SSEN Transmission written evidence on Planning and Infrastructure Bill

May 2025

Scottish & Southern Electricity Networks

TRANSMISSION

Planning and Infrastructure Bill

SSEN Transmission written evidence

SSEN Transmission, part of SSE Plc, owns and operates the transmission network in the North of Scotland. We are committed to delivering a network for net zero. We are investing £22bn by 2030 to deliver critical grid infrastructure investment, strengthening energy security and supporting the delivery of the Government's Clean Power 2030 Mission.

We are part of SSE, a UK-listed energy infrastructure company headquartered in Perth, Scotland - and with a growing presence in international markets. We develop, build, operate and invest in world-class electricity infrastructure that is vital to the clean energy transition.

HEADLINES

SSEN Transmission welcomes the introduction of the Planning and Infrastructure Bill, and the inclusion of measures to tackle obstacles on the critical path for delivery of Clean Power 2030. These measures deliver clearer and more efficient planning processes which will provide more timely resolution for communities and networks. We are supportive of the Bill's proposals to reform consenting in Scotland and underpin connections reform with primary legislation.

To make sure the Bill fully delivers against the policy intent to accelerate the delivery of critical infrastructure and support the delivery of the government's Clean Power 2030 target, we need to see ***binding statutory 12-month timescales for the determination of Section 37 consent applications put in place, through regulations using powers established through the P&I Bill. Legislative reforms to land rights must also be brought forward at the earliest opportunity.***

CONNECTIONS REFORM (CLAUSES 9-13)

The Bill provides important legislative underpinning to the forthcoming connections reforms.

Why is this important?

The previous first-come-first-served process for new projects wanting to connect to the grid is no longer fit for purpose. The size of the connections queue has ballooned to over 700GW, far surpassing the predicted requirements not only to achieve clean power by 2030, but full net zero by 2050. The queue contains projects which are not progressing (speculative or stalled projects) at the anticipated pace, meaning much-needed and viable generation projects are stuck behind them in the queue, and new industrial demand customers like data centres struggle to get connected.

Reforms extensively consulted on by NESO, and now approved by Ofgem, mean generation projects must demonstrate their 'readiness' to connect to the grid[1] and will be assessed against the technology targets set out by the Government to ensure they are aligned with the needs of strategic energy plans (the Clean Power 2030 Action Plan[2] in the first instance, followed by the Strategic Spatial Energy Plan (SSEP)).

[1] Through demonstrating that they have land rights in place, or that they have submitted planning consent for projects following the Development Consent Order process

[2] See: Clean Power 2030 Action Plan: connections reform annex (updated April 2025)

What the Bill gets right

The Bill provides necessary legislative underpinnings to the reforms, and clarifies NESO's duty to have regard to strategic plans like the 2030 Clean Power Action Plan (*Clause 13*). This provides welcome clarity and consistency between Government, NESO and Ofgem's responsibilities. It also gives the Secretary of State and Ofgem powers to step in and modify licences or connection agreements if the reforms face significant delays or fail to deliver the intended benefits (*Clauses 9-12*).

It is right that these powers are time-limited and restricted only to improving the process for managing connections, and that the Secretary of State/Ofgem must consult licence holders before making any modification. However, there should be additional checks and balances on the use of these powers to avoid creating unnecessary commercial uncertainty for regulated companies.

What else we need to see

We recognise there is a requirement for the legislative basis provided for in the Bill, particularly for NESO in relation to their enhanced responsibility for driving the coordinated development of the whole energy system and their control over the connections process. However, the breadth of the potential application of the power to modify licence introduces an unacceptable commercial risk for regulated companies. Use of the powers should be limited further, and the circumstances in which the powers may be used clarified in appropriate guidance.

Direction from SoS should be required for Ofgem to use s.9 power to modify licences: The Bill should be amended to ensure that Ofgem cannot use this power unilaterally, and may only step in to modify a licence if so directed by the Secretary of State (*clause 9*). Currently, clause 9 is drafted so that either the Secretary of State or Ofgem can use this power.

We recognise a licence change could be necessary in the event of delays to implementation, but this is nevertheless a significant power. Our licence is the fundamental basis of our ability to operate the network, and a modification by the regulator without the usual route to appeal to the CMA would be unprecedented. The Government is right to recognise Ofgem's expertise as the independent regulatory authority—but our view is that, given the significance of this power, it would be more proportionate for the Secretary of State only to *direct* Ofgem to utilise this expertise under clause 9 if necessary. Proposed amendments to the wording of the Bill is contained within the Annex to this submission.

