ENERGY BILL COMMITTEE EVIDENCE

ASSOCIATION FOR DECENTRALISED ENERGY

MAY 2023

Introduction

The Association for Decentralised Energy (ADE) is a trade association that brings energy together to advocate on the priorities for the UK in achieving net zero.

We work with our 160 members to drive the decarbonisation of heat, champion the role of industry in the green transition and push for UK homes, places of work and public services to be energy efficient and smart. Only by getting people engaged and investing in energy efficiency, low carbon heat and providing smart flexibility will the UK truly be able to decarbonise its energy system. For this to happen, energy must work for the user.

At the ADE, we believe that revolutionary change in the energy system to prioritise smart, local and connected approaches is critical in delivering an affordable, fair and lasting approach to decarbonisation, and the Energy Bill is a critical, once-in-a-lifetime opportunity to do just that.

We wholeheartedly welcome the opportunity to contribute our insights and provide valuable input during the critical Committee Stage of the Energy Bill in the House of Commons.

General Remarks

By way of general comment, we emphasise the important of incorporating provisions within the Energy Bill to ensure the Independent System Operator and Planner is thoroughly accountable to industry, which will be essential in fostering transparency and trust. Furthermore, embedding minimum energy efficiency standards for the sale of properties in legislation is of utmost importance. By establishing a clear trigger point for upgrades, we can enhance the overall energy performance of buildings, reduce emissions and slash bills for the public. We want to also see the Energy Bill provide clearer terms on when the government would be required to intervene in the designation of heat network zones, which will be necessary to accelerate the decarbonisation of heat and build a more resilient energy system.

The Energy Bill presents a unique opportunity to incorporate these changes to legislation - such provisions would mark significant progress in bringing UK law in line with the nation's commitment to driving progress towards net zero, improving energy security and creating an energy system that modern Britain can be proud of.

Comments on the Bill

Part 2—Carbon dioxide capture, storage etc and hydrogen production

Clause 61

61(8) currently gives the Secretary of State the power to decide what constitutes a low carbon hydrogen producer. We suggest the text be amended to read:

“Low carbon hydrogen producer means a person who carries on (or is to carry on) activities of producing hydrogen which complies with the definition set in the UK Low Carbon Hydrogen Standard: emissions reporting and sustainability criteria, and, with the Low Carbon Hydrogen Standard specified within the primary legislation.”

This amendment provides a stronger legal foundation for ensuring the robustness and effectiveness of the standard, which is critical to developing a market for low carbon hydrogen. It is also important to enshrine the definition in primary rather than secondary legislation.

Clause 66

66(8) focuses on the Hydrogen Levy – we propose that the language here be broadened to allow the Hydrogen Levy to be recovered through taxation if so decided (and not be restricted to gas and/or electricity bills). This amendment would ultimately see the hydrogen levy placed on general taxation rather than on energy bills.

Part 3—New technology. Chapter 1—Low-carbon heat schemes

Clause 104

We propose the insertion of a new subsection here, to include heat pumps used in heat networks within the scope of "heating appliance". Titled 104(3)(c), the text should state: "Low-carbon heat schemes. An appliance drawing heat from a heat network where the heat is generated by an appliance meeting the definition of (a)."

Part 4—Independent System Operator and Planner

New clause

We propose an insertion/amendment to increase the transparency, accountability and responsiveness of the ISOP, and in doing so maximise its effectiveness. Ultimately, the Bill must ensure the ISOP is significantly more accountable to industry and the broader public than is currently the case with the ESO, so industry (and particularly the smaller actors within it) can make their voices heard and have an input.

New clause

We propose a new clause to mandate annual public consultation and/or explicit reference to the mechanism for seeking judicial review of ISOP decisions.

New clause

We propose a new clause to include provision for separation of Distribution System Operator functions from the Distribution Network Operator and their transfer to an independent system operator body in anticipation of Ofgem's ongoing work to reform local energy governance.

At present in the Bill, flexibility and system operations will remain part of the Distribution Network Operators. We propose that these responsibilities are separated out, because this aligns with Ofgem's recent proposals to create Regional System Operators and Planners and because Distribution Network Operators are not the right organisations to be handling flexibility.

Clause 123

We propose the text of 123(3)(b): "… what (if anything) the ISOP is doing or proposes to do…" is amended to reflect that the standard of review for ISOP to demonstrate that something set out by DESNEZ is not realistically achievable must be high. It is essential that the FSO (which is not an elected body) has evidence and very good reason to back up why it is telling Government that certain things are unable to happen.

We also propose the insertion of the following text to 123(3)(c): "…what external support would be necessary to make the outcome realistically achievable…", to further strengthen the standard of review.

Clause 130

We propose amending 130(3) to add a subjective standard: "must, so far as reasonably practicable for the particular person, provide the requested information". This adds a subjective element to what can be requested by the ISOP and will ensure such requests are proportionate (especially for smaller participants).

