

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT ELECTRICITY AND GAS ETC.
(AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

DRAFT ELECTRICITY NETWORK CODES AND
GUIDELINES (MARKETS AND TRADING)
(AMENDMENT) (EU EXIT) REGULATIONS 2019

DRAFT ELECTRICITY AND GAS (MARKET
INTEGRITY AND TRANSPARENCY)
(AMENDMENT) (EU EXIT) REGULATIONS 2019

DRAFT GAS (SECURITY OF SUPPLY AND
NETWORK CODES) (AMENDMENT) (EU EXIT)
REGULATIONS 2019

DRAFT ELECTRICITY NETWORK CODES AND
GUIDELINES (SYSTEM OPERATION AND
CONNECTION) (AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2019

Tuesday 26 February 2019

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Saturday 2 March 2019

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The Committee consisted of the following Members:

Chair: SIR GRAHAM BRADY

† Baron, Mr John (*Basildon and Billericay*) (Con)
 † Brown, Alan (*Kilmarnock and Loudoun*) (SNP)
 † Cowan, Ronnie (*Inverclyde*) (SNP)
 Efford, Clive (*Eltham*) (Lab)
 † Grant, Mrs Helen (*Maidstone and The Weald*)
 (Con)
 Grogan, John (*Keighley*) (Lab)
 † Harris, Rebecca (*Lord Commissioner of Her
 Majesty's Treasury*)
 † Morris, Anne Marie (*Newton Abbot*) (Con)
 † O'Brien, Neil (*Harborough*) (Con)

† Perry, Claire (*Minister for Energy and Clean Growth*)
 † Reeves, Ellie (*Lewisham West and Penge*) (Lab)
 † Rowley, Lee (*North East Derbyshire*) (Con)
 † Shapps, Grant (*Welwyn Hatfield*) (Con)
 † Smith, Nick (*Blaenau Gwent*) (Lab)
 † Tredinnick, David (*Bosworth*) (Con)
 † Whitehead, Dr Alan (*Southampton, Test*) (Lab)
 Williams, Dr Paul (*Stockton South*) (Lab)

Bradley Albrow, *Committee Clerk*

† **attended the Committee**

Sixth Delegated Legislation Committee

Tuesday 26 February 2019

[SIR GRAHAM BRADY *in the Chair*]

Draft Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019

2.30 pm

The Minister for Energy and Clean Growth (Claire Perry): I beg to move,

That the Committee has considered the draft Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019.

The Chair: With this it will be convenient to consider the draft Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019, the draft Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019, the draft Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and the draft Electricity Network Codes and Guidelines (System Operation and Connection) (Amendment etc.) (EU Exit) Regulations 2019.

Claire Perry: It is a real pleasure to serve under your chairmanship on this sunny day, Sir Graham.

The instruments are all made under the European Union (Withdrawal) Act 2018 and were laid before the House on 30 January. I apologise to the Committee for the fact that they have been bundled together, but I commend my parliamentary team, the drafters and the scrutiny Committees for doing a very efficient job of preparing these necessary instruments to assist in our preparation for a no-deal Brexit, in what I hope the Committee agrees was a timely and efficient manner.

I assure the Committee that my Department is working to ensure that our energy legislation continues to function effectively after exit day, regardless of whether there is a deal or what form it takes, so that consumers continue to benefit from reliable, affordable and clean electricity and gas. A significant part of the legislation that underpins our energy market takes the form of direct EU legislation. The instruments will transpose that legislation directly into domestic law after our departure as retained law under the terms of the 2018 Act, as we have done with so many pieces of EU legislation.

As in many other instruments considered by Committees like this one, we have had to make certain minor amendments to the legislation to ensure that it continues to function when transposed into UK law. Following the continuity principle that we have set out for our legislation from day one after exit day, we are maintaining continuity where appropriate but making the necessary tweaks to ensure that the legislation remains effective.

The instruments address a range of highly technical issues, from cross-border trade to the energy market objectives of regulators. In the event that we leave the EU without a deal, they will remove inoperabilities in

retained EU law, such as references to the EU or EU institutions that would make no sense following EU exit. They will ensure that in the event of no deal, we will retain the regulatory functions and frameworks that we need to keep Great Britain and Northern Ireland's electricity and gas markets working effectively, facilitating continuity. We have prepared them extensively to minimise disruption and uncertainty.

