



Energy Bill 2009-10: Report Stage and Third Reading

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This note summarises the House of Commons Report Stage and Third Reading proceedings of the *Energy Bill* (HC Bill 7 2009-10). It supplements [Library Research Paper 09/88](#), prepared for Second Reading and [Library Research Paper 10/14](#), which summaries the Second Reading Debate and the Committee Stage proceedings.

The Bill is divided into three main parts. The first part would introduce a carbon capture and storage (CCS) financial assistance scheme to support the construction of up to four UK CCS demonstration projects, to be chosen in a competition. The second part relates to schemes for reducing fuel poverty; it would introduce mandatory social price support, designed to lower energy bills for the most vulnerable, which would replace the current voluntary agreement which expires in 2011. The third part relates to the regulation of gas and electricity markets; it would make clear explicitly what Ofgem should include in its assessment of how to protect energy consumers, it would make it easier for Ofgem to tackle exploitation of market power by electricity generation companies in specified situations, and it would increase Ofgem's power to fine companies.

The majority of the Report Stage proceedings focussed on the issue of whether an emissions performance standard (EPS) should be introduced. There is currently no provision for one in the Bill. An EPS in this context would be a cap on the maximum levels of carbon dioxide that may be permitted to be emitted by power generating stations. The Government argued that the introduction of an EPS now would be premature and would deter investment in clean coal technology by industry. The main opposition parties supported New Clause 15, tabled by Alan Simpson MP, which would introduce an EPS for all new electricity generation plant, with emission limits to be specified later. The Conservative and Liberal Democrat Party spokesmen said that introducing an EPS would end uncertainty for industry and send a clear market signal about commitment to cleaner forms of energy. New Clause 15 was defeated on division by 252 votes to 244.

The Bill was given a Third Reading without division and Members from all sides wished it speedy progress through the House of Lords.

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1 Introduction

The *Energy Bill* was introduced in the House of Commons on 19 November 2009 and had its Second Reading on 7 December 2009.¹ The Public Bill Committee Stage took place between 5 and 21 January 2010; there were 12 sittings, with oral evidence taken at the first four sittings. The Bill was not amended in Committee. The Report Stage and Third Reading took place on 24 February 2010.²

Further material and links to the proceedings on the Bill can be found on the Parliament website [Energy Bill page](#) and for Members and their staff, on the [Bill Gateway](#) pages.

2 Report Stage

2.1 Reports on decarbonisation and CCS progress

In the debate on the first part of the Bill, on the provisions relating to setting up a scheme to demonstrate Carbon Capture and Storage (CCS) technology, the Minister of State, Department of Energy and Climate, Joan Ruddock, opened the debate by moving New Clause 8 for the Government.

New Clause 8 would require the Secretary of State to lay before Parliament a report, every three years, about progress on:

- a.) decarbonising electricity generation in Great Britain (covering separately generation by coal-fired generating stations); and
- b.) development and use of carbon capture and storage technology in Great Britain.

It would also require the Secretary of State to make an assessment:

- a.) of whether use of carbon capture and storage technology in generation of electricity on a commercial scale has been, or when it will be, successfully demonstrated; and
- b.) of whether coal-fired generating stations for which appropriate consent is given on or after 1 January 2020 that are built in Great Britain can be expected to be constructed so as to enable use of carbon capture and storage technology on all their generating capacity.

¹ [HC Deb 7 December 2009 c 41-122](#)

² [HC Deb 24 February 2010 c329-413](#)

The Minister set out the background to the new clause, explaining that the decarbonisation of electricity was “central” to the statutory goal of reducing carbon emissions by 80% by 2050. The four elements of the Government’s policy measures for the decarbonisation of coal were summarised as:

- all new coal-fired power stations of around 400 megawatts must demonstrate CCS at commercial-scale;
- four commercial-scale demonstration projects on coal-fired power stations will be funded by the CCS incentive delivered by this Bill;
- demonstration stations will be expected to be retrofitted to their full capacity by 2025; and,
- finally, a rolling review of progress in the development of CCS technology will culminate in a report by 2018 that will consider the case for new regulatory and financial measures to drive the move to clean coal.³

It was later made clear that these provisions, which would be funded by a levy on electricity supplies and suppliers, were anticipated to add 2-3% on household electricity bills by 2020.⁴

It was explained that the new clause would provide the means for Parliament to hold the Government to account for progress on decarbonising electricity. The Minister argued that it would provide the “backstop” to ensure there would be only a “limited role for unabated coal in the future”. She made clear that the report would need to include a review of whether the Government’s policies should be revised and it would also have to take into account the views of the Independent Committee on Climate Change.