Clear Supporting Guidance: Given a licence change could be necessary in the event of delays to implementation, supporting guidance must be issued to provide reassurance to industry and set clear parameters on the use of this power. This would mitigate the currently unmeasurable commercial risk which licence changes could create for regulated companies.

Although the policy intent of the Bill is clear that the power can be used to 'improve connections processes', we do not support this power extending to making policy changes that would normally be made through existing policy development practices and processes, with the appropriate input and resources with a robust evidential basis which includes the appropriate public consultation to justify the intervention.

Clear guidance should establish the appropriate use of powers, and by doing that ensure that further changes to the enduring connections framework, which will be established and embedded by the connections reform programme, are based on sufficient long-term planning and future thinking to provide certainty to industry.

CONSENTS FOR ELECTRICITY INFRASTRUCTURE IN SCOTLAND (CLAUSES 14-20)

What's in the Bill

The Bill will reform the consenting regime in Scotland, following the recommendation of the independent Electricity Networks Commissioner and a joint UK and Scottish Government consultation in October 2024. It gives powers to the Secretary of State for Energy Security and Net Zero and the Scottish Ministers to update the rules to create pre-application requirements, set time limits for each stage of the process, and establish a new procedure for managing certain objections.

Why is this important?

While electricity infrastructure consenting in England and Wales was updated via the Planning Act 2008, the process for consenting overhead lines in Scotland continues to be governed by the Electricity Act 1989 and is not designed to support an accelerated approach to delivering net zero.[3]

The existing process in Scotland is lengthy and unclear. There is a lack of mandatory pre-application processes, or requirements for information to be contained in applications. There are no specific powers enabling deadlines to be set, limiting the Scottish Government's ability to manage the pace of the process and ensure timely outcomes for communities and developers. A Public Local Inquiry (PLI) can be automatically triggered if a local planning authority objects to the project – even if the project complies with Scottish planning policy and is recommended to receive consent by the Planning Officer. This results in lengthy and resource-intensive PLIs, the costs of which are ultimately recouped through consumer bills. The additional uncertainty created by a process with no clear timelines is not in the interest of any party, whether from the point of view of local jobs and investment, the uncertainty caused to communities, or in relation to critical national infrastructure projects that are essential to delivering a cleaner, more secure and affordable energy system for current and future generations.

As an example of how long it can take for our projects to get through the planning system, our Beauly-Denny overhead line took over 4 years from initial submission to receiving a positive decision from the Scottish Government. In addition, our North Argyll overhead line took over 2 years to make its way through the consenting system and went to PLI following an objection. Again, this was against the recommendation of the Planning Officer, who recommended the project to receive consent.

We need a robust, timely and proportionate consultation process which meaningfully involves communities and relevant authorities, and facilitates a more efficient process in Scotland.

What the Bill gets right

The Planning and Infrastructure Bill's amendments to the Electricity Act 1989 significantly address the barriers outlined above. It updates the framework to increase the timeliness and effectiveness of consenting in Scotland, particularly around introducing powers to set timescales for aspects of the determination process and replacing the automatic PLI trigger with a Reporter-led process.

The proposals establish that:

- **Scottish Ministers or the Secretary of State will be able to set out pre-application requirements and time limits (via regulations)**. The Bill creates powers for the UK or Scottish

[3] While planning is a devolved matter, the legislative framework underpinning the consenting of overhead electricity lines in Scotland is reserved.

Ministers to set statutory requirements relating to consultation procedures and the information contained in applications. This will support a more consistent approach to pre-application consultation with communities, ensuring their views are taken into consideration at the early stages of project development.

- It will also create limited powers for **deadlines** to be set, enabling the Scottish Ministers to manage the pace of the process and ensure timely outcomes for communities and developers.
- Scottish Ministers will also be able to reject applications at the 'acceptance' stage, meaning that Ministers will no longer be required to consider applications that fall short.
- **A clearer and more proportionate process for considering local planning authority objections**, with a Reporter appointed to examine the application. The Reporter must publish the proposals for examining the application and objection and invite comment from interested parties. A Reporter can launch a PLI if this is the most proportionate approach. After the Reporter has completed their examination, they must share a final report with the Scottish Ministers, which must be considered in any final determination.
- **These reforms create the framework for a more efficient process.** Importantly, the reforms do not undermine the crucial role of community consultation. Rather, they will empower Scottish Ministers to ensure that communities are meaningfully engaged and can provide their views to help shape and influence the development of electricity infrastructure.

