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28 June 2023

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

Dear Committee,

Re: Energy Bill Call for Written Evidence – Core Fuels Resilience

I write on behalf of ExxonMobil Corporation¹, whose affiliates Esso Petroleum Company, Limited and ExxonMobil Chemical Limited manufacture, distribute and market fuels and chemicals to the UK and internationally under inter alia the Esso brand

ExxonMobil's refinery at Fawley near Southampton, is the country's largest, with around 20 percent of the U.K.'s refining capacity. The refinery is highly integrated with major chemical plant facilities on the same site, which makes use of refinery feedstock and other streams to manufacture a range of products that are utilised by society in a broad variety of important applications. We manufacture a full range of petroleum products, which are transported by pipeline to terminals serving London and the South-east of England, the West Country, South Wales, and the Midlands. Connections to the pipeline network also supply aviation fuels to Heathrow and Gatwick airports. We market Esso and Mobil-branded products and serve ~800,000 retail customers a day through a network of around 1,200 Esso-branded service stations in the U.K.

ExxonMobil welcomes the opportunity to provide our comments to the Committee. We are supportive of the need for legislative development in the energy sector, particularly with regards to progressing the necessary frameworks and market mechanisms that will underpin the development of key low-carbon, nascent technologies. However, in alignment with many others in our sector, we take the opportunity to highlight our concerns relating to the proposed measures set out in Part 11 of the Energy Bill, under 'Core Fuels Resilience', as articulated by the UK Petroleum Industry Association (UKPIA).

We note with some concern the proposal to confer to the Secretary of State the 'power of direction, given the lack of detail as to how this power would be used in practice, the trigger mechanisms for its use, and the decision not to provide relevant guidance to the sector alongside the Bill. The direction power, as currently written, creates additional uncertainty for businesses, thereby introducing unnecessary risk and reducing the relative competitiveness of the UK fuels sector, which is vital to ensuring the UK maintains its energy security, and facilitating the transition to a lower carbon economy. It is therefore crucial the Government seeks to ensure such measures are legislated for and applied in a manner that

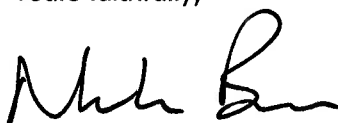
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avoids distorting market fundamentals, supports the resilience of the sector, and with the provision of clear and detailed guidance.

UKPIA's suggested amendments can be found below for consideration. We ask that these amendments are carefully considered by the Committee and, furthermore, seek continued consultation between the Government and the sector when considering related secondary legislation and guidance.

Yours faithfully,



Nick Bone
Fawley Site Manager, Esso UK Ltd

¹ Esso UK Ltd has numerous affiliates, many with names that include Exxon Mobil Corporation, ExxonMobil, Exxon, Mobil, Esso, and XTO. For convenience and simplicity, those terms and terms such as "corporation," "company," "our," "we," and "its" are sometimes used as abbreviated references to one or more specific affiliates or affiliate groups. Abbreviated references describing global or regional operational organizations, and global or regional business lines are also sometimes used for convenience and simplicity. Nothing contained herein is intended to override the corporate separateness of affiliated companies.

CC Michael Duggan, Head of Downstream Resilience, Department for Energy Security and Net Zero
CC Mike Botten, Deputy Director, Department for Energy Security and Net Zero

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

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- 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.
 - Section 229, Subsection 3: This requires a duty to report “notifiable incidents” which affect a person’s relevant activities or assets in such a way as to create a significant risk of disruption to the supply of core fuels. However, there is at present a lack of

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clarity as to what constitutes a disruption during a “notifiable incident.” There are many “disruptions” to fuel supplies that are managed and mitigated whether at refineries, terminals and right down to forecourts. This is particularly important to give clarity on given contravention of this requirement could entail imprisonment.

- We seek definition of a threshold (or multiple thresholds for different types of entity in scope) that is clearer on when people must report incidents. For example, “more than X kt supply affected, pipeline which carries over X kt, more than 10 forecourts”. This could also take into account longevity of outage.
- 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.

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