The instruments will make similar—although not always identical—amendments to legislation applying to Northern Ireland and to Great Britain. One of our aims is to ensure continuity in the retained EU legislation that applies right across the UK, while recognising the unique nature of the single electricity market on the island of Ireland, which is constituted as an integrated market north and south of the border. I want it to be absolutely clear that although the instruments will not provide insurance against all the risks that we would run in a no-deal exit that would undermine the legal basis of the single electricity market, they will facilitate the necessary steps to ensure that such a situation is not prolonged. I reassure the Committee that we have worked closely with Ofgem in England, Wales and Scotland, and with the Department for the Economy and the Utility Regulator in Northern Ireland.

As the European Statutory Instruments Committee recognises, the instruments are

“technically modest”

and

“the changes are necessary to prepare the statute book for the possibility of a no-deal”.

Let me focus on the most significant changes that they will deliver.

Mr John Baron (Basildon and Billericay) (Con): Is the Minister basically confirming that should there be no deal, we will be fully prepared—at least from the point of view of her Department's responsibilities—for such an outcome?

Claire Perry: I assure my hon. Friend that my Department has been at the forefront of preparation across Whitehall for the event of a no-deal Brexit. We have introduced a number of legislative instruments, some of which I have taken through the House myself, and we have done lots of work with third parties and stakeholders. The inescapable fact is that we do not have an agreement about an ongoing legal basis on which the single electricity market in the island of Ireland will operate, and that is a real concern. We can take legislative powers to mitigate the worst impacts of that, but they will not be taken before exit day because other even more urgent things are ahead of them in the queue. So to the extent of our ability, I agree that we are as prepared as we can be, quite rightly, for a no-deal Brexit.

Alan Brown (Kilmarnock and Loudoun) (SNP): On that no-deal preparation, can the Minister confirm that a system to replace the REMIT reporting system that regulates the workings of the markets is still to be implemented?

Claire Perry: If I understand the hon. Gentleman correctly, he is referring to the capacity market in the UK. There are, indeed, technical challenges regarding the procedure of the capacity market, but I am not aware of any other regulatory concerns. I can assure the

hon. Gentleman that one of the processes that has been working extremely well is that I and the relevant Ministers in the devolved Administrations are now speaking on an almost weekly basis to thrash through the elements of a no-deal Brexit and how they might affect us. I imagine that all would say we were well prepared.

Alan Brown: I am reading from paragraph 2.2 of the explanatory memorandum to the Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019:

“the REMIT Implementing Regulation, aims to prevent market manipulation and insider trading in the gas and electricity markets.”

That is what is in place now. Paragraph 12.3 explains that a domestic replacement system will need to be established and put in place, so does that not mean that there is a risk in that period of market manipulation and insider trading within the UK or GB domestic gas and electricity market?

Claire Perry: Part of the SI relating to the market integrity and transparency amendment will enable UK regulators—Ofgem and the utility regulator—to set up and operate domestic arrangements for market integrity and transparency that will mirror the EU regime. So one of the SIs before us today does indeed mitigate the risk the hon. Gentleman rightly identifies as unacceptable.

Alan Brown: What will the timescale for the replacement programme be? I note that there has been no formal consultation on the REMIT replacement, so what is the timescale for Ofgem implementing the new system?

Claire Perry: I hope I will answer the hon. Gentleman’s question during the rest of my remarks. My officials are scribbling frantically so that I can give a good response.

Returning to the first instrument, its principle is to amend and make workable the retained EU electricity and gas legislation that was created to harmonise energy markets and regulation across the EU. It also revokes the guidelines for trans-European energy infrastructure that set out processes for the development of EU infrastructure, as they will be irrelevant in a four-nation setting.

The second instrument amends retained EU gas legislation, ensuring that the regulatory framework relating to gas is maintained, including the technical EU network codes that govern the cross-border gas trade. That will maintain maximum business continuity and efficiency for UK gas operators and consumers. The instrument also maintains the framework for dealing with security of supply, such as matters relating to responding to gas supply emergencies, by updating the security of gas supply regulation to remove references to EU institutions.

The third instrument addresses EU electricity legislation relating to markets and trading, ensuring that these operate as part of domestic law. In particular, the instrument amends a wider package of rules, known as the EU network codes for electricity. It revokes the guidelines on the forward capacity allocation code and on capacity allocation and congestion management, which essentially govern how cross-border trade works within the EU’s internal energy market. Of course, it is a truism that the EU has made it clear that if we left without a deal we would no longer be part of that

internal energy market, and that is where the potential legal risk to the single electricity market will derive from. The codes would have little to no practical application in UK law and are, therefore, being revoked by these statutory instruments.