Clause 135

We propose extending 135 FSO provisions to include heat networks to allow price control revenues to flow to heat networks where they are the most cost-effective form of network infrastructure.

Clause 151

We propose the insertion of text in 151 outlining the inclusion of a right to appeal following the consultation process whether this be via BEIS/SoS, a designated third party, or judicial review.

Part 7—Heat networks

Clause 181

181(3) sets out that the Secretary of State may be designated to act as the Heat Network Zones Authority. We propose that additional text is inserted to this clause to require the Secretary of State to publish a strategy for how sufficient resourcing will be found (whether at central Government or local authority level) to designate zones well. Industry needs to know how much money is set aside for this and to be able to explore future plans.

Clause 182

We propose the insertion of 182(4)(c), in which new text should provide clearer terms and a specific timeframe in which the zoning authority would be required to step in and designate zones should the coordinator be unwilling or unable.

Clause 185

We propose the wording in 185 be developed to reflect ISOP's information gathering powers set out in 130: Power to require information from regulated persons etc. The provisions set out in 185 are currently less detailed and perhaps weaker than those drafted for the ISOP, even though the intent is similar. The provisions related to heat networks need to be made more detailed and stronger, ensuring that the regulations are comprehensive and robust.

Clause 186

We propose text be inserted within 188 to ensure that zoning coordinators engage in a timely way with industry (including potential developers of heat networks) ahead of designating zones and then during the delivery of zones.

This amendment encourages collaboration and effective communication between zoning coordinators and industry to facilitate the development and implementation of heat networks.

This should also be incorporated into 188.

Clause 186/187

We propose new text be inserted into S186 2f OR S187, with the purpose of ensuring that similar heat network business models (e.g., campus-based and single building schemes) are treated similarly with respect to mandated connections to district heat networks and their obligations within zones.

Currently, district heat networks (as defined in the legislation) are going to be given the powers to require buildings to connect to them. They will also be given powers to require communal heat networks to connect to them, but because of the way the legislation is currently drafted, campus schemes fall between the two. Ultimately, campus schemes should also be required to interconnect with large district heating schemes, unless they've already decarbonised.

Clause 187

We propose a change of text within 187 to ensure that the legislation does not favour one approach to zoning over another (for example, concessions over open competition).

This amendment aims to ensure fairness and avoid bias towards specific methods in the process of designating heat network zones. Concessions are not the only answer to deploying heat network zones and a mix of approaches is favourable. Primary legislation must not force us down a singular path, which might not be the right one for all zones, or even the majority.

Clause 188

Please refer to previous amendment for 186.

Part 8—Energy smart appliances and load control

Clause 192

We propose the insertion of text to 192 to enable the Secretary of State to make regulations for the minimum standards for electricity meters. This would overcome the issue of various conflicting standards for electricity meters that could slow down the rollout of electric vehicle and domestic flexibility and add uncertainty to the marketplace.

Clause 200

We propose the text of 200(1)(c), which currently states: "…such other persons as the Secretary of State considers appropriate" is replaced with new text stating: "widely through the medium of

public consultations" to ensure that any modification to licence conditions is pre-empted by a suitably wide and all-encompassing consultation.

Part 9 – Energy performance of premises

Clause 205

204(1)(b) currently mandates that the Secretary of State sets out a plan entitled the Warmer Homes and Businesses Action Plan to show how the Government intends to deliver on upgrading all buildings where reasonably practicable to an Energy Performance Certificate rating of C or higher by the year 2035.

In addition to 204(1)(b) requiring the SoS to set out how Government plans to deliver this EPC target, new text inserted into 205 should enshrine this target in law.

We propose that new text should also mandate EPC Band C for private rented sector minimum energy efficiency standards (MEES) - this text should state: "All new tenancies from 1st April 2028 are required to have an Energy Efficiency Rating and Environmental Impact Rating of C or higher."

We propose that matching legislation should be introduced for mortgage lenders to create mandatory minimum lending requirements - this text should state: "All mortgage lenders are mandated to have an Energy Efficiency Rating and Environmental Impact Rating of C or higher on average across their portfolios by 2028."

We propose that matching legislation should be introduced to embed minimum standards for sale of properties (Owner Occupier MEES) - this text should state: "All new home sales from 1st April 2028 are required to have an Energy Efficiency Rating and Environmental Impact Rating of C or higher."

Clause 207

We propose the £15,000 cap in 207(2) is removed from primary legislation, with the scope for a new cap to be added to future energy performance standards. This is more consistent with previous schemes such as the Private Rented Sector Minimum Energy Efficiency Standards (MEES).

Whole bill

We propose a technical amendment requiring the use of consistent terminology for heat network provisions to ensure alignment and clarity in regulatory language and consumer protection measures.

This amendment would see the terminology used for heat network provisions (particularly on consumer regulation) mirror the Metering & Billing Regulations terminology with respect to "commercial" and "industrial", rather than use the broader term "non-domestic".

For further information, please contact:

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