Fees Charged for Applications under the Electricity Act 1989 - Fee Monitoring Report

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1. Background and Introduction

1.1. Background

1.1.1 The Scottish Ministers are responsible for determining applications for consent under section 36 and section 37 of The Electricity Act 1989 ("the Electricity Act"). Applications under section 36 are for onshore generating stations with installed capacity exceeding 50 Mega Watts ("MW") and for offshore generating stations with installed capacity exceeding 1MW in the Scottish Territorial waters and exceeding 50MW in the Scottish offshore region. Applications under section 37 are for certain overhead power lines in Scotland. The Electricity (Applications for Consent) Regulations 1990 and Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 apply to such applications, which are processed on behalf of Scottish Ministers by the Scottish Government's Energy Consents Unit (ECU) and Marine Scotland Licensing Operations Team.

1.1.2 A previous consultation ran from February to May 2018 on Fees for Applications for Consent under The Electricity Act 1989. At that time, a review of the fee levels and structure was required due to a significant shortfall in cost recovery for a number of years. The consultation presented options and in summary the consultation highlighted that the proposed fee increase was considered too high but it was acknowledged that the fees at that time were too low. Following analysis of the consultation responses and discussions with a range of stakeholders, the fees for section 36 and section 37 applications were increased; fees were introduced for section 36C applications; fee bandings were revised and the monetary value of the contribution to planning authorities from onshore applications were increased. The approved option for the increase in fees was less than originally proposed through the consultation. Overall, the above measures that were introduced in 2019 reduced the level of public subsidy by the Scottish Government from an estimated 95% to 34% of application processing costs.

1.2. Introduction

1.2.1 The current fee structure for applications under the Electricity Act came into force on 30 June 2019 through the introduction of The Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Regulations 2019 ("the Fees Regulations 2019").

1.2.2 In accordance with the Scottish Public Finance Manual, the Scottish Government adopts the principle that there should be full cost recovery for all public services, including those associated with discharging consenting functions under the Electricity Act. Following the implementation of the

Fee Regulations 2019, the Scottish Government committed to monitoring the effects of these changes as a step towards full cost recovery.

1.2.3 It was considered that monitoring the implementation of the fee structure should be undertaken two years on. Whilst it is noted that the Scottish Public Finance Manual suggests an annual review of costs, it was considered that monitoring fees every two years provided reliable data and was more closely aligned to the project development cycle for long term Environmental Impact Assessment ("EIA") projects. Two years would also allow a variety of applications to come forward and allow detailed data to be gathered to inform future analysis.

2. Fee Monitoring

2.1. Applications and associated fees

Energy Consents Unit

2.1.1 The following table provides an estimate of applications and associated fees received under the Electricity Act by ECU for the period July 2019 to July 2021 by application type. Note that where no applications for a particular type were received during the reporting period, no information has been included.

Table 1: Fees by Application type received by ECU (July 2019 – July 2021)

Application Type	Number of Applications received	Fees Received (£)
1 (1) (c) - Construction, or construction and operation of a generating station which is not EIA development and has a capacity exceeding 50 megawatts but not exceeding 100 megawatts	1	70,000
1 (2) (b) - Extension, or extension and operation, of a generating station which is not EIA development, resulting in increase in capacity exceeding 10 megawatts but not exceeding 50 megawatts	1	25,000
1 (2) (c) Extension, or extension and operation, of a generating station which is not EIA development, resulting in increase in capacity exceeding 50 megawatts but not exceeding 100 megawatts	1	70,000
1 (3) (c) Construction, or construction and operation, of a generating station which is EIA development and has a capacity—exceeding 50 megawatts but not exceeding 100 megawatts	12	1,500,000
1 (3) (d) Construction, or construction and operation, of a generating station which is EIA development and has a capacity exceeding 100 megawatts but not exceeding 300 megawatts	5	900,000
1 (3) (e) Construction, or construction and operation, of a generating station which is EIA development and has a capacity exceeding 300 megawatts	1	280,000
1 (4) (b) Extension, or extension and operation, of a generating station which is EIA development, resulting in an increase in	3	105,000