We are, of course, keen to maintain cross-border trade and interconnector flow, which has been helpful in balancing our energy demand and keeping prices low. We are implementing alternative arrangements for cross-border trade with GB interconnectors, similar to those that were in place prior to the European market coupling. We have fall-back arrangements in place for the interconnectors between the SEM and GB to ensure that trading can continue to take place in a no-deal scenario.

Excitingly, another aspect of the instrument is that it will amend the inter-transmission system operator compensation mechanism regulation, which established a mechanism to compensate national transmission system operators for hosting cross-border flows. Domestic UK legislation will no longer provide for such flow, because we cannot legislate for other countries; the cross-border elements will therefore be removed, while the provisions that relate to the setting of our own domestic network charges will be retained.

Similarly, the guideline on electricity balancing will largely be retained in Great Britain, with amendments to remove provisions that relate to a European platform for the exchange of balancing energy. The guideline will be revoked in Northern Ireland, because it does not apply to islands that are not connected with the rest of the EU.

The fourth instrument deals with EU legislation on the operation of the electricity system. Two of the EU regulations that it amends—the regulation establishing a system operation guideline and that establishing the emergency and restoration network code—concern the activities of energy system operators, which balance supply and demand on the system in real time and ensure that energy flows securely to customers across the UK.

Effectively, the instrument will amend the obligation on National Grid to co-operate with other system operators: it will require National Grid to assist the System Operator for Northern Ireland, with a similar reciprocal requirement on SONI, but will remove the obligation to co-operate with other system operators. Of course, it does not preclude such co-operation, which we encourage, but we do not believe that it is right for a GB system operator to be under a legal duty or commitment to co-operate that our EU neighbours would not legally require from their own system operators.

The unique shared arrangements that underpin the single electricity market on the island of Ireland require a different approach. In a no-deal scenario, EU regulations will oblige EirGrid, Ireland’s system operator, to endeavour to conclude a co-operation agreement with SONI because of the unique shared nature of the single electricity market. For Northern Ireland only, we are therefore retaining a similar requirement for SONI to ensure co-operation with EirGrid south of the border.

In addition, the instrument will revoke the connection codes, a set of three EU instruments for electricity. The codes will apply under EU law only from a date after exit and will therefore not be incorporated via the withdrawal Act. A similar issue will arise for some provisions of the gas transmission tariffs.

[*Claire Perry*]

The last instrument deals with measures to ensure market integrity and transparency, which the hon. Member for Kilmarnock and Loudoun raised. It will amend retained EU law to ensure that UK regulators can maintain effective market surveillance and enforcement, and that market participants can continue to publish relevant inside information. In answer to his question about the REMIT programme, there will be no reduction in the abilities of UK regulators; post exit, regulators will rely on alternative but available sources of market data. We are assured that that will not affect their ability to keep the market under surveillance. The programme could run for up to two years, until we are assured that appropriate arrangements are in place.

Alan Brown: Will the Minister give way?

Claire Perry: I am coming to the end of my speech, but perhaps the hon. Gentleman would like to make a brief speech of his own.

In conclusion, although leaving the EU without a withdrawal agreement is not what the Government want or are aiming for, it is only prudent that we make the changes necessary to ensure that electricity and gas markets continue to function as normal, including doing all that we can to ensure the continuity of the single electricity market on the island of Ireland. I commend the draft regulations to the Committee.

2.44 pm

Dr Alan Whitehead (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship, Sir Graham; I am sure that you will have an interesting time chairing this debate on the five statutory instruments before the Committee. Perhaps I ought to say that I will not necessarily discuss the statutory instruments in the same order as the Minister, because I did not have any forewarning about the order that she would discuss them in. I am not criticising; I am merely saying that it may be difficult to establish the debate effectively, but I will do my best.

Claire Perry: Will the hon. Gentleman accept my apology for that omission? We have used the opportunity of many of our SI debates to have a very constructive conversation, so I apologise to him. I will take account of what he said, should we have the pleasure of doing this again.

Dr Whitehead: I thank the Minister very much for those comments. I sincerely hope that we will not have the pleasure of doing this again in a hurry because, among other things, I had to read all five SIs to get the sense of them. I have tried to place my concerns about them in descending order of importance. Therefore, I will not necessarily talk about them in the same sequence as the Minister, but I hope what I say will be reasonably intelligible.