Conservative spokesperson Charles Hendry said that the requirement of New Clause 8 to report to Parliament was good, but said that as CCS was a fast-moving technology, the reporting requirement should be annual rather than once every three years. Simon Hughes, for the Liberal Democrats said that he would like to see an annual energy debate in Parliament every year.⁵

The Minister billed the new clause as being “designed to give confidence to those who argue for an emissions performance standard.”⁶ New Clause 8 was agreed without division.⁷

2.2 Emissions Performance Standards (EPS)

The majority of the Report Stage proceedings focussed on whether an emissions performance standard (EPS) should be introduced.

New Clauses 6 and **15** (both tabled by Alan Simpson) and **25** (tabled by Simon Hughes) all sought to give powers to the Secretary of State to introduce an EPS; that is, to set maximum levels of carbon dioxide that may be emitted:

- in New Clause 6, in *all individual generating stations*, with emission limits to be specified later;

³ HC Deb 24 February 2010 c 335-6

⁴ HC Deb 24 February 2010 c 337

⁵ HC Deb 24 February 2010 c 342

⁶ HC Deb 24 February 2010 c 334-5

⁷ HC Deb 24 February 2010 c 3484

- in New Clause 15, in *all new electricity generation plant*, with the emission limits to be specified later; and
- in New Clause 25, in *any coal-fired electricity generating station*, setting a maximum level of carbon dioxide as no more than 25% of the emissions that would be produced by an equivalent size coal-fired power station operating without carbon capture and storage equipment.

The Government did not support these new clauses. The Minister argued that introducing an EPS was premature. It would lead to too much uncertainty for industry, which in turn, would deter investment in clean coal technology:

What we are saying clearly is that an EPS, whether it is set at a specific level or whether it is entirely open, will undermine the coal programme that we set out, all the provisions in the Bill, and the investment that companies will be prepared to make if—if—there is support for CCS. They will not be prepared to make that investment in circumstances in which there is uncertainty about layering over some other standards. (...)

The hon. Gentleman will have to answer questions about the level at which the standard would be set, when it would be introduced and what he understands would be the effect on investment in new coal. I suggest to him that the effect would be no new coal. If that is the Conservative party policy and intention, he will have the opportunity to tell the House this afternoon when he makes his own speech.

I shall try to make progress. The energy industry, the CBI and the TUC have all told us, in no uncertain terms, that an emissions performance standard introduced now will significantly undermine investment plans. If there are no new coal power stations, that puts at risk the whole demonstration of CCS in the UK. Does that matter? We think it does. It matters because CCS has the potential to play a critical role globally in tackling climate change. It matters because fossil fuels play a vital role in our energy mix, and CCS is the only technology that will allow them to continue in a low carbon future.⁸

She went on to clarify that if an EPS is required at a later date to help deliver investment in low-carbon generation, a framework for introducing one already existed under the provisions of the *Pollution Prevention and Control Act 1999*.⁹

Charles Hendry maintained his support for New Clause 15, arguing that it would bring clarity about the level and timetable for an EPS for investors.¹⁰ He worried that at present there was “tacit acceptance that an EPS is hanging over the industry like the sword of Damocles”, and that more clarity was needed:

In the boardrooms of Essen, Madrid and elsewhere around the world, people are having to look at the realistic prospect of an EPS being introduced in Britain. At this stage, however, because of the way that the Government have gone about it, those industries do not know whether it will be imposed retrospectively or on new plant, at what level it will be introduced, if it will be imposed on peaking capacity, or if it will be imposed on plant in its start-up phases. An incredible amount of doubt exists, which

⁸ HC Deb 24 February 2010 c 337

⁹ HC Deb 24 February 2010 c 340

¹⁰ HC Deb 24 February 2010 c 346

the Minister's approach has itself created, and that is why we need to go further in providing clarity.¹¹

Martin Horwood for the Liberal Democrats, said that it was important to promote greater seriousness about introducing renewables and CCS because current market arrangements, such as the EU Emissions Trading Scheme were "insufficient".¹² He said that there needed to be clearer market signals and he favoured New Clause 25, calling it the most "robust and specific of the three new clauses on offer", but also said that he would support New Clauses 15 and 6:

Rather less robust is new clause 6, tabled by the hon. Member for Nottingham, South, which we on the Liberal Democrat Benches are perfectly happy to support. Equally, it would mandate an emissions performance standard, but rather less specifically. Then we have the most flexible proposal, or the weakest, depending on one's point of view: new clause 15, which has the virtue of being supported by those on the Conservative Front Bench. Compromising on compromise, we are equally happy to support that, too, if it is the best that we can get today.¹³

New Clause 6 was not called. New Clause 25 was not moved. New Clause 15 was defeated on division by 252 votes to 244.¹⁴

2.3 Licence modifications and Ofgem general duties

Government **New Clauses 9, 10, 11, 12 and 13** were discussed together.

