renewable generation.[244]

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[240] PBC 11 March 2008 c616
[241] PBC 11 March 2008 c617
[242] PBC 11 March 2008 c618
[243] PBC 11 March 2008 c620
[244] PBC 11 March 2008 c620

Appendix: Members of the Committee

Chairmen: Mr. David Amess, Mrs. Joan Humble

Baron, Mr. John *(Billericay)* (Con)
Binley, Mr. Brian *(Northampton, South)* (Con)
Hendry, Charles *(Wealden)* (Con)
Horwood, Martin *(Cheltenham)* (LD)
Iddon, Dr. Brian *(Bolton, South-East)* (Lab)
Ladyman, Dr. Stephen *(South Thanet)* (Lab)
Main, Anne *(St. Albans)* (Con)
Owen, Albert *(Ynys Môn)* (Lab)
Palmer, Dr. Nick *(Broxtowe)* (Lab)
Reed, Mr. Jamie *(Copeland)* (Lab)
Robertson, John *(Glasgow, North-West)* (Lab)
Seabeck, Alison *(Plymouth, Devonport)* (Lab)
Swire, Mr. Hugo *(East Devon)* (Con)
Tipping, Paddy *(Sherwood)* (Lab)
Webb, Steve *(Northavon)* (LD)
Whitehead, Dr. Alan *(Southampton, Test)* (Lab)
Wicks, Malcolm *(Minister for Energy)*

Chris Shaw, *Committee Clerk*