Before proceeding, perhaps I ought to say that I appreciate the need to undertake code revision and to deal with the transmission code arrangements in such a way that they become properly operable within the UK on the day of a no-deal Brexit, which the Minister and I are both sincere in hoping will never come about. Nevertheless, we need to ensure that that is done, so far

as is possible. This afternoon, I will talk not about that process itself, because it is necessary, but about some concerns over the nature of how it is being brought about in the SIs. The Opposition do not intend to oppose any of the SIs, but we do want to place on the record—and hopefully get the Minister's comments on the record—our concerns over how the process has been brought about through the passage of the statutory instruments.

I will start with the draft Electricity Network Codes and Guidelines (System Operation and Connection) (Amendment etc.) (EU Exit) Regulations 2019, which take the regulations that have set common standards for transmission system operations across member states and translate that arrangement into a UK arrangement—a new arrangement as far as TSOs are concerned. As the Minister alluded to, that will cover transmission system operations not only in England, Wales and Scotland, but in Northern Ireland, which has a different transmission system operations arrangement and, indeed, a different regulator. It nevertheless comes under the draft regulations for the purpose of the legislation that is required to bring all of this within a UK-wide ambit.

As the Minister said, Northern Ireland and the Republic of Ireland have separate regulatory systems, but the transmission system and the energy market are completely integrated. Indeed, the Minister referred to the System Operator for Northern Ireland—SONI. That is not one of the few Japanese companies that is retaining its investment in Great Britain, but the operator of the Northern Ireland system. That operator has to operate in very close collaboration, including code congruence, with the system operator in the Republic of Ireland. That is because, among other things, two regulators deal with one grid and there is one single market as far as wholesale is concerned. That means that it is absolutely necessary that the codes between those two system operators are as congruent as possible in order to make the operation of a single grid effective.

It is quite clear that those codes will not be congruent in the case of a hard Brexit. As the explanatory memorandum to the SI makes clear, the network codes—“connection codes”—which come from the EU regulations are in the process of being incorporated into existing national regulatory frameworks, in order to make them accessible and familiar to UK parties. The document states—glass half full:

“The process of incorporation has been largely completed”.

An alternative way of saying that is: “the process of incorporation has not been completed”.

The Department states that it is the intention that those codes not incorporated already into a system to make them coterminous,

“will be created in domestic law under the powers of the Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018 as soon as practicable after exit day.”

That means that legislation to make those codes congruent will not be in place by exit day, nor for quite a while afterwards, because it will be a question of getting a new piece of legislation through this House to carry out the rest of the code congruence work.

Strictly speaking, that means that the single grid will operate on convergent codes and not be legally watertight. The Minister has effectively said this afternoon that, in practice, good will between all people will ensure that

electricity continues to flow and the market continues to operate. However, we need to be clear that will be done essentially on a good-will basis and not on a legal basis. Considerable risks are attached to the fact that those codes will not be congruent. If there are major issues about code compliance on both sides of the border, as far as the grid is concerned, there will be no easy way to remedy that if there is a hard Brexit. That is my strong concern about the regulations.

I turn to the draft Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019. As the hon. Member for Kilmarnock and Loudoun said, that covers the implementation and scope of REMIT regulations. REMIT is a very effective system. It came into UK legislation via regulation and is therefore not the subject of a separate raft of legislation. Nevertheless, it operates very effectively as far as the UK is concerned. It is a system that aims to prevent market manipulation and insider trading in energy markets. It does so through the registration of participants, the reporting of energy data and the publication of inside information that would have an impact on prices. That registration, reporting and publication is done through EU agencies. The purpose of this SI is to transfer that into UK arrangements, so that, as much as possible, UK reporting and transparency work as they did previously in the EU.

However, it is clear from this SI that not everything that is currently undertaken by REMIT will be incorporated into UK legislation. It is stated that the regime that is being legislated for will commence four weeks after Brexit day, but will apply only to registration, inside information and transparency data. Other forms of reporting, such as data relating to transactions in wholesale markets, will not start until the regulator has reviewed the market data requirements. It is suggested that if the regulator decides to implement full market data reporting, as currently required under REMIT, a further three months' notice of commencement will be given.

That means that only a part of REMIT will indisputably come into UK operation on a guaranteed basis. The regulator will have the opportunity upon review to translate the rest of the REMIT regulations into UK operation, but it may decide that the further pieces of reporting and data transfer relating to transactions in the wholesale market will not be part of the UK reporting arrangements. If that happens, there seems to be nothing that we in this House can do about it. Perhaps the Minister will indicate that there is something we can do about it. Perhaps she will say that we have effective legislative control over bringing the whole of REMIT into UK concerns, and that we are not just hoping that the regulator, which presumably will have concerns about resources, procedures and various other things, will complete the transfer. It would have been a good idea to undertake the whole of the transfer in this SI. I am not sure why there is only a partial transfer. I would be grateful for the Minister's comments and reassurances on that.

The draft Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019—the titles are getting a little more ragged as we get through the process—relates to the licence conditions concerning transmission and interconnections, which arise from the Gas Act 1986, the Electricity Act 1989 and the Utilities Act 2000. Those Acts all contain substantial references to EU

directives. That is fine, as far as England, Wales and Scotland go, but there is a problem, in terms of translation, with Northern Ireland. I have already said that Northern Ireland has a completely coterminous grids arrangement with southern Ireland, and that there is a single energy market.

The explanatory memorandum states that no changes have been made to the definition of a single energy market,

“due to a practical need for the definitions of the SEM in Ireland's and Northern Ireland's legislation to continue to align, (which they currently do).”

It continues:

“This course of action will better preserve the stability of the SEM”.

Again, practically, that will mean that, if there is a hard Brexit, there will be a different regime concerning licensing and collaboration on licensing in Northern Ireland and in the rest of the United Kingdom. For Northern Ireland, a number of references to relations with the EU concerning those licences will be left in, as will EU arbitration arrangements. As the Minister mentioned, it may well be the case that, through good will, this actually works in practice. However, we ought to be very clear that there will not be congruity between the licensing arrangements—not in this instance between Northern Ireland and southern Ireland, but between Northern Ireland and the rest of the UK. I would be interested to hear whether the Minister thinks that that may create particular issues or whether she is confident that that can be overcome at an early stage.

The fourth statutory instrument, the draft Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019, provides for co-operation to safeguard security of gas supply between member states and for solidarity between groups when a member state finds itself unable to supply households or essential services. Again, that is included in existing UK legislation through an EU regulation. At present, should the UK have a problem with our gas supply, there is a solidarity arrangement that requires other member states to come to our aid. Equally, if someone gets their gas supply cut off by the Russians, we have a reciprocal obligation, where we can, to come to their aid. I appreciate that that is not perhaps a central issue—the Minister and I have had discussions on this previously. The security of UK gas supplies is not a particularly interconnector, grid-based, serious European issue. Nevertheless, this SI cuts off all those methods of collaboration and solidarity—necessarily, because we will no longer have a member state's obligation to act in solidarity or to come to other member states' aid. However, we need to remember that they are required to come to our aid as well. The current regulations also include regional assistance arrangements. Since we will not be in any region, we cannot be part of any regional assistance arrangements either.

Will the Minister clarify whether she thinks that that is the end of the matter and the end of co-operation and solidarity, and that by simply revoking these arrangements in this particular SI, nothing of the sort will happen in the future? One hopes, in terms of common sense and fairness between ourselves and EU member states, that some sort of gas interconnection solidarity arrangement might continue. Does the Minister have any intention to pursue by other means such an arrangement, which

[Dr Whitehead]

could be beneficial both for us and for EU member states in the future, just as this arrangement has been beneficial for us in the past?

Finally—Sir Graham, you will be delighted that I am coming to the word “finally”—the Minister mentioned the unfortunate episode concerning the capacity market. She knows that we are talking today about what would happen in the event of a no-deal Brexit and about all these arrangements that currently pertain because we are a member state. The arrangements concerning the capacity market, which arise from state aid permission by the European Union in the first instance, also arise from the fact that we are a member state. If we are not a member state on 1 April, we will not be bound by those arrangements. In the event of a no-deal Brexit, does the Minister intend to restore the operation of the capacity market in the UK immediately, given that she would not be beholden to any UK arrangements concerning the operation of the capacity market on that date? Or does she intend to review the operation of the UK capacity market on the basis of what was decided in the European courts, regardless of whether we are bound by the state aid arrangements that pertained previously within the EU? I would be interested in hearing from the Minister whether she has any plans in that direction, and if so what they are.

3.6 pm

Alan Brown: It is a pleasure to serve under your chairmanship, Sir Graham. I will make some general comments before addressing some of the individual statutory instruments. It seems to me that we have a UK Government energy policy that, in terms of new and nuclear energy, is in absolute tatters. It has completely fallen apart. UK Government policy will not allow onshore wind in Scotland. The Minister might have heard these comments once or twice before. Yet here we have no-deal preparation that undermines the collaborative approach of the EU internal energy market. That is a massive contradiction.

We have five statutory instruments before us. For each of those, no consultation has been undertaken, no impact assessment has been carried out, and we have only glib assessments of costs; most of the SIs say that the costs are less than £100,000. Is this lack of consultation and absence of impact assessments due to timescales and an actual lack of no-deal preparation undertaken by the Government, despite the fact that we have been pretending to prepare for this for the last two years? Is this why the Minister is one of the Cabinet Ministers who have been reported as demanding that the Prime Minister take no-deal off the table because it is so disastrous?

Turning to individual statutory instruments, I will start with the draft Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019. Paragraph 2.3 of the draft explanatory memorandum states that if these amendments are not implemented, there may be “increased wholesale prices” for electricity. However, paragraph 12.3 confirms that there is no impact assessment. How do we know that not implementing this means that wholesale energy prices could increase?

The draft Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019 confirms that Great Britain will be removed from the balancing guidelines. The explanatory memorandum states:

“CACM and FCA regulations are revoked”

as they provide for cross-border processes for trading in electricity via electricity interconnectors. What is the actual impact of the UK being taken away from these cross-border arrangements?

Paragraph 7.7 of the explanatory notes states that “alternative trading arrangements” can be put in place. What is the timescale for those alternative trading arrangements? What discussions have been had with the EU to allow cross-border trading to continue if there is no deal and we crash out on 29 March?

I have already touched on the draft Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019 in an intervention about REMIT, which prevents market manipulation and insider trading. The Minister argued that alternative domestic data interrogation will actually be used by the regulator for up to two years, allowing the regulator to ensure that there is no insider trading.

Paragraph 7.2 of the draft explanatory memorandum states:

“Replacement systems for secure transfer of sensitive market data will not be available at exit”,
and that

“registration and market data reporting requirements will not be commenced until additional implementation work is completed.”

That seems to be contradictory. How can we have absolute surety that systems will be in place to ensure the regulation and monitoring needed to avoid insider trading?

Paragraph 12.3 estimates that it will cost Ofgem £1.9 million, as well as annual running costs of £500,000, to set up a replacement system. What is the timeframe for setting up the new system? Who will actually pay for it? Will there be a direct Government grant to Ofgem, or will the cost be added to energy bills? What work has been done to date on the replacement system?

Paragraph 2.2 of the draft explanatory memorandum to the draft Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations tells us that the draft regulations will facilitate “‘solidarity’ (gas sharing)” and will create a duty to

“collaboratively assess the risks to EU security of gas supply”,

and to create mitigation plans on an EU-wide basis. However, paragraph 2.3 suggests that not implementing the draft regulations would somehow

“threaten the continued secure and efficient operation of energy markets across the UK.”

Paragraphs 7.7 and 7.8 confirm that a no-deal scenario would revoke the solidarity of gas sharing and the collaborative risk assessment of gas supply to the EU. Why is walking away from that seen as acceptable to the UK Government?

In summary, no impact assessment has been provided for the potential withdrawal from the energy balancing markets for gas and electricity, there are no definitive proposals for how Ireland’s single market will work if there is a no-deal Brexit and there will be no consultation. That flags up the real risk of crashing out of the EU

with no deal. That is why I agree with the Minister—that the Prime Minister should take a no-deal Brexit off the table as soon as possible. I look forward to her response.

3.12 pm

Claire Perry: I thank hon. Members for an extensive delve into what are a series of deeply technical and quite complicated SIs. As always in this process, we have learned a lot. I will try to answer some of the specific questions raised.

The first, from the hon. Member for Southampton, Test, was on the risks and timing of the legal underpinning for the connections code. It is our intention to make further regulations, under the Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018, to incorporate those connection codes into domestic law. We absolutely appreciate the need for certainty, and we are therefore looking for a way to take forward the necessary provisions in a timely manner.

I can tell from the hon. Gentleman's face that he does not think that that is acceptable. As I think he already knows, the process of triaging preparation for no deal has been very focused on the things we absolutely must do so as not to face a massive threat on day one, while there are other things that, although they might pose a legal question that might have to be addressed later, we can safely assume can be done.

The hon. Gentleman referenced good will, and in the absence of a legislative branch of Government in Northern Ireland, I pay tribute to the Northern Ireland Office and its civil servants, and indeed to the devolved Administrations, which have been incredibly helpful in working on this good-will basis. It is in nobody's interests for a well-functioning single energy market or internal energy market to suddenly fail, and I think everyone is appraised of those risks.

The hon. Gentleman's second point was on REMIT and why we are essentially having only a partial transfer. That is because Ofgem and the other utility regulators are confident that that is what they need to ensure appropriate scrutiny and appropriate levels of market information, and that there will not be a decrease in effectiveness on day one or during the period in which they will bring forward alternative arrangements.

The hon. Gentleman also raised the definition of the SEM. That will still refer to EU obligations due to a practical need for the definitions of the SEM to continue to align; as I mentioned, that is one of the few derogations, if you like. Our intention is to use the powers of the European Union (Withdrawal) Act to amend the definition of the SEM, in parallel with Ireland, once a new definition is agreed with Ireland in due course. As I have made clear, this is a contingent problem; it will not mean that energy will not flow in Northern Ireland on day one, but it may lead to legal uncertainty about the functioning of the market and concerns about future capacity market auctions. We are all keen to avoid that.

The hon. Members for Southampton, Test and for Kilmarnock and Loudoun raised the question of the removal of solidarity of supply. We have almost never had to rely on the solidarity regulation, at least in my reading of energy history, because we have one of the most globally developed gas markets in the world to provide security of supply through supply diversity. We

are in an extremely fortunate position, not only because we can generate our own sovereign gas offshore and potentially onshore, but because in the past few years we have relied heavily on imports of liquefied natural gas, generally from diversified sources including Qatar, the US and our pipeline with Norway, which is not in the EU and is not subject to the solidarity regulation.

The hon. Member for Southampton, Test makes an extremely valuable point, however. It is absolutely our intention to work collaboratively with our closest neighbours, whether on energy policy or on climate change mitigation, and ensure that none of us faces a threat to security of supply—particularly from state agents that do not have Europe's interest at heart. Even though we are removing the solidarity provision, which I believe has never been used, it is right to assume that we will continue to be good neighbours to Europe.

A question was asked about the capacity market. Of course, we have said that even in a no-deal Brexit we will still abide by state aid rules. We were instrumental in putting those rules into legislation; we believe in competition and not unfair subsidies of particular industries. Ofgem assures us that the current challenge is based not on the operation of the market but on procedure. We will keep working to ensure that the market is fully restored and continues to successfully deliver low-cost and low-carbon energy to the UK markets.

The hon. Gentleman also raised the differences in licensing between Northern Ireland and the Republic of Ireland. The Northern Ireland regulator is identifying the gaps in the licensing regime. We will consider amendments in due course, but since these are not “life and limb” regulations, it was considered acceptable to allow a short period of delay. However, we continue to work closely with the Northern Ireland civil service on these points.

The hon. Member for Kilmarnock and Loudoun raised impact assessments. He is right that the assessed costs of the draft regulations do not trigger a full impact assessment. The long-term economic analysis published last November and the document that we published today about the economic impact of a no-deal Brexit encapsulate his broader points about the possible impact of a disorderly Brexit on energy costs, among other things. It is perfectly right that we have not done an impact assessment for the draft regulations.

The hon. Gentleman also asked about the timescales for the alternative arrangements for cross-border trading. The Great Britain interconnectors to the continent are agreeing access rules with the regulators. Proposals went out for consultation earlier this year, and we have nothing to indicate that anybody wants to stop the free and fair trading of energy via those interconnectors, since all parties benefit from the arrangements.

Alan Brown: I accept what the Minister says about ongoing consultation with the regulators, but if there is a no-deal Brexit, what will be the expected timeframe for getting the trading arrangements in place? Obviously that will affect not only the existing interconnectors, but any business cases being proposed for new interconnectors. Everybody needs to know what the trading arrangements will be.

Claire Perry: The hon. Gentleman states very succinctly why there are

[Claire Perry]

many uncertainties associated with a disorderly Brexit, only some of which the Government can mitigate with legislation such as that before the Committee. That is the reason for my strong view that the best way to avoid such consequences is to avoid a no-deal Brexit. I have said before and will say again that it is therefore incumbent on us all to vote for the deal before us, so that we can leave with a deal on 29 March, as we promised to those we represent. That offer remains on the table.

Mr Baron: The Minister talks of a disorderly Brexit if there is no deal, but she has been part of a Government who for two years have made the promise that preparations for no deal are ongoing and will be met on time. Is she now saying that there is a problem with that, and that the assurances we have received at the Dispatch Box have been false?

Claire Perry: I am happy to assure my hon. Friend that the Government's policy has always been to leave with a deal on 29 March, and that the Government, and indeed the civil service, have busted every sinew to ensure that dozens of pieces of legislation have been brought forward, and dozens of contingency planning meetings have happened. However, he will know that the unpicking of 40 years of legislation and co-operative economic relationships after the triggering of article 50, with a two-year ticking clock, would test the resolve of any Government. It is extremely unfair of him to suggest that no-deal preparation has not been done effectively. What has been done effectively is mitigation against the worst impact of a disorderly Brexit.

Mr Baron: Will the Minister give way?

Claire Perry: No, I will not give way. I encourage my hon. Friend to read what has been published today in response to a request from the House of Commons about the economic impacts of a no-deal Brexit, to see how very damaging a disorderly Brexit would be. Of course, as I say to him and all Members, the way to avoid a no-deal Brexit is to vote for the deal and deliver the Brexit that so many people voted for—as it has been Government policy to honour the referendum—so we can leave with a deal on 29 March.

Mr Baron: I am sure that the Minister did not mean to, but she inadvertently put words into my mouth. I was not suggesting that efforts had not been put into making sure we did not leave in a disorderly way. I just referred her to the fact that Minister upon Minister—and indeed the Prime Minister—assured us that we had two years of no-deal preparation and would be prepared on 29 March for no deal, should that be the logical conclusion of triggering article 50. I hope that the Minister is not going against the Prime Minister and suggesting that we will not now be ready.

Claire Perry: I fear that we are splitting hairs about definitions of readiness. Of course what we are doing today, as we have done on many other occasions, is ensuring that we have the necessary regulations and preparations in place to mitigate the worst impacts of a no-deal Brexit. Unfortunately there are some aspects of a no-deal Brexit that we simply cannot resolve, despite the efforts of the Government, or efforts in this House. I refer my hon. Friend again to my comment that the best

way to avoid having to face any of the impacts of a disorderly no-deal Brexit, prepared or not, is to vote for the deal. I am assured by many colleagues that sensible people like him understand that prospect, and that we face a disorderly Brexit or no deal, which would be an absolute derogation of our parliamentary duty. I look forward to voting on the deal with him in due course.

With that, I feel, if you will forgive me, Sir Graham, that we are well outside the boundaries of the debate, and on that basis I shall conclude.

Mr Baron: On a point of order, Sir Graham. I have to put it on record that the Minister suggested that I would support the withdrawal agreement with her in the Lobby, and that I will support it as she suggested, provided that we sort the backstop out, as has been my position and that of many of my hon. Friends for some time—with your help, of course.

The Chair: That is not a point of order.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019.

DRAFT ELECTRICITY NETWORK CODES AND GUIDELINES (MARKETS AND TRADING) (AMENDMENT) (EU EXIT) REGULATIONS 2019

Resolved,

That the Committee has considered the draft Electricity Network Codes and Guidelines (Markets and Trading) (Amendment) (EU Exit) Regulations 2019.—(*Claire Perry.*)

DRAFT ELECTRICITY AND GAS (MARKET INTEGRITY AND TRANSPARENCY) (AMENDMENT) (EU EXIT) REGULATIONS 2019

Motion made, and Question put,

That the Committee has considered the draft Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019.—(*Claire Perry.*)

The Committee divided: Ayes 9, Noes 2.

Division No. 1]

AYES

Baron, Mr John	Perry, rh Claire
Grant, Mrs Helen	Rowley, Lee
Harris, Rebecca	Shapps, rh Grant
Morris, Anne Marie	Tredinnick, David
O'Brien, Neil	

NOES

Brown, Alan	Cowan, Ronnie
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Question accordingly agreed to.

DRAFT GAS (SECURITY OF SUPPLY AND NETWORK CODES) (AMENDMENT) (EU EXIT) REGULATIONS 2019

Motion made, and Question put,

That the Committee has considered the draft Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019.—(*Claire Perry.*)

The Committee divided: Ayes 9, Noes 2.

Division No. 2]**AYES**

Baron, Mr John	Perry, rh Claire
Grant, Mrs Helen	Rowley, Lee
Harris, Rebecca	Shapps, rh Grant
Morris, Anne Marie	Tredinnick, David
O'Brien, Neil	

NOES

Brown, Alan	Cowan, Ronnie
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Question accordingly agreed to.

DRAFT ELECTRICITY NETWORK CODES AND GUIDELINES (SYSTEM OPERATION AND CONNECTION) (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

Resolved,

That the Committee has considered the draft Electricity Network Codes and Guidelines (System Operation and Connection) (Amendment etc.) (EU Exit) Regulations 2019.—(*Claire Perry.*)

3.29 pm

Committee rose.