New Clause 9 would give the Secretary of State a power to modify a condition in electricity and gas supply licences so that a notice period could be set within which energy suppliers must notify customers of tariff changes. The Minister explained that current rules mean that some customers are not told of price increases in their energy supply until 65 days after the change has taken place and said "it is simply unacceptable to have such a delay between tariff change and notification." She clarified that as the energy regulator, Ofgem is best placed to make the licence modifications and said that it had undertaken to consult on the issue "before Easter", with the expectation that it would take action "by the end of the summer".¹⁵

New Clause 11 would make this modification subject to Parliamentary scrutiny and **New Clause 12** would set out how this power may be exercised. **New Clause 10** would ensure that this power to make a licence modification is done with regard to the principal statutory duty of Ofgem, to protect the interests of existing and future consumers.

A number of Government amendments and **New Clause 13**, which would provide for a new schedule added to the Bill to take effect, would restructure the Bill to take account of these new licence modification provisions.

All of these new clauses were added, and the Government technical amendments agreed.¹⁶

New Clauses 18 and 21, tabled by Simon Hughes would change the blocking minority of electricity and gas companies in relation to proposed licence modifications. Under current

¹¹ HC Deb 24 February 2010 c 344

¹² HC Deb 24 February 2010 c 351

¹³ HC Deb 24 February 2010 c 355

¹⁴ HC Deb 24 February 2010 c 395

¹⁵ HC Deb 24 February 2010 c 387

¹⁶ Supplement to the Votes and Proceedings, *Energy Bill Report Stage Proceedings*, 24 February 2010

rules, if more than 20% of licence holders, or companies with 20% or more of the market share, object to a proposed licence modification, the proposal can be blocked. The two amendments would change this threshold for electricity and gas companies respectively, to 50%. Simon Hughes explained that the aim was to “ensure that one of the big six companies¹⁷ cannot alone prevent changes in the rules that would be against their interests.” He said that he also wanted to prevent energy companies from being able to collect a set of licences to thereby accumulate similar powers.

The Minister said that she recognised that there were concerns that the 20% threshold was too low, but that there were risks with increasing the threshold:

There are, however, a number of risks associated with increasing the threshold, in particular the risk of inducing market uncertainty, which could impact adversely on much needed investment in the energy market and thus on security of supply. Given that changes to licence conditions can have potentially significant implications for a company's operations, it is appropriate that it should have an effective means of challenging these decisions. (...)

The new clauses would change the rules so that there is one vote per group of affiliates, rather than one vote per licence holder, meaning that companies with multiple licences get only one vote instead of several, thereby levelling the playing field. It is not clear how much of an impact this change would have on larger companies, which will still find it easier to meet the market share blocking threshold. I accept that these issues merit attention and they are under active discussion in the Department. This is, however, a complex issue, and a quick legislative fix without a full understanding of the impacts is not necessarily the best way forward.¹⁸

New Clause 18 was pushed to a division where it was defeated by 271 votes to 63.¹⁹

3 Third Reading

The Secretary of State for Energy and Climate Change summarised the main aims of the Bill and called it a short Bill which put in place important measures about the transition to a low carbon economy.²⁰

The Conservative Shadow Secretary of State for Energy and Climate Change, Greg Clark, said that there was little to disagree with about the actual contents of the Bill and said that it would proceed to the House of Lords with his support.²¹

The Liberal Democrat Shadow Energy and Climate Change spokesperson, Simon Hughes, said that the Bill took some good small steps in the right direction. He expressed disappointment that the powers of Ofgem were not enhanced further and said he hoped that an emissions performance standard would be added to the Bill in the House of Lords.²²

The Bill was given a Third Reading without division.²³

¹⁷ British Gas, Scottish Power, EDF Energy, npower, Scottish and Southern Energy, and E.ON

¹⁸ HC Deb 24 February 2010 c 389

¹⁹ HC Deb 24 February 2010 c 399

²⁰ HC Deb 24 February 2010 c 408

²¹ HC Deb 24 February 2010 c 410

²² HC Deb 24 February 2010 c 411

²³ HC Deb 24 February 2010 c 413