We believe these proposals, which follow joint public consultation by both the UK and Scottish Governments, strike the right balance by streamlining processes and establishing clearer expectations for both communities and developers. Planning reform is on the critical path for delivery of our £22bn programme of investment in critical transmission infrastructure out to 2030. We are keen to see these proposals implemented at pace.

What else we need to see

Statutory 12-month deadlines for consent determinations. The scale of investment needed for 2030 is unprecedented and follows a significantly accelerated timeline in comparison to timescales for delivery of transmission infrastructure historically.

We welcome the recent Scottish Government guidance on a 52-week process for delivering Section 37 overhead line determinations. However, non-statutory guidance is not enough. **We urge the UK and Scottish Governments to continue recent close working to ensure 12-month timescales for consent determinations are put on a statutory footing, using the regulation-making powers that will be established under Clause 14.**

This would align with established statutory timescales for major substation applications under the Town and Country Planning (Scotland) Act 1997 that are subject to environmental impact assessment, which require determinations to be made within 4 months.

Land rights reform

Alongside consenting reform, land rights reform in Scotland is on the critical path for 2030 delivery. Without the same dedicated focus as consenting, only part of the problem is being addressed.

Every effort is taken to reach a voluntary agreement on land rights with landowners. Where this cannot be achieved, we have statutory powers under the Electricity Act 1989 to secure both necessary wayleaves and Compulsory Purchase Orders (CPO). Current determination timescales for CPO are often **two years**, with necessary wayleave determinations often taking around **18 months**. However, we need necessary wayleave timescales to be set at a maximum of **12 months** to stay on programme for 2030, though some projects will require these determinations sooner. This is in line with the recent timeline published by the Scottish Government where they have committed to determine necessary wayleaves within 52 weeks.

Many 2030 projects are also heavily reliant on CPO determinations to be set within a maximum of 6 months.

Land rights reform was recommended by the independent Electricity Networks Commissioner's report to Government in 2023 to enable the acceleration of transmission infrastructure. In line with the asks in the 'ENA's Nine Point Plan', we need to see short term procedural **reforms made by the Scottish Government to support 2030, but this must be followed by UK Government-led legislative reforms for securing land rights**. **We urge the Government to progress proposals in this area at pace.**

Clarity in secondary legislation

Many of the Bill's provisions empower the Scottish Ministers or the Secretary of State to make secondary legislation – for example, to set pre-application requirements or time limits. Without these regulations being made, many of the reforms enabled by the Bill will not take effect. To support swift delivery, **we need to see any accompanying secondary legislation developed in parallel to be laid as soon as the Bill receives Royal Assent**.

The Bill creates powers to set requirements for pre-application consultation via secondary legislation (*clause 14)*. Any regulations made under this provision should be very clear about what the pre-application requirements consist of. Any regulations enabling Ministers to reject applications at the acceptance stage should be clearly defined with some flexibility built in.

The replacement of the automatic PLI trigger with a new Reporter-led procedure (*clause 14, sub-clause 3)* is welcome as it recognises that a public inquiry may not always be the most proportionate option. **However, it is crucial that this new procedure does not result in further delays and uncertainty around decision-making, given the number of new options it introduces.**

To this end, we would highlight the crucial importance of the regulation-making power clause 14 creates to set **time limits** for each stage of the process. To remain on track to deliver Clean Power 2030, we need consent determinations within 12 months. While a 52-week determination process has been committed to in the Scottish Government's newly published guidance on Priority Applications for Transmission Infrastructure, this target is not legally binding. We need clarity on the intended time limits to be set by the regulations, and what the consequences of a failure to meet such deadlines would be.

Annex

Proposed amendment text- Clause 9 subsection 3

Existing text

(3) The Secretary of State may direct the GEMA to exercise the power under subsection (1)

New text

(3) The ~~Secretary of State may direct the~~ GEMA ~~to~~ may exercise the power under subsection (1) only under the direction of the Secretary of State

Rationale

The breadth of the potential application of the power to modify licences as drafted introduces an unacceptable commercial risk for regulated companies. Use of the powers should be limited, and the circumstances in which the powers may be used clarified in appropriate guidance.

Direction from SoS should be required for Ofgem to use s.9 power to modify licences: The Bill should be amended to ensure that Ofgem cannot use this power unilaterally, and may only step in to modify a licence if so directed by the Secretary of State (clause 9). Currently, clause 9 is drafted so that either the Secretary of State or Ofgem can use this power.

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