Application Type	Number of Applications received	Fees Received (£)
capacity exceeding 10 megawatts but not exceeding 50 megawatts		
1 (4) (c) Extension, or extension and operation, of a generating station which is EIA development, resulting in an increase in capacity exceeding 50 megawatts but not exceeding 100 megawatts	1	125,000
2 (1) (a) Overhead line which is not EIA development with a total distance not exceeding 500m	1	180,000
2 (1) (b) Overhead line which is not EIA development with a total distance exceeding 500m but not exceeding 15km	80	29,020
2 (1) (c) Overhead line which is not EIA development with a total distance exceeding exceeding 15 kilometres	30	59,260
2 (2) (b) Overhead line which is EIA development with a total distance exceeding 1 kilometre	4	115,140
3 – Variations (All types)	2	326,250
Total	**147**	**3,950,420**

Marine Scotland

2.1.2 Application fees received for applications processed by Marine Scotland for offshore wind applications for the same period (July 2019 – July 2021), totalled approximately £18,000. It is noted that fees were limited due to the fact that offshore wind applications follow sectoral plans produced by Marine Scotland and a leasing round administered by Crown Estate Scotland.

2.1.3 This plan led approach results in clusters of applications being received rather than a continuous flow of applications. Looking across a longer timeframe, application fees received for the period 2015/16 - 2020/2021 totalled £403,050.

2.2. Running Costs

Energy Consents Unit

2.2.1 The following table provides an estimate of ECU outgoings which includes the running costs for ECU and fees paid to planning authorities for the period July 2019 – July 2021. Over this period it cost the Scottish Government approximately £2.7m to operate ECU and it paid out

approximately £1.9m to planning authorities, total running cost approximately £4.6m.

2.2.2 The income from Table 1 is approximately £3.9m and the outgoings from Table 2 is approximately £4.7m, therefore identifying a shortfall of approximately £800,000.

Table 2: ECU costs (July 2019 – July 2021)

Costs	Total (£)
Running costs* *includes payments to consultants, IT Budget, Salaries, accommodation, travel, and training/events.	2,744,459
Payments/Fees paid to Planning Authorities	1,996,274
Total outgoings	**4,740,733**

Marine Scotland

2.2.3 The following table provides an estimate of Marine Scotland running costs and for the period July 2019 – July 2021.

Table 3: Marine Scotland costs (July 2019 – July 2021)

Costs	Total (£)
Running costs* (£) *includes Staffing costs, IT costs, Decommissioning advice, training and professional subscriptions.	2,705,151
Total costs	**2,705,151**

2.2.4 The data available for Marine Scotland is limited over this period. The Sectoral Marine Plan for Offshore Wind Energy was published in October 2020. The recent Scotwind commercial leasing round, announced on 17 January 2022 by Crown Estate Scotland, awarded lease options with the potential of up to 25GW capacity. Accordingly, the scale and number of applications brought forward may be larger than anticipated.

2.2.5 It should also be acknowledged that Marine Scotland, on behalf of Scottish Ministers, manages the discharge of all offshore related conditions of section 36 consent and that this requires substantial resource from both Marine Scotland and stakeholders.

3. Next Steps and Conclusions

3.1.1 It is recognised that there has been an increase from income as a result of the increase from the Fee Regulations 2019 over the last two years. Tables 2 and 3 above show the costs to provide the service for the same period and it is noted there is a shortfall.

3.1.2 This monitoring report reflects a snap shot of time and does not take into account that some applications that are undetermined and will continue to require a resource and therefore in turn running costs will continue to increase.

3.1.3 In the context of the Climate Change Plan Update (December 2020), Energy Strategy: position statement (March 2021), Onshore Wind Policy Statement: consultative draft (October 2021), Offshore Wind Policy Statement (October 2020) and the Sectoral Marine Plan for Offshore Wind Energy (2020) both ECU and Marine Scotland are expecting a continuous volume of applications for complex energy infrastructure proposals. At this high level review, this report indicates that there is a continuing shortfall to achieve full cost recovery. It is proposed that a Consultation Paper shall be prepared to propose an increase to the current fee tariff to achieve full cost recovery.