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House of Commons Public Bill Committee
Via email: scrutiny@parliament.uk

Energy Bill: Call for written evidence

Dear Committee,

I write from the UK Petroleum Industry Association (UKPIA) the trusted voice for the downstream fuels sector, which forms a critical part of the UK's energy mix and directly employs more than 100,000 people. We support our members in leading the delivery of a flexible and resilient fuels supply chain for the UK, both today and in the low-carbon future. UKPIA members are responsible for six major refineries, coastal and inland fuel terminals and over 1,200 filling stations in the UK.

UKPIA are firmly supportive of the Government's ambition, as set out in the Energy Bill, to secure the UK's energy supply for the long term. Indeed, our members already play a key role in ensuring this security and improving the UK's energy resilience, having invested over £18.5 billion in the UK since 1999. We are supportive of the measures in the Bill concerning both hydrogen and carbon capture (CCUS), where member companies are leading proposed projects for these technologies' delivery at scale and are, therefore, keen to see the Bill finalised soon so such projects can break ground.

However, UKPIA and our member companies have concerns in relation to the Bill's provisions on "core fuel sector resilience" (Part 11 as brought from the Lords). Whilst we understand the Government's rationale for these powers in case of emergency, and their acknowledgement that such powers may never be activated, the existence of these powers damages the attractiveness of the UK as an investment destination. This comes at a time when investment in our industry is crucial, both to maintain existing security of energy supply and to help the UK lead the way on vital industrial decarbonisation technologies such as Carbon Capture and Storage and Hydrogen.

There are a number of areas where we believe that changes in the drafting could help alleviate those concerns while not diminishing the intent of the Bill. Please see below for further details on our proposals.

To secure the long-term future of our industry in the UK, it is vital that the UK fosters a positive investment environment in comparison to our international competitor countries where owning groups could instead invest. As drafted, the Bill threatens the perception of

the UK as a positive investment environment and could have knock-on effects on the industry's future and the delivery of vital new decarbonisation technologies.

We look forward to seeing your report on the Bill later this month and would be glad to speak further about these specific concerns and how we believe they can be improved upon.

Yours sincerely,

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

Jamie Baker
Director of External Relations, UKPIA

Proposed Drafting Changes to the Energy Bill

- Section 223, subsection 8 requires that the supply of core fuels to consumers in all areas of the UK be maintained at “normal levels”. Subsection 8 continues by defining “normal levels” as – a) not substantially below the average monthly levels of supply in the UK and b) consistent with a reasonable balance between supply and demand. However, neither point provides sufficient clarity. We seek greater clarity as to what constitutes “substantially below the average monthly levels of supply”. For example, “a 5-year average demand +/- 20% for an equivalent month”. In addition, we seek a definition of a “reasonable balance” between supply and demand. For example, “supply is able to meet 110% of the 5-year average demand” (if there is a demand surge).
- Section 224, subsection 2, defines the use of broad powers of direction that the Bill would see given to Secretary of State. However, these powers could we believe be abused, despite efforts to place greater conditions on their use, which we acknowledge have been included since they were raised in pre-legislative scrutiny through the inclusion of Section 222. We seek the inclusion of additional language that would ensure these powers are used only as a “last resort” and that is explicit on the requirement to consult with the Competition and Markets Authority (CMA) given the potentially large impacts on the competitiveness of the sector and on those companies under direction. We believe this could be achieved by inclusion of the following language:
 - (a) before the issue of the relevant notice under section 225, the persons to whom this section applies have been consulted and given a reasonable opportunity to consider and provide comments to the Secretary of State on anything that is required by such direction (including in relation to any specifications and other requirements that may be required to be satisfied, any costs that may be assumed or otherwise incurred and any responsibilities and liabilities that may be assumed or otherwise incurred);
 - (b) the Secretary of State considers that the persons to whom this section applies have failed to make sufficient progress with the steps that the Secretary of State considers necessary for maintaining or improving core fuel sector resilience (having due regard to the risk of disruption to, or a failure of, continuity of supply of core fuels that exists as a consequence of the steps that have not been taken);
 - (c) there is no requirement for any person to whom this section applies to increase or improve the capacity or capability of any relevant activities or assets;
 - (d) in relation to each person to whom this section applies, either –
 - (i) that person has agreed arrangements with the Secretary of State to determine: (A) all specifications and other requirements (if any) that are required to be satisfied in connection with such direction; and (B) when such specifications and other requirements in connection with such direction have been satisfied; or
 - (ii) the direction includes: (A) all specifications and other requirements (if any) that are required to be satisfied in connection with such direction; and (B) arrangements for a suitably qualified independent expert to determine when such specifications and other requirements in connection with such direction have been satisfied;
 - (e) in relation to each person to whom this section applies, either –
 - (i) that person has agreed arrangements with the Secretary of State in relation to funding for all costs that may be assumed or otherwise incurred in connection with such direction; or

- (ii) the Secretary of State has committed to that person to provide financial assistance under section 242 to fully indemnify that person for all costs that it may assume or otherwise incur in connection with such direction;
- (f) in relation to each person to whom this section applies, either –
 - (i) that person has agreed arrangements with the Secretary of State under which it may assume or otherwise incur any responsibility or liability in connection with such direction; or
 - (ii) the Secretary of State has committed to that person to provide financial assistance under section 242 to fully indemnify that person from all responsibilities and liabilities which it may assume or otherwise incur in connection with such direction; and
- Under section 225, subsection 2, the Secretary of State must give a person written notice accompanied by a draft of the proposed direction before using the powers of direction. However, the written notice does not need to have a clear end point. We seek the inclusion of additional language to require clarification of an end point.
- Under section 225, subsection 4, the Secretary of State must consult various bodies before giving a direction. However, the directions have the potential to affect commercial decisions by operators, which goes beyond the scope of the listed regulatory bodies to be consulted. We seek the explicit inclusion of the Competitions and Markets Authority as one of the listed entities given the potential to affect competitive matters within the sector – rather than the existing provisions
- In sections 212 and 213, titled “Disclosure of information held by Secretary of State” and “Disclosure of information by HMRC,” there is reference to non-disclosure of potentially sensitive information. However, this is not sufficient to ensure that sensitive data will not be placed in the public domain as a result of an FOI or EIR. We seek specific reference to an FOI and EIR being included in language to reassure that sensitive data will not be made public.
- In section 222, titled “Financial assistance for resilience and continuity purposes,” steps are set out to provide such financial assistance. However, there is no guarantee that government will fund resilience requirements, and it may not be commercial for companies to invest. As such, the Bill risks incentivising companies to stop supply, counter to the Bill’s objective. We seek clarification that these funds will come